GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

SESSION LAW 2004-124
HOUSE BILL 1414

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL APPROPRIATIONS ACT OF 2003 AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATIONS OF THE STATE.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

SECTION 1.1. 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.

TITLE OF ACT

SECTION 1.2. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2004."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1.(a) 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 adjusted for the fiscal year ending June 30, 2005, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2004-2005 fiscal year.

Current Operations – General Fund	**2004-2005**
EDUCATION	
Community Colleges System Office	31,612,319
Department of Public Instruction	122,269,724
University of North Carolina – Board of Governors	56,386,840
HEALTH AND HUMAN SERVICES	
Department of Health and Human Services	
Office of the Secretary	5,319,802
Division of Aging	3,151,000

Division of Blind Services/Deaf/HH	(30,000)
Division of Child Development	7,925,000
Division of Education Services	10,873
Division of Facility Services	(450,000)
Division of Medical Assistance	(88,729,913)
Division of Mental Health	(5,962,273)
NC Health Choice	6,600,000
Division of Public Health	8,226,581
Division of Social Services	(5,561,948)
Division of Vocational Rehabilitation Services	(1,479,294)
Total	(70,980,172)

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	100,538
Department of Commerce	
Commerce	(452,263)
Commerce State-Aid	1,950,000
NC Biotechnology Center	5,000,000
Rural Economic Development Center	1,144,000
Department of Environment and Natural Resources	
Environment and Natural Resources	1,021,957
Clean Water Management Trust Fund	0
Department of Labor	364,216

JUSTICE AND PUBLIC SAFETY

Department of Correction	(11,309,897)
Department of Crime Control and Public Safety	3,912,627
Judicial Department	6,741,918
Judicial Department – Indigent Defense	11,000,000
Department of Justice	754,467
Department of Juvenile Justice and Delinquency Prevention	1,734,069

GENERAL GOVERNMENT

Department of Administration	2,476,330
Office of Administrative Hearings	90,476
Department of State Auditor	(200,000)
Office of State Controller	(99,429)
Department of Cultural Resources	
Cultural Resources	14,944,032
Roanoke Island Commission	0

State Board of Elections	2,197,412
General Assembly	(921,318)
Office of the Governor	
Office of the Governor	42,702
Office of State Budget and Management	401,427
OSBM – Reserve for Special Appropriations	2,213,382
Housing Finance Agency	1,725,000
Department of Insurance	
Insurance	4,062,654
Insurance – Volunteer Safety Workers' Compensation	(1,734,000)
Office of Lieutenant Governor	29,657
Department of Revenue	(1,661,794)
Rules Review Commission	(3,185)
Department of Secretary of State	(110,389)
Department of State Treasurer	
State Treasurer	424,708
State Treasurer – Retirement for Fire and Rescue Squad Workers	665,000
TRANSPORTATION	
Department of Transportation	(228,056)
RESERVES, ADJUSTMENTS AND DEBT SERVICE	
Reserve for 2003 Compensation Increases	(900,000)
Reserve for 2004 Compensation Increases	260,800,000
Reserve for LEO Salary Adjustments	2,007,385
Reserve for State Health Plan	(900,000)
Reserve for Retiree Health Benefits	(6,900,000)
Reserve for Contributions to Benefit Plans	(6,230,100)
Reserve for Teachers' and State Employees' Retirement System	9,180,000
Reserve for Consolidated Judicial Retirement System	339,000
Job Development Incentive Grants (JDIG) Reserve	4,500,000
Mental Health, Developmental Disabilities and Substance Abuse Services Trust Fund	10,000,000
Reserve for Senate Bill 100 Compliance	(11,813,949)

Debt Service	
General Debt Service	(78,268,480)
Federal Reimbursement	460,432
TOTAL CURRENT OPERATIONS – GENERAL FUND	**367,839,240**

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) Section 2.2.(a) of S.L. 2003-284 is repealed. The General Fund availability used in adjusting the 2004-2005 budget is shown below:

	2004-2005
Unappropriated Balance Remaining from FY 2003-04	145,664,254
Projected Reversions from FY 2003-2004	150,000,000
Projected Over Collections from FY 2003-2004	235,100,000
Additional FY 2003-2004 Appropriations (HB 1352)	(64,100,000)
Year-End Unreserved Credit Balance	**466,664,254**
Credit to Savings Reserve	(116,666,064)
Credit to Repairs and Renovations Reserve Account	(78,797,361)
Beginning Unreserved Credit Balance FY 2004-2005	**271,200,829**
Revenues Based on Existing Tax Structure	**14,755,690,500**
Nontax Revenues	
Investment Income	86,020,000
Judicial Fees	136,730,000
Disproportionate Share	100,000,000
Insurance	53,900,000
Other Nontax Revenues	261,517,607
Highway Trust Fund Transfer	242,586,830
Highway Fund Transfer	16,166,400
Subtotal Nontax Revenues	**896,920,837**
Total General Fund Availability	**15,923,812,166**
Adjustments to Availability: 2004 Session	
HB 1430 (Internal Revenue Code Conformity) Conference Report	(2,600,000)
HB 1303 (Reduce Privilege and Excise Taxes) Conference Report	(2,950,000)
Sales Tax Refunds and Exemptions	(5,200,000)
Research and Development Tax Credit	(4,500,000)
Qualified Business Investment Tax Credit	0
Tobacco Payments Decline – Tobacco Trust Fund	(5,000,000)
Transfer from Fire Safety Loan Fund	250,000
Transfer from Veteran's Home Trust Fund	500,000
Transfer from Office of State Controller, Budget Code 24160	2,180,000
HB 1264 (Finance Vital Projects)	
Conference Report, Reimburse Debt Service	5,380,000
Adjust Transfer from Insurance Regulatory Fund	4,062,654
Adjust Transfer from Treasurer's Office	424,708
Subtotal Adjustments to Availability: 2004 Session	**(7,452,638)**
Revised General Fund Availability for 2004-2005 Fiscal Year	**15,916,359,528**
Less: Total General Fund Appropriations for 2004-2005 Fiscal Year	**(15,916,359,528)**

Unappropriated Balance Remaining 0

SECTION 2.2.(b) Subsections 2.2(b), 2.2(c), and 2.2(f) of S.L. 2003-284 read as rewritten:

"**SECTION 2.2.(b)** Notwithstanding G.S. 143-16.4(a2), of the funds credited to the Tobacco Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the ~~2003-2004 and~~ 2004-2005 fiscal ~~years,~~ year, the sum of ~~forty million dollars ($40,000,000)~~ thirty-five million dollars ($35,000,000) shall be transferred from the Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the ~~2003-2004 and~~ 2004-2005 fiscal ~~years.~~year.

"**SECTION 2.2.(c)** Notwithstanding G.S. 143-16.4(a1), of the funds credited to the Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the sum of twenty million dollars ($20,000,000) that would otherwise be deposited in the Fund Reserve established by G.S. 147-86.30(c) and five million ($5,000,000) of the funds that are not reserved pursuant to G.S. 147-86.30(c) shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 ~~and 2004-2005~~ fiscal ~~years.~~year.

Notwithstanding G.S. 143-16.4(a1) and G.S. 147-86.30, of the funds credited to the Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2004-2005 fiscal year, the sum of twenty-five million dollars ($25,000,000) shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2004-2005 fiscal year. Any funds remaining after the transfer to the General Fund shall be used in accordance with G.S. 147-86.30.

"**SECTION 2.2.(f)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer ~~fifteen million dollars ($15,000,000)~~ seventy-eight million seven hundred ninety-seven thousand three hundred sixty-one dollars ($78,797,361) from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, ~~2003.~~ 2004. This subsection becomes effective June 30, ~~2003.~~2004."

SECTION 2.2.(c) Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2004-2005 fiscal year to be used in accordance with G.S. 143-15.3A.

SECTION 2.2.(d) Section 6.23(a1) of S.L. 2003-284, as enacted by Section 2 of S.L. 2003-283, is repealed.

SECTION 2.2.(e) Notwithstanding G.S. 165-48, five hundred thousand dollars ($500,000) of the cash balance remaining in the NC Veterans Home Trust Fund (Budget Code 64106, Fund 6771) on July 1, 2004, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). These funds shall be used to support the General Fund appropriation for the 2004-2005 fiscal year for the start-up cost of the State Veterans Nursing Home in Salisbury.

SECTION 2.2.(f) Notwithstanding G.S. 116-44.8, two hundred fifty thousand dollars ($250,000) of the cash balance remaining in the Fire Safety Loan Fund (Budget Code 63414, Fund 6510) on July 1, 2004, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers). These funds shall be used to support General Fund appropriations for the 2004-2005 fiscal year.

SECTION 2.2.(g) On June 30, 2004, the Office of Information and Technology shall transfer two million one hundred eighty thousand dollars ($2,180,000)

from the Information Technology service Budget Code 74660 to the Office of State Controller's Budget Code 24160. On July 1, 2004, the State Controller shall transfer two million one hundred eighty thousand dollars ($2,180,000) from Budget Code 24160, to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for information technology programs and activities across State government for the 2004-2005 fiscal year. This subsection becomes effective June 30, 2004.

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. 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 fiscal year ending June 30, 2005, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Fund appropriations for the 2004-2005 fiscal year.

Current Operations – Highway Fund	**2004-2005**
Transportation Administration	$ 1,227,072
Operations	–
Match for Federal Aid	–
Construction Program:	
State Secondary System	410,000
Small Construction	7,000,000
Contingency Funds	5,000,000
Spot Safety Improvements	–
Access and Public Service Roads	–
Maintenance	24,672,591
Capital Improvements	–
Ferry Operations	1,000,000
State Aid to Municipalities	410,000
State Aid to Railroads	–
State Aid for Public Transportation	(436,479)
Asphalt Plant Cleanup	–
Governor's Highway Safety Program	–
Division of Motor Vehicles	1,218,921
Appropriations to Other State Agencies	1,030,489
Reserves and Transfers	17,842,991
Total	**$59,375,585**

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund appropriations availability used in developing modifications to the 2004-2005 Highway Fund budget contained in this act is shown below.

Highway Fund Budget Reform Statement	**2004-2005**
Beginning Credit Balance	–
Estimated Revenue	$ 1,390,900,000
Estimated Reversions	–
Total Highway Fund Availability	**$ 1,390,900,000**

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the Highway Trust Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the fiscal year ending June 30, 2005, according to the schedule that follows. Amounts set out in brackets are reductions from Highway Trust Fund appropriations for the 2004-2005 fiscal year.

Current Operations – Highway Trust Fund	**2004-2005**
Intrastate System	(7,488,716)
Urban Loops	(3,028,125)
Aid to Municipalities	(785,741)
Secondary Roads	236,830
Administrative Expense	(439,735)
Transfer to General Fund	66,513
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION	**(11,572,000)**

PART V. BLOCK GRANTS

DHHS BLOCK GRANTS

SECTION 5.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2005, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

01.	Community Action Agencies	$ 15,266,973
02.	Limited Purpose Agencies	848,165
03.	NC Interagency Council for Homeless Programs	262,472
04.	Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	848,165
TOTAL COMMUNITY SERVICES BLOCK GRANT		$ 17,225,775

SOCIAL SERVICES BLOCK GRANT

01.	County departments of social services (Transfer from TANF – $4,500,000)	$ 28,868,189
02.	Allocation for in-home services provided by county departments of social services	2,101,113
03.	Division of Services for the Blind	3,105,711
04.	Division of Facility Services	426,836
05.	Division of Aging – Home and Community Care Block Grant	1,840,234

06.	Child Care Subsidies	6,269,309
07.	Division of Vocational Rehabilitation – United Cerebral Palsy	71,484
08.	State administration	1,693,368
09.	Child Medical Evaluation Program	238,321
10.	Adult day care services	2,155,301
11.	Comprehensive Treatment Services Program	422,003
12.	Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
13.	Division of Vocational Rehabilitation Services – Easter Seals Society	116,779
14.	UNC-CH CARES Program for training and consultation services	247,920
15.	Office of the Secretary – Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
16.	Division of Social Services – Child Caring Agencies	1,500,000
17.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services – Developmentally Disabled Waiting List for services	5,000,000
18.	Transfer to Preventive Health Services Block Grant for HIV/AIDS education, counseling, and testing	145,819
19.	Division of Facility Services – Mental Health Licensure	213,128
20.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
TOTAL SOCIAL SERVICES BLOCK GRANT		$ 57,894,616

LOW-INCOME ENERGY BLOCK GRANT

01.	Energy Assistance Programs	$ 12,775,323
02.	Crisis Intervention	9,192,927

03.	Administration	2,957,339
04.	Weatherization Program	4,212,740
05.	Department of Administration – N.C. State Commission of Indian Affairs	54,840
06.	Heating Air Repair and Replacement Program	1,966,153
TOTAL LOW-INCOME ENERGY BLOCK GRANT		$ 31,159,322
MENTAL HEALTH SERVICES BLOCK GRANT		
01.	Provision of community-based services for severe and persistently mentally ill adults	$ 6,307,035
02.	Provision of community-based services to children	3,921,991
03.	Comprehensive Treatment Services Program for Children	1,500,000
04.	Administration	568,911
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		$ 12,297,937
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		
01.	Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol and Drug Abuse Treatment Centers	$ 20,441,082
02.	Continuation of services for pregnant women and women with dependent children	8,069,524
03.	Continuation of services to IV drug abusers and others at risk for HIV diseases	4,816,378
04.	Child Substance Abuse Prevention	5,835,701
05.	Provision of services to children and adolescents	4,940,500
06.	Juvenile Services – Family Focus	851,156
07.	Allocation to the Division of Public Health for HIV/STD Risk Reduction Projects	383,980
08.	Allocation to the Division of Public Health	

	for HIV/STD Prevention by County Health Departments	209,576
09.	Allocation to the Division of Public Health for the Maternal and Child Health Hotline	37,779
10.	Administration	2,596,307
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		$ 48,181,983
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
01.	Child care subsidies	$158,518,189
02.	Quality and availability initiatives	17,946,038
03.	Administrative expenses	7,163,654
04.	Transfer from TANF Block Grant for child care subsidies	81,292,880
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		$264,920,761
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		
01.	Work First Cash Assistance	$119,841,508
02.	Work First County Block Grants	94,653,315
03.	Transfer to the Child Care and Development Fund Block Grant for child care subsidies	81,292,880
04.	Child Care Subsidies for TANF Recipients	34,512,238
05.	Child Welfare Workers for local DSS	12,452,391
06.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
07.	Support Our Students – Department of Juvenile Justice and Delinquency Prevention	2,749,642
08.	Domestic Violence Services for Work First Families	1,200,000
09.	After-School Services for At-Risk Children YWCA Central Carolinas Youth Development Programs $176,000	2,249,642

10.	Division of Social Services – Administration	400,000
11.	Child Welfare Training	2,550,000
12.	TANF Automation Projects	592,500
13.	Boys and Girls Clubs	1,000,000
14.	Work Central Career Advancement Center	550,000
15.	WCH-Teen Pregnancy Prevention	1,500,000
16.	Transfer to Social Services Block Grant for Child Caring Institutions	1,500,000
17.	Special Children's Adoption Fund	3,000,000
18.	NC Fast Implementation	2,717,298
19.	Maternity Homes	838,000
20.	Individual Development Accounts	180,000
21.	Reduction of Out-of-Wedlock Births	1,000,000
22.	After-School Programs for At-Risk Youth in Middle Schools	500,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		$369,779,414

MATERNAL AND CHILD HEALTH BLOCK GRANT

01.	Healthy Mothers/Healthy Children Block Grants to Local Health Departments	9,565,205
02.	High-Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments, Office of Women's Health	2,207,273
03.	Adolescent Pregnancy Prevention Coalition of NC	150,000
04.	Office of Minority Health	159,000
05.	Services to Children With Special Health Care Needs	4,280,987
06.	School Health Nurse Initiative	3,250,000
	School Health Nurse Initiative Reserve 2005-2006	3,250,000

07.	Administration and Program Support	2,434,303
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		$ 25,296,768

PREVENTIVE HEALTH SERVICES BLOCK GRANT

01.	Statewide Health Promotion Programs	$2,772,294
02.	Rape Crisis/Victims' Services Program – Council for Women	197,112
03.	Transfer from Social Services Block Grant – HIV/AIDS education, counseling, and testing	145,819
04.	Administration and Program Support	699,092
05.	Osteoporosis Task Force Operating Costs	150,000
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		$3,964,317

GENERAL PROVISIONS

SECTION 5.1.(b) Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department and each plan shall include the following:

(1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.
(2) A delineation of the proposed State and local administrative expenditures.
(3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.
(4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.
(5) A projection of current year expenditures by program or activity.
(6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

SECTION 5.1.(c) Changes in Federal Fund Availability. – If the United States Congress reduces or increases the federal fund availability for any of the Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase or decrease proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating a decrease in federal fund availability, the Department shall not eliminate the funding for a program or activity appropriated in this section. In allocating an increase in federal fund availability, the Department shall not propose funding for new programs or activities not appropriated in this section or increase administrative expenditures.

Prior to allocating the change in federal fund availability, the proposed allocation must be approved by the Office of State Budget and Management. If the Department adjusts the allocation of any Block Grant due to changes in federal fund availability, then a report shall be made to the Joint Legislative Committee on

Governmental Operations, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(d) All changes to the budgeted allocations to the Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management and a report shall be submitted to the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. All changes to the budgeted allocations to the Block Grant shall be reported immediately to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(e) The Department of Health and Human Services shall develop a monitoring and oversight plan for all recipients, both public and private, and subrecipients of the federal Block Grant funding. The plan shall be modeled after the Department's performance contracting initiative and include the following:

(1) Performance standards for recipients.
(2) Financial audit standards for non-State entities equivalent to the requirements in G.S. 143-6.1 for non-State entities receiving State funds.
(3) Means for collecting performance data from recipients.
(4) Any other information necessary for monitoring and overseeing the use of Block Grant funding.

The Department shall provide the plan to the Fiscal Research Division by January 1, 2005.

SECTION 5.1.(f) The Department of Health and Human Services shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on positions funded from federal Block Grants. The report shall include the following for each Block Grant:

(1) All State positions currently funded through the Block Grant, including permanent, temporary, and time-limited positions.
(2) Budgeted salary and fringe benefits for each position.
(3) Identify the percentage of Block Grant funds used to fund each position.

The report shall be submitted no later than December 1, 2004.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

SECTION 5.1.(g) Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

COMMUNITY SERVICE BLOCK GRANT

SECTION 5.1.(h) The Department of Health and Human Services shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the activities and expenditures of the North Carolina Interagency Council for Coordinating Homeless Programs no later than April 1, 2005.

MENTAL HEALTH BLOCK GRANT

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

Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2004-2005 fiscal year, and the sum of four hundred twenty-two thousand three dollars ($422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2004-2005 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 21.60 of S.L. 2001-424, as amended.

SECTION 5.1.(j) The Department of Health and Human Services shall contract with the University of North Carolina at Chapel Hill for the purpose of providing psychology student stipends in the amount of fifty thousand dollars ($50,000) for the 2004-2005 fiscal year. Twenty-five thousand dollars ($25,000) of this contract shall be paid from the Mental Health Block Grant.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 5.1.(k) The sum of four hundred thousand dollars ($400,000) appropriated in this section to the Department of Health and Human Services in the Child Care and Development Fund Block Grant shall be used for the operations of the Medical Child Care Pilot.

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

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

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT (TANF)

SECTION 5.1.(n) The sum of four hundred thousand dollars ($400,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2004-2005 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 5.1.(o) The sum of two million seven hundred forty-nine thousand six hundred forty-two dollars ($2,749,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2004-2005 fiscal year shall be used to support the existing Support Our Students Program and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the Program.

SECTION 5.1.(p) The sum of one million two hundred thousand dollars ($1,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2004-2005 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars ($75,000) in TANF funds to support one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2004. The Division of Social Services, in consultation with the Council for Women, shall review

the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars ($5,000); and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2004, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2004. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

The Department of Health and Human Services shall report on the uses of these funds no later than March 1, 2005, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(q) The sum of two million two hundred forty-nine thousand six hundred forty-two dollars ($2,249,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy and school dropout. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to fund one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration. The Department shall report no later than March 1, 2005, on its progress in complying with this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Committee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(r) The sum of twelve million four hundred fifty-two thousand three hundred ninety-one dollars ($12,452,391) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2004-2005 fiscal year shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services.

SECTION 5.1.(s) The sum of two million five hundred fifty thousand dollars ($2,550,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for fiscal year 2004-2005 shall be used to support various child welfare training projects as follows:

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

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

SECTION 5.1.(u) The sum of three million dollars ($3,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2004-2005 fiscal year shall be used to implement this subsection. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and

representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 5.1.(v) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this section in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for child caring agencies for the 2004-2005 fiscal year shall be allocated to the State Private Child Caring Agencies Fund.

SECTION 5.1.(w) The sum of one million dollars ($1,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce school dropout and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

SECTION 5.1.(x) The sum of one hundred eighty thousand dollars ($180,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for the 2004-2005 fiscal year shall be used for Individual Development Accounts (IDA) for TANF-eligible individuals. The Social Services Commission shall adopt rules for the implementation of this subsection. The Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the implementation of the program and the use of the funds no later than May 1, 2005.

SECTION 5.1.(y) The sum of five hundred fifty thousand dollars ($550,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant shall be transferred to Work Central, Inc. Work Central, Inc. shall report on the number of people served and the services received as a result of the receipt of funds. The report shall contain expenditure data, including the amount of funds used for administration and direct training. The report shall also include the number of people who have been employed as a direct result of services provided by Work Central, Inc., including the length of employment in the new position. The Department of Health and Human Services shall evaluate the program and ensure that services provided are not duplicative of local employment security commissions in the nine counties served by Work Central, Inc. The evaluation report shall be submitted to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than May 1, 2005.

SECTION 5.1.(z) The sum of two million seven hundred seventeen thousand two hundred ninety-eight dollars ($2,717,298) in this section appropriated to the Department of Health and Human Services in the TANF Block Grant shall be used to implement the component of N.C. Fast that specifically deals with the creation and implementation of a statewide automated child welfare information system. The statewide system shall be implemented in compliance with federal regulations in order to avoid any potential payback of funds due to noncompliance. The Department of Health and Human Services shall report on its compliance with this subsection to the House of Representatives Appropriations Subcommittee on Health and Human

Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than January 1, 2005.

SECTION 5.1.(z1) The sum of five hundred thousand dollars ($500,000) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the TANF Block Grant shall be used to expand after-school programs for at-risk children attending middle school. The Department shall develop and implement a grant program to award funds to community-based programs demonstrating the capacity to reach children at risk of teen pregnancy and school dropout. These funds shall not be used for training or administration at the State level. All funds shall be distributed to community-based programs, focusing on those communities where similar programs do not exist in middle schools. The Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on its progress in complying with this subsection no later than May 1, 2005.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 5.1.(aa) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2004-2005 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 5.1.(bb) The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

SECTION 5.1.(cc) Of the funds budgeted in the Maternal and Child Health Block Grant, six million five hundred thousand dollars ($6,500,000) shall be used for a school nurse funding initiative. Of these funds, the sum of three million two hundred fifty thousand dollars ($3,250,000) shall be allocated for the 2004-2005 fiscal year, and the sum of three million two hundred fifty thousand dollars ($3,250,000) shall be placed in a reserve for the 2005-2006 fiscal year. The Department of Health and Human Services, Division of Public Health, in conjunction with the Department of Public Instruction, shall provide funds to communities to hire school nurses. The program will fund approximately 65 time-limited nurses over a two-year period. The criteria shall include determining the areas in the greatest need for school nurses with the greatest inability to pay for these nurses. Among other criteria, consideration shall also be given to (i) the current nurse-to-student ratio; (ii) the economic status of the community; and (iii) the health needs of area children.

There shall be no supplanting of local or Title I funds with these block grant funds. Communities shall maintain their current level of effort and funding for school nurses. No block grant funds shall be used for funding nurses for State agencies. All funding shall be used for direct services.

The Department of Health and Human Services shall report on the use of funds allocated under this section by December 1, 2004, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

NER BLOCK GRANTS

SECTION 5.2.(a) Appropriations from federal block grant funds are made for fiscal year ending June 30, 2005, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	$ 1,000,000
02.	Urgent Needs and Contingency	50,000
03.	Scattered Site Housing	13,200,000
04.	Economic Development	10,960,000
05.	Community Revitalization	12,200,000
06.	State Technical Assistance	450,000
07.	Housing Development	2,000,000
08.	Infrastructure	5,140,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2005 Program Year		$ 45,000,000

SECTION 5.2.(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 these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

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

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

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

SECTION 5.2.(f) Department of Commerce Demonstration Grants in Partnership with Rural Economic Development Center, Inc. – The Department of Commerce, in partnership with the Rural Economic Development Center, Inc., shall award up to two million two hundred fifty thousand dollars ($2,250,000) in

demonstration grants to local governments in very distressed rural areas of the State. These grants shall be used to address critical infrastructure and entrepreneurial needs and to provide small business assistance.

SECTION 5.2.(g) The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

(1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

(2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made, the Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

PART VI. GENERAL PROVISIONS

PREFERENCE GIVEN TO AMERICAN-MADE PRODUCTS

SECTION 6.1. Article 3 of Chapter 143 of the General Statutes is amended by adding the following new section:

"**§ 143-59.1A. Preference given to products made in United States.**

If the Secretary of Administration or a State agency cannot give preference to North Carolina products or services as provided in G.S. 143-59, the Secretary or State agency shall give preference, as far as may be practicable and to the extent permitted by State law, federal law, and federal treaty, to products or services manufactured or produced in the United States. Provided, however, that in giving such preference no sacrifice or loss in price or quality shall be permitted; and provided further, that preference in all cases shall be given to surplus products or articles produced and manufactured by other State departments, institutions, or agencies which are available for distribution."

EXTEND LOCAL GOVERNMENT HOLD HARMLESS

SECTION 6.3. G.S. 105-521 reads as rewritten:

"**§ 105-521. Transitional local government hold harmless.**

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

(1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.

(2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.

(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the

1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before August 15, 2003, and every August 15 through August 15, ~~2004,~~2012, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars ($100.00).

On or before May 1, 2003, and every May 1 through May 1, ~~2004,~~2012, the Department of Revenue and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 through January 31, ~~2005,~~2013, the amount distributed under this section for the current fiscal year."

COMMISSION ON STATE PROPERTY/SALE OF STATE PROPERTY

SECTION 6.4.(a) Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 78.

"Commission on State Property.

"**§ 143-735. Commission established; purpose; membership.**

(a) There is created the Commission on State Property. The Commission shall be located administratively within the Department of Administration but shall carry out its statutory powers and duties independently of the Department of Administration.

(a1) The purpose of the Commission is to identify State-owned real property that is (i) both surplus and suitable for sale on the private market or (ii) suitable for sale and leaseback and to make recommendations concerning the disposition of the property. The Commission shall consult with real estate salespersons and brokers, real estate appraisers, and other knowledgeable persons in determining its recommendations.

(b) The Commission shall consist of 16 members appointed as follows:

(1) Eight members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, including one of whom shall be designated as cochair.

(2) Eight members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, including one member who shall be designated as cochair.

The members appointed to the Commission shall be chosen from among individuals who have the ability and commitment to promote and fulfill the purposes of the Commission, including individuals who have expertise in the fields of real estate, property development, and other related fields. The appointing authorities shall each

consider appointing at least one real estate salesperson or broker and one real estate appraiser to the Commission.

No member of the Commission may be a member of the Senate or of the House of Representatives. No member or a person of the member's immediate family or business with which the member is associated shall be involved in or benefit from any sale of State-owned property under this Article.

(c) The terms of four of the initial members appointed pursuant to subdivision (b)(1) of this section and four of the initial members appointed pursuant to subdivision (b)(2) of this section shall be for one year. The terms of the remainder of the initial members shall be for two years. Subsequent terms of all members shall be for two years.

Initial terms shall commence on August 15, 2004.

(d) The Commission shall meet at least once a quarter and may meet at other times upon the call of the cochairs. A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

(e) The Commission cochairs may establish subcommittees for the purpose of making special studies pursuant to its duties and may appoint non-Commission members to serve on each subcommittee as resource persons. Resource persons shall be voting members of the subcommittee and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6.

(f) The Commission shall hire its professional and clerical staff.

(g) The Commission shall adopt rules for the administration of this Article, including rules regarding the participation of real estate salespersons and real estate brokers.

"**§ 143-736. Duties of the Commission.**

(a) The Commission on State Property shall:

(1) Adopt guidelines to ensure the participation of real estate salespersons and real estate brokers in its work and to encourage real estate salespersons and real estate brokers to examine the State's real property inventory to ascertain which properties are either surplus and are suitable for sale or are suitable for sale and leaseback.

(2) Notify each licensed real estate salesperson and real estate broker in the State that the Commission will consider recommendations from real estate salespersons and brokers on State real property that is suitable for sale or sale and leaseback.

(3) Consider recommendations from real estate salespersons and brokers and the general public. Notwithstanding any other provision of this Article, no real estate salesperson or broker may recommend more than five properties.

(4) Develop recommendations on State property that is (i) both surplus and suitable for sale or (ii) suitable for sale and leaseback and report its recommendations to the Department of Administration, the Governor, and the Joint Legislative Commission on Governmental Operations. The Department of Administration shall consider the recommendations of the Commission on State Property and respond to them within 60 days of receiving them. In its response, the Department shall either concur with the recommendations or set out the reasons it does not concur with them.

If the Department concurs that the property shall be sold or sold and leased back, the process for proceeding with the sale or sale and leaseback shall be the same as for other sales of State property.

If the Department does not concur, the Commission shall recommend the sale of the property or the sale and leaseback of the

property to the Governor and the Council of State. If the Governor and the Council of State approve the sale, the Department of Administration shall complete the transaction.

In the instance of a proposed sale or sale and leaseback that is undertaken pursuant to this section, the Department shall enter into an exclusive contract with the real estate salesperson or broker who recommended the sale or leaseback of the property to obtain an offer acceptable to the Department to sell or sell and leaseback the property. In the event the property was recommended by more than one real estate salesperson or broker, the Commission shall allocate the marketing responsibilities of the salespersons or brokers recommending the property and determine the allocation of the brokerage fees. A contract with any real estate salesperson or broker under this Article shall not exceed six months in duration and shall include the conditions for receipt of brokerage fees set forth in G.S. 143-737. After the expiration of the exclusive contract, the property shall be sold or sold and leased back in the same manner as other real property of the State."

"**§ 143-737. Brokerage fees.**

Notwithstanding any other provision of Chapter 146 of the General Statutes, a real estate salesperson or broker responsible for making a recommendation for the sale or leaseback of State property that has been adopted by the Commission and recommended to the Department pursuant to G.S. 143-736 shall be entitled to brokerage fees only if all of the following conditions are met:

(1) The real estate salesperson or broker is licensed by the North Carolina Real Estate Commission.

(2) The transaction closes.

(3) The brokerage fees do not exceed those customary in the industry and are consistent with rules adopted by the Commission."

SECTION 6.4.(b) Of the funds appropriated to the Department of Administration for the 2004-2005 fiscal year, the Director of the Budget shall transfer two hundred thousand dollars ($200,000) to the Commission on State Property established in subsection (a) of this section. Notwithstanding the provisions of G.S. 146-30, the first two hundred thousand dollars ($200,000) of the net proceeds of dispositions of property that would otherwise be deposited with the State Treasurer and credited to the General Fund shall be used to offset the transfer of funds from the Department of Administration to the Commission on State Property.

SECTION 6.4.(c) Section 6.8(d) of S.L. 2003-284 is repealed.

SECTION 6.4.(d) Section 6.8(b) of S.L. 2003-284, as amended by Section 3 of S.L. 2003-283, reads as rewritten:

"**SECTION 6.8.(b)** Establish State-Owned Surplus Real Property Disposal System; Purpose; Use of Proceeds. – The Department of Administration, in consultation with the Office of State Budget and Management, the Department of Transportation, The University of North Carolina, and all other affected State departments, agencies, and institutions, shall develop and implement a State-owned surplus real property disposal system. The purpose of the system is to establish a uniform real property disposal system that will continuously identify State-owned surplus real property, evaluate that property, and dispose of that property as appropriate. ~~Within 60 days after receiving the list from the State Property Office, the Joint Legislative Commission on Governmental Operations shall review the list of State-owned surplus real property and recommend which properties they wish to be sold.~~ Unless otherwise provided by law, the clear proceeds of the sale of State-owned surplus real property shall be credited to the General Fund. ~~It is the intent of the General Assembly that these proceeds shall partially offset debt service costs occasioned by the use of Certificates of Participation to finance the repair and renovation of State buildings. If the clear proceeds from the disposal of~~

~~such property are not expected to generate the expected availability of funds contemplated under this section to be used to offset debt service by June 30, 2005, the General Assembly shall identify in the bill revising the 2004-2005 budget other sources of funds to fund the debt service.~~"

CHANGE EFFECTIVE DATE – PRIVATE PLATES ON PUBLIC VEHICLES

SECTION 6.5.(a) The introductory language to Section 6.14(b) of S.L. 2001-424, as amended by Section 6.5(a) of S.L. 2003-284, reads as rewritten:

"**SECTION 6.14.(b)** Effective ~~October 1, 2004,~~ May 1, 2005, G.S. 20-39.1(b), as enacted in subsection (a) of this section, reads as rewritten:".

SECTION 6.5.(b) Section 6.14(h) of S.L. 2001-424, as amended by Section 6.5(b) of S.L. 2003-284, reads as rewritten:

"**SECTION 6.14.(h)** Subsection (b) of this section becomes effective ~~October 1, 2004.~~ May 1, 2005. Except as provided in subsection (c) of this section, the remainder of this section is effective when it becomes law."

JDIG APPROPRIATION STRUCTURE

SECTION 6.12.(a) Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-15.3E. JDIG Reserve Fund.**

(a) The State Controller shall establish a reserve in the General Fund to be known as the JDIG Reserve. Funds from the JDIG Reserve shall not be expended or transferred except in accordance with G.S. 143B-437.63.

(b) It is the intent of the General Assembly to appropriate funds annually to the JDIG Reserve established in this section in amounts sufficient to meet the anticipated cash requirements for each fiscal year of the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52."

SECTION 6.12.(b) Part 2G of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-437.63. JDIG Program cash flow requirements.**

Notwithstanding any other provision of law, grants made through the Job Development Investment Grant Program, including amounts transferred pursuant to G.S. 143B-437.61, shall be budgeted and funded on a cash flow basis. The Office of State Budget and Management shall periodically transfer funds from the JDIG Reserve Fund established pursuant to G.S. 143-15.3E to the Department of Commerce in an amount sufficient to satisfy grant obligations and amounts to be transferred pursuant to G.S. 143B-437.61 to be paid during the fiscal year."

REVISE REPORT OF BUDGET DIRECTOR

SECTION 6.19. Section 6.2A of S.L. 2003-284 reads as rewritten:

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

(1) The proliferation of nonreverting funds and accounts.
(2) The designation of selected funds as "off-budget".
(3) The sources of authority, consistent with Article V, Section 7(1) of the Constitution, under which expenditures are being made from each special fund, trust fund, internal service fund, or enterprise fund.
(4) The proper classification and management of funds as special funds, trust funds, internal service funds, or enterprise funds consistent with criteria adopted by the Governmental Accounting Standards Board.
(5) Appropriate budget planning within special funds, trust funds, internal service funds, and enterprise funds, including, in particular, the accurate projection of receipts, expenditures, and fund balances and

the presentation of that information for legislative review and appropriation action.

(6) The administration of G.S. 143-27, which requires in part that the over collection of departmental receipts be accompanied by a corresponding reduction in the allotments to institutions, departments, and agencies.

"**SECTION 6.2A.(b)** Where the review and evaluation reveals problems or other failures, the Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Appropriations Committees of the Senate and House of Representatives ~~as soon as practicable.~~ no later than January 15, 2005. In particular, the Office of State Budget and Management shall transmit to the General Assembly a list of special funds properly classified together with their estimated beginning balances, estimated receipts and expenditures, and estimated ending balances, and a list of funds currently classified as special funds for which the receipts are more appropriately reflected as offsets to total requirements in General Fund budget codes. The list of special funds properly classified should include funds currently classified as trust funds that are more appropriately classified as special funds."

SPECIAL FUNDS, FEDERAL RECEIPTS, APPROPRIATIONS

SECTION 6.20. Section 6.1 of S.L. 2003-284 reads as rewritten:

"**SECTION 6.1.** 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, and shall be expended at the level of service authorized by the General Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the excess, unless the Director of the Budget finds that the appropriations from the Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund.

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

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

(2) If the Director of the Budget finds that the new permanent employee positions are necessary to maintain the function that generated the receipts at the level anticipated in the certified budget codes for that Fund. The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speakers of the House of Representatives, the Chairs of the Appropriations Committees of the Senate and 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 reason the positions are necessary to maintain the function.

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

~~This section shall expire June 30, 2004.~~"

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

SECTION 6.22. Section 6.4 of S.L. 2003-284 reads as rewritten:

"~~**SECTION 6.4.(a)**~~**SECTION 6.4.** Funds in the amount of five million dollars ($5,000,000) for the 2003-2004 fiscal year and five million dollars ($5,000,000) for the 2004-2005 fiscal year are appropriated in this act to the Contingency and Emergency Fund. Of these funds:

(1) Up to two million dollars ($2,000,000) for the 2003-2004 fiscal year and for the 2004-2005 fiscal year may be used for purposes related to the Base Realignment and Closure Act ~~(BRAC);~~ (BRAC), including allocations for individual community efforts; and

(2) Up to two hundred fifty thousand dollars ($250,000) for the 2003-2004 fiscal year and for the 2004-2005 fiscal year may be expended for statutory purposes other than those set out in G.S. 143-23(a1)(2) or in subdivision (1) of this section.

The remainder of these funds shall be expended only for the purposes outlined in G.S. 143-23(a1)(2)."

AUTHORIZATION TO ESTABLISH RECEIPT-SUPPORTED POSITIONS

SECTION 6.23. Notwithstanding G.S. 143-34.1(a1), a department, institution, or other agency of State government may establish receipt-supported positions authorized in this act upon approval by the Director of the Budget. The Director, if necessary, may establish a receipt-supported position pursuant to this section at an annual salary amount different from the salary amount set out in this act if (i) funds are available from the proposed funding source and (ii) the alternative salary amount remains within the established salary range grade identified for the job classification of the affected receipt-supported position established in this act. The Director shall not change the job classifications or increase the number of receipt-supported positions specified in this act without prior consultation with the Joint Legislative Commission on Governmental Operations.

REPORTING OF NON-STATE ENTITIES

SECTION 6.24. G.S. 143-6.1 reads as rewritten:

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

(a) Disbursement and Use of State Funds. – Every ~~corporation, organization, and institution~~ non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly or collected by the State. For purposes of this section, the term "non-State entity" means a firm, organization, corporation, partnership, association, institution, unit of local government, or any other organization that is not a State agency, department, or institution. State funds include federal funds that flow through the State. For the purposes of this section, the term "grantee" means a ~~corporation, organization, or institution~~ non-State entity other than a unit of local government that receives a grant of State funds from a State agency, department, or institution.

The State shall not disburse State funds appropriated by the General Assembly to any grantee or collected by the State for use by any grantee unless that grantee:

(1) Provides all reports and financial information required under this section to the appropriate State agencies and officials; and

(2) Provides any additional information that the Office of State Budget and Management deems necessary demonstrating that such grantee is capable of managing the funds in accordance with law and has established adequate financial procedures and controls.

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

(a1) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, the Director shall take appropriate administrative action to ensure that no further

irregularities occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds.

(b) State Agency Responsibilities. – A State agency that receives State funds and then disburses the State funds to a grantee shall:

(1) Submit documents to the State Auditor in a prescribed format describing standards of compliance and suggested audit procedures sufficient to give adequate direction to independent auditors performing audits.

(2) Annually, at the time the grant is made, notify each grantee, in writing, of the reporting requirements set forth in this section and that the State agency is not authorized to disburse funds to grantees that fail to comply with the reporting requirements for funds received during the prior fiscal year.

(3) Provide each grantee with the accounting form and other requirements prescribed by the State Auditor.

(4) Submit a list to the State Auditor by October 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year, the amount disbursed to each grantee, the funding source of each grant, and other such information as required by the State Auditor to comply with the requirements set forth in this section.

(5) Submit a list to the Office of State Budget and Management by January 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year and, for each grantee, whether that grantee has filed the sworn accounting required by subsection (c) of this section and whether the sworn accounting is in compliance with subsection (c) of this section.

(6) Ensure funds are spent in accordance with the purposes for which they were granted and hold the grantees accountable for the legal and appropriate expenditure of State grant funds.

(7) Provide for adequate oversight and monitoring to prevent the misuse of State funds.

(b1) Grantee Responsibilities. – A grantee that receives a grant of State funds shall:

(1) Ensure funds are spent in accordance with the purposes for which they were granted and be accountable for the legal and appropriate expenditure of State grant funds.

(2) Maintain reports, records, and other information to properly account for the expenditure of all State grant funds received by the grantee and to make the reports, records, and other information available to the grantor State agency or the State Auditor for oversight, monitoring, and evaluation purposes.

(3) Hold any non-State entity to which the grantee provides a grant of State funds accountable for the legal and appropriate expenditure of State grant funds.

(4) Adhere to the reporting requirements mandated by this section.

(c) Grantee Receipt and Expenditure Reports. – A grantee that receives, uses, or expends between fifteen thousand dollars ($15,000) and three hundred thousand dollars ($300,000) in State funds annually must file annually with the State Auditor and the State agency that disbursed the funds a sworn accounting of receipts and expenditures of the State funds and a description of activities and accomplishments undertaken by the grantee with State funds. This accounting must be attested to by the treasurer of the grantee and one other authorizing officer of the grantee. The accounting must be filed within six months after the end of the grantee's fiscal year in which the State funds were received. The accounting and the description of activities and accomplishments shall be

in the ~~form~~ formats, including electronic filings, required by the State Auditor and provided to the grantee by the disbursing agency.

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

A grantee that receives, uses, or expends State funds in the amount of three hundred thousand dollars ($300,000) or more annually must file annually with the State Auditor and the State agency that disbursed the funds a description of activities and accomplishments undertaken by the grantee with State funds. This description must be filed within 90 days after the end of the grantee's fiscal year in which the State funds were received. The description of activities and accomplishments shall be in a format, including electronic filings, required by the State Auditor.

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

(1) Review each audit submitted pursuant to subsection (d) of this section and determine that it has been conducted in accordance with generally accepted audit standards and that the grantee has received a clean audit opinion.

(2) Notify disbursing agencies by January 31 each year of all grantees that are not in compliance with the reporting requirements set forth in this section.

(3) Notify disbursing agencies of any material audit findings in the audits of their grantees.

(4) Submit a list to the Office of State Budget and Management by January 31 each year of every grantee that received State funds in the prior fiscal year and, for each grantee, whether that grantee has complied with this subsection.

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

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

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

(f) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or expends State funds. Such a grantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State funds. The grantee must furnish any additional financial or budgetary information requested by the State Auditor. Grantees shall ensure that work papers in the possession of their auditors are available to the State Auditor and provide the work papers upon request. Audit work papers furnished by an auditor of a grantee are not public records and are exempt from G.S. 132-1."

AUTHORIZE ACQUISITION OF OPTIONS FOR SITE DEVELOPMENT AND AUTHORIZE CONSULTANT CONTRACTS FOR RECRUITMENT

SECTION 6.26.(a) G.S. 143B-437.02(b) reads as rewritten:

"(b) Fund. – The Site Infrastructure Development Fund is created as a restricted reserve in the Department of Commerce. ~~The Department may use the funds in the fund only in accordance with this section for site development.~~ Funds in the fund do not revert but remain available to the Department for these purposes. The Department may use the funds in the fund only for the following purposes:

(1) For site development in accordance with this section.

(2) To acquire options and hold options for the purchase of land in accordance with subsection (m) of this section."

SECTION 6.26.(b) G.S. 143B-437.02 is amended by adding a new subsection to read:

"(m) Options. – The Department of Commerce may acquire options and hold options for the purchase of land for an anticipated industrial site if all of the following conditions are met:

(1) The options are necessary to provide a large, regional industrial site that cannot be assembled by local governments.

(2) The acquisition of the options is approved by the Committee."

SECTION 6.26.(c) G.S. 143B-431(b) reads as rewritten:

"(b) The Department of Commerce is authorized to establish and provide for the operation of North Carolina nonprofit corporations for any of the following purposes:

(1) To aid ~~to achieve the purpose of aiding~~ the development of small businesses.

(2) To ~~businesses and to~~ achieve the purposes of the United States Small Business Administration's 504 Certified Development Company Program.

(3) To acquire options and hold options for the purchase of land under G.S. 143B-437.02."

SECTION 6.26.(d) G.S. 143B-431 is amended by adding a new subsection to read:

"(b1) The Department of Commerce is authorized to contract for the preparation of proposals and reports in response to requests for proposals for location or expansion of major industrial projects."

WILLIAM FRIDAY INSTITUTE FOR HIGHER EDUCATION LEADERSHIP

SECTION 6.28.(a) The General Assembly makes the following findings:

(1) There is a serious and continuing need for systematic education and training and education within The University of North Carolina to prepare men and women to perform effectively in progressively responsible positions of administrative leadership in colleges and universities in North Carolina and the nation.

(2) The Board of Governors of The University of North Carolina (UNC) and the staff in the Office of the President are in agreement that The University of North Carolina must provide a mechanism by which talented faculty and staff within the UNC system can move into administrative positions.

(3) A significant component of increasing the strength of The University of North Carolina is increasing the administrative acumen of its faculty, department chairs, deans, and other administrators to prepare them for leadership positions.

(4) Historically, academic administrators moved into their positions directly from the faculty, but the complexities of leadership make such changes nearly impossible today.

(5) Business and industry focus on succession planning, climate surveys, and leadership development, but universities have been slower to respond to the need to develop talent within the organization.

(6) Some universities have developed leadership programs, and the best of these programs nationally are those that are responsive to the culture of the institution or system.

(7) Establishing an institute for higher education leadership development will help change the current pattern within the UNC system by providing ongoing professional development for faculty and administrators on UNC campuses.

(8) Faculty and administrators will have opportunities to learn "best practices" from their colleagues as well as from national experts in key areas, and models will be provided that can be transferred back to the campuses.

(9) Administrative internships on campuses and at the Office of the President will provide aspiring administrators opportunities to experience new environments and to learn leadership skills through observation and participation.

(10) It is critical that The University of North Carolina provide opportunities for faculty within the system to advance professionally without having to leave North Carolina.

SECTION 6.28 (b) The Board of Governors of The University of North Carolina shall establish the William Friday Institute for Higher Education Leadership (the "Institute"). The Board of Governors of The University of North Carolina shall also establish an advisory board for the Institute.

SECTION 6.28.(c) The purpose of the Institute is to enable students, faculty, and administrators on the campuses of The University of North Carolina to explore and validate their interest in and fitness for careers in academic administration and to gain skills, insight, information, contacts, and experience through ongoing professional leadership development programs.

LIMIT USE OF IMPERVIOUS PARKING SURFACES FOR SALE OF NURSERY STOCK

SECTION 6.29.(a) G.S. 143-214.7 is amended by adding a new subsection to read:

"(d1) A retail merchant shall not use more than 400 square feet of impervious surface area within the portion of the merchant's premises that is designed to be used for vehicular parking for the display and sale of nursery stock, as that term is defined by the Board of Agriculture pursuant to G.S. 106-423. This subsection shall not apply to a retail merchant that either:

(1) Collects and treats stormwater on-site using a treatment system that is designed to remove at least eighty-five percent (85%) of total suspended solids. For purposes of this subdivision, a treatment system includes, but is not limited to, a filtration system or a detention system.

(2) Collects and stores stormwater for reuse on-site for irrigation or other purposes.

(3) Collects and discharges stormwater to a local or regional stormwater collection and treatment system."

SECTION 6.29.(b) G.S. 143-215.6A(a) is amended by adding a new subdivision to read:

"(11) Violates or fails to act in accordance with G.S. 143-214.7(d1)."

SECTION 6.29.(c) This section becomes effective January 1, 2005, and applies only to a retail merchant that first opens a retail premises for business on or after that date or that submits an application for a building permit for the construction or renovation of a retail premises after that date.

FUNDS FOR FARMLAND PRESERVATION PROJECTS

SECTION 6.31.(a) Notwithstanding G.S. 113A-253, for the 2004-2005 fiscal year only, the Board of Trustees of the Clean Water Management Trust Fund may allocate up to four million one hundred thousand dollars ($4,100,000) to match federal, State, local, and private farmland preservation and forestland preservation funds and to acquire permanent conservation easements on working farms and forests.

SECTION 6.31.(b) The Department of Agriculture and Consumer Services shall prepare a master plan for farmland preservation in North Carolina. The Department shall review the Farmland Preservation Enabling Act and other conservation and rural and economic development programs in developing a master plan to preserve rural landscapes and promote working farms as a base for the economic, environmental, and social interests of rural North Carolina. No later than March 31, 2005, the Department shall report its findings and recommendations to the chairs of the Senate Committee on Agriculture, Environment, and Natural Resources and the House of Representatives Agriculture Committee.

EXPANSION OF THE SBI CRIME LAB

SECTION 6.32. There is hereby established a capital construction project to expand the crime laboratory of the State Bureau of Investigation in Raleigh. Notwithstanding any other provision of law, the Director of the Budget shall use up to four million five hundred thousand dollars ($4,500,000) in funds that were unspent and unencumbered upon the completion of capital projects, including funds in a project reserve fund, for this capital construction project.

PART VII. PUBLIC SCHOOLS

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2004-2005 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2004-2005 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2004, for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education. The longevity payment shall be paid in a lump sum once a year.

SECTION 7.1.(b) For the 2004-2005 school year, the following monthly salary schedules shall apply to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

2004-2005 Monthly Salary Schedule
"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	$2,542	N/A
1	$2,584	N/A
2	$2,628	N/A
3	$2,783	$3,117

4	$2,923	$3,274
5	$3,056	$3,423
6	$3,185	$3,567
7	$3,288	$3,683
8	$3,336	$3,736
9	$3,385	$3,791
10	$3,435	$3,847
11	$3,484	$3,902
12	$3,535	$3,959
13	$3,585	$4,015
14	$3,638	$4,075
15	$3,692	$4,135
16	$3,747	$4,197
17	$3,802	$4,258
18	$3,860	$4,323
19	$3,918	$4,388
20	$3,976	$4,453
21	$4,038	$4,523
22	$4,099	$4,591
23	$4,164	$4,664
24	$4,228	$4,735
25	$4,293	$4,808
26	$4,359	$4,882
27	$4,427	$4,958
28	$4,497	$5,037
29	$4,568	$5,116
30+	$4,568	$5,116

2004-2005 Monthly Salary Schedule
"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0	$2,797	N/A
1	$2,843	N/A
2	$2,891	N/A
3	$3,060	$3,427
4	$3,215	$3,601
5	$3,362	$3,765
6	$3,503	$3,923
7	$3,617	$4,051
8	$3,669	$4,109
9	$3,723	$4,170
10	$3,778	$4,231
11	$3,833	$4,293
12	$3,888	$4,355
13	$3,943	$4,416
14	$4,002	$4,482
15	$4,061	$4,548
16	$4,121	$4,616
17	$4,183	$4,685
18	$4,245	$4,754
19	$4,310	$4,827
20	$4,374	$4,899
21	$4,442	$4,975

22	$4,509	$5,050
23	$4,580	$5,130
24	$4,651	$5,209
25	$4,721	$5,288
26	$4,795	$5,370
27	$4,870	$5,454
28	$4,947	$5,541
29	$5,025	$5,628
30+	$5,025	$5,628

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

SECTION 7.1.(d) Effective for the 2004-2005 school year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

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

SECTION 7.1.(e) Effective for the 2004-2005 school year, speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

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

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

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

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 7.2.(a) Effective for the 2004-2005 school year, the Director of the Budget shall transfer from the Reserve for Compensation Increases for the 2004-2005 fiscal year funds necessary to implement the salary schedule for

school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 7.2.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2004-2005 fiscal year, commencing July 1, 2004, is as follows:

2004-2005
Principal and Assistant Principal Salary Schedules
Classification

Yrs. of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	$3,248	-	-	-	-
5	$3,396	-	-	-	-
6	$3,539	-	-	-	-
7	$3,653	-	-	-	-
8	$3,706	$3,706	-	-	-
9	$3,760	$3,760	-	-	-
10	$3,816	$3,816	$3,871	-	-
11	$3,871	$3,871	$3,927	-	-
12	$3,927	$3,927	$3,983	$4,042	-
13	$3,983	$3,983	$4,042	$4,101	$4,163
14	$4,042	$4,042	$4,101	$4,163	$4,225
15	$4,101	$4,101	$4,163	$4,225	$4,288
16	$4,163	$4,163	$4,225	$4,288	$4,353
17	$4,225	$4,225	$4,288	$4,353	$4,417
18	$4,288	$4,288	$4,353	$4,417	$4,486
19	$4,353	$4,353	$4,417	$4,486	$4,554
20	$4,417	$4,417	$4,486	$4,554	$4,627
21	$4,486	$4,486	$4,554	$4,627	$4,697
22	$4,554	$4,554	$4,627	$4,697	$4,769
23	$4,627	$4,627	$4,697	$4,769	$4,843
24	$4,697	$4,697	$4,769	$4,843	$4,919
25	$4,769	$4,769	$4,843	$4,919	$4,996
26	$4,843	$4,843	$4,919	$4,996	$5,076
27	$4,919	$4,919	$4,996	$5,076	$5,177
28	$4,996	$4,996	$5,076	$5,177	$5,281
29	$5,076	$5,076	$5,177	$5,281	$5,387
30	$5,177	$5,177	$5,281	$5,387	$5,495
31	$5,281	$5,281	$5,387	$5,495	$5,604
32	-	$5,387	$5,495	$5,604	$5,716
33	-	-	$5,604	$5,716	$5,831
34	-	-	$5,716	$5,831	$5,948
35	-	-	-	$5,948	$6,066
36	-	-	-	$6,066	$6,188
37	-	-	-	-	$6,312

2004-2005
Principal and Assistant Principal Salary Schedules
Classification

Yrs. of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101 +)

14	$4,288	-	-	-
15	$4,353	-	-	-
16	$4,417	$4,486	-	-
17	$4,486	$4,554	$4,697	-
18	$4,554	$4,627	$4,769	$4,843
19	$4,627	$4,697	$4,843	$4,919
20	$4,697	$4,769	$4,919	$4,996
21	$4,769	$4,843	$4,996	$5,076
22	$4,843	$4,919	$5,076	$5,177
23	$4,919	$4,996	$5,177	$5,281
24	$4,996	$5,076	$5,281	$5,387
25	$5,076	$5,177	$5,387	$5,495
26	$5,177	$5,281	$5,495	$5,604
27	$5,281	$5,387	$5,604	$5,716
28	$5,387	$5,495	$5,716	$5,831
29	$5,495	$5,604	$5,831	$5,948
30	$5,604	$5,716	$5,948	$6,066
31	$5,716	$5,831	$6,066	$6,188
32	$5,831	$5,948	$6,188	$6,312
33	$5,948	$6,066	$6,312	$6,438
34	$6,066	$6,188	$6,438	$6,567
35	$6,188	$6,312	$6,567	$6,698
36	$6,312	$6,438	$6,698	$6,831
37	$6,438	$6,567	$6,831	$6,968
38	$6,567	$6,698	$6,968	$7,107
39	-	$6,831	$7,107	$7,249
40	-	$6,968	$7,249	$7,394
41	-	-	$7,394	$7,542

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

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

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

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

SECTION 7.2.(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional

State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

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

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

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

SECTION 7.2.(h)

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

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

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

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

SECTION 7.2.(j) During the 2004-2005 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

EXPERIENCE STEP INCREASE FOR TEACHERS AND PRINCIPALS IN PUBLIC SCHOOLS

SECTION 7.2A. Effective July 1, 2004, any permanent certified personnel employed on July 1, 2004, and paid on the teacher salary schedule with 29+ years of experience shall receive a one-time bonus equivalent to the average increase of the 26 to 29 year steps. Effective July 1, 2004, any permanent personnel employed on July 1,

2004, and paid at the top of the principal and assistant principal salary schedule shall receive a one-time bonus equivalent to two percent (2%). For permanent part-time personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

CENTRAL OFFICE SALARIES

SECTION 7.3.(a) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2004-2005 fiscal year, beginning July 1, 2004.

School Administrator I	$2,932	$5,398
School Administrator II	$3,112	$5,726
School Administrator III	$3,303	$6,073
School Administrator IV	$3,436	$6,316
School Administrator V	$3,574	$6,570
School Administrator VI	$3,792	$6,969
School Administrator VII	$3,945	$7,249

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 2004.

SECTION 7.3.(b) The monthly salary ranges that follow apply to public school superintendents for the 2004-2005 fiscal year, beginning July 1, 2004.

Superintendent I	$4,187	$7,691
Superintendent II	$4,445	$8,155
Superintendent III	$4,716	$8,652
Superintendent IV	$5,005	$9,177
Superintendent V	$5,312	$9,736

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

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

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

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

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

SECTION 7.3.(f) The annual salary increase for all permanent full-time personnel paid from the Central Office Allotment shall be the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%), commencing July 1, 2004. The State Board of Education shall allocate these funds to local school administrative units.

The local boards of education shall establish guidelines for providing salary increases to these personnel.

NONCERTIFIED PERSONNEL SALARY

SECTION 7.4.(a) The annual salary increase for permanent, full-time noncertified public school employees whose salaries are supported from the State's General Fund shall be the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%), commencing July 1, 2004.

SECTION 7.4.(b) Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2003-2004 and who continue their employment for fiscal year 2004-2005 by providing an annual salary increase for employees of the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%). For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

SECTION 7.4.(c) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%) for the 2004-2005 fiscal year.

APPROPRIATIONS FOR CONTINUALLY LOW-PERFORMING SCHOOLS

SECTION 7.5. Section 7.8 of S.L. 2003-284 reads as rewritten:

"**SECTION 7.8.** Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of one million nine hundred fifty-six thousand one hundred fifteen dollars ($1,956,115) for the 2003-2004 ~~and 2004-2005 fiscal years~~ fiscal year and the sum of six hundred two thousand nine hundred seventy-five dollars ($602,975) for the 2004-2005 fiscal year shall be used to provide the State's chronically low-performing schools with tools needed to dramatically improve student achievement. These funds shall be used to implement any of the following strategies at the schools that have not previously been implemented with State or other funds:

(1) The sum of one million six hundred fifty-seven thousand three hundred forty-five dollars ($1,657,345) for the 2003-2004 ~~and 2004-2005 fiscal years~~ fiscal year and the sum of two hundred ninety-seven thousand four hundred six dollars ($297,406) for the 2004-2005 fiscal year shall be used to reduce class size at a continually low-performing school to ensure that the number of teachers allotted for students in grades four and five is one for every 17 students, and that the number of teachers allotted in grades six through eight is one for every 17 students, and that the number of teachers allotted in grades nine through twelve is one for every 20 students; and

(2) The sum of two hundred ninety-eight thousand seven hundred seventy dollars ($298,770) for the 2003-2004 ~~and 2004-2005 fiscal years~~ fiscal year and the sum of three hundred five thousand five hundred sixty-nine dollars ($305,569) for the 2004-2005 fiscal year shall be used to extend teachers' contracts for a total of 10 days, including five days of additional instruction with related costs for other than teachers' salaries for the 2003-2004 and 2004-2005 school years.

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

CHILDREN WITH DISABILITIES

SECTION 7.6. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand seven hundred seventy-three dollars and ninety-six cents ($2,773.96) per child for a maximum of 166,500 children for the 2004-2005 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities, or (ii)

twelve and five-tenths percent (12.5%) of the 2004-2005 allocated average daily membership in the local school administrative unit.

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

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.7. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of nine hundred fourteen dollars and ninety-five cents ($914.95) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2004-2005 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 54,762 children for the 2004-2005 school year.

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

LEA ASSISTANCE PROGRAM

SECTION 7.8.(a) Section 7.17 of S.L. 2003-284 reads as rewritten:

"**SECTION 7.17.** Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of five hundred thousand dollars ($500,000) for fiscal year 2003-2004 and the sum of five hundred thousand dollars ($500,000) for fiscal year 2004-2005 shall be used to provide assistance to the State's low-performing Local School Administrative Units (LEAs) and to assist schools in meeting adequate yearly progress in each subgroup identified in the No Child Left Behind Act of 2001. The State Board of Education shall report to the Office of State Budget and Management, the Fiscal Research Division, and the Joint Legislative Education Oversight Committee on the expenditure of these funds by May 15, 2004, and by December 15, 2005. The report shall contain: (i) the criteria for selecting LEAs and schools to receive assistance, (ii) measurable goals and objectives for the assistance program, (iii) an explanation of the assistance provided, (iv) findings from the assistance program, (v) actual expenditures by category, (vi) recommendations for the continuance of this program, and (vii) any other information the State Board deems necessary. These funds shall not revert at the end of each fiscal year but shall remain available until expended for this purpose."

SECTION 7.8.(b) This section becomes effective June 30, 2004.

LOCAL EDUCATION AGENCY FLEXIBILITY

SECTION 7.9. Section 7.23 of S.L. 2003-284 reads as rewritten:

"**SECTION 7.23.** Within 14 days of the date this act becomes law, the State Board of Education shall notify each local school administrative unit of the amount the unit must reduce from State General Fund ~~appropriations.~~ appropriations for the 2003-2004 fiscal year. Within 14 days of the date the Current Operations and Capital Improvements Appropriations Act of 2004 becomes law, the State Board of Education shall notify each local school administrative unit of the amount the unit must reduce from State General Fund appropriations for the 2004-2005 fiscal year. The State Board shall determine the amount of the reduction for each unit for each fiscal year on the basis of average daily membership.

Each unit shall report to the Department of Public Instruction on the discretionary budget reductions it has identified for the 2003-2004 fiscal year for the unit within 30 days of the date this act becomes law and ~~by September 1, 2004,~~ within 30 days of the date the Current Operations and Capital Improvements Appropriations Act of 2004

becomes law for reductions for the 2004-2005 fiscal year. ~~No later than December 31, 2003, the~~ The State Board of Education shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division on all reductions made by the LEAs to achieve this ~~reduction.~~reduction for the 2003-2004 fiscal year by December 31, 2003, and for the 2004-2005 fiscal year by December 31, 2004.

For fiscal years 2003-2004 and 2004-2005, the General Assembly urges local school administrators to make every effort to reduce spending whenever and wherever such budget reductions are appropriate as long as the targeted reductions do not directly impact classroom services or any services for students at risk or children with special needs, including those services or supports that are called for in students' Personal Education Plans (PEP) and/or Individual Education Plans (IEP). If reductions to the allotment categories listed in this paragraph are necessary in order to meet the reduction target, the local board of education shall submit an explanation of the anticipated impact of the reductions to student services along with the budget reductions to the Department of Public Instruction. ~~By August 15, 2004, for fiscal year 2005-2006 and subsequent fiscal years, the State Board of Education shall determine the changes to the allotment categories to make such reductions permanent. Notwithstanding other provisions of law, the State Board of Education has the authority to reduce the proposed funding level of any allotment category in the State Public School Fund or the Department of Public Instruction in order to carry out the requirements of this section to make changes to the proposed continuation budget for the 2005-2007 fiscal biennium. The changes proposed by the State Board of Education shall be subject to the approval of the General Assembly.~~"

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 7.9A. Section 7.7(a) of S.L. 2003-284 reads as rewritten:

"**SECTION 7.7.(a)** Funds for Small School Systems. – Except as provided in subsection (b) of this section, 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 fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 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 and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall:

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

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

(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 six hundred fourteen thousand one hundred forty-eight dollars ($614,148), excluding textbooks for the 2003-2004 fiscal year and a base of ~~six hundred forty-seven thousand four hundred eighty-one dollars ($647,481)~~ seven hundred forty thousand seventy-four dollars ($740,074) for the 2004-2005 fiscal year.

(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 fully fund 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."

REPLACEMENT SCHOOL BUSES FUNDS

SECTION 7.10. Section 7.25(a) of S.L. 2003-284 reads as rewritten:

"**SECTION 7.25.(a)** Of the funds appropriated to the State Board of Education, the Board may use up to fifteen million dollars ($15,000,000) for the 2003-2004 fiscal year and up to ~~forty-seven million seven hundred fifty-two thousand eight hundred thirteen dollars ($47,752,813)~~ thirty-seven million two hundred thirty-nine thousand nine hundred twelve dollars ($37,239,912) for the 2004-2005 fiscal year for allotments to local boards of education for replacement school buses under G.S. 115C-249(c) and (d). In making these allotments, the State Board of Education may impose any of the following conditions:

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

(2) The term of a financing contract entered into under this section shall not exceed three years.

(3) The local board of education must purchase the buses only from vendors selected by the State Board of Education and on terms approved by the State Board of Education.

(4) The State Board of Education shall solicit bids for the direct purchase of buses and for the purchasing of buses through financing. The State Board of Education may solicit separate bids for financing if the Board determines that multiple financing options are more cost-efficient.

(5) A bus financed pursuant to this section must meet all federal motor vehicle safety regulations for school buses.

(6) Any other condition the State Board of Education considers appropriate."

K-2 ASSESSMENT

SECTION 7.11. G.S.115C-174.11(a) reads as rewritten:

"**§ 115C-174.11. Components of the testing program.**

(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized ~~tests.~~tests except as required as a condition of receiving a federal grant under the Reading First Program."

EVALUATE VALIDITY OF ABC ACCOUNTABILITY SYSTEM

SECTION 7.12.(a) G.S. 115C-105.35 reads as rewritten:

"**§ 115C-105.35. Annual performance goals.**

(a) The School-Based Management and Accountability Program shall (i) focus on student performance in the basics of reading, mathematics, and communications skills in elementary and middle schools, (ii) focus on student performance in courses required for graduation and on other measures required by the State Board in the high schools, and (iii) hold schools accountable for the educational growth of their students. To those ends, the State Board shall design and implement an accountability system that

sets annual performance standards for each school in the State in order to measure the growth in performance of the students in each individual school. During the 2004-2005 school year and at least every five years thereafter, the State Board shall evaluate the accountability system and, if necessary, modify the testing standards to assure the testing standards continue to reasonably reflect the level of performance necessary to be successful at the next grade level or for more advanced study in the content area.

As part of this evaluation, the Board shall, where available, review the historical trend data on student academic performance on State tests. To the extent that the historical trend data suggest that the current standards for student performance may not be appropriate, the State Board shall adjust the standards to assure that they continue to reflect the State's high expectations for student performance.

(b) For purposes of this Article, ~~beginning school year 2002-2003,~~ the State Board shall include a "closing the achievement gap" component in its measurement of educational growth in student performance for each school. The "closing the achievement gap" component shall measure and compare the performance of each subgroup in a school's population to ensure that all subgroups as identified by the State Board are meeting State standards.

(c) The State Board shall consider incorporating into the School-Based Management and Accountability Program a character and civic education component which may include a requirement for student councils."

SECTION 7.12.(b) The State Board shall complete its initial evaluation and any necessary modifications to the testing standards required under G.S. 115C-105.35, as rewritten by subsection (a) of this section, so that the modified standards are in effect no later than the 2005-2006 school year.

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION

SECTION 7.13. The State Board of Education shall use funds appropriated in this act for State Aid to Local School Administrative Units to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2003-2004 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

(1) Incentive awards in schools that achieve higher than expected improvements may be up to:
   a. One thousand five hundred dollars ($1,500) for each teacher and for certified personnel; and
   b. Five hundred dollars ($500.00) for each teacher assistant.

(2) Incentive awards in schools that meet the expected improvements may be up to:
   a. Seven hundred fifty dollars ($750.00) for each teacher and for certified personnel; and
   b. Three hundred seventy-five dollars ($375.00) for each teacher assistant.

DISCONTINUE INEFFECTIVE PROGRAM

SECTION 7.14. Section 7.20(a) of S.L. 2003-284 is repealed.

RESTORE VOCATIONAL EDUCATION FUNDING

SECTION 7.15.(a) Section 7.37 of S.L. 2003-284 reads as rewritten:

"**SECTION 7.37.** ~~It is the intent of the General Assembly to eliminate funding for vocational education in the seventh grade.~~ Local school administrative units shall make every effort to focus the vocational education budget reductions on the seventh grade for 2003-2004 school year. For the 2004-2005 school year, after making the base allotment for each local school administrative unit, the State Board of Education shall use the average daily membership for grades eight through twelve ~~only~~ to calculate vocational education budget allotments to local school administrative units. ~~For the~~

~~2004-2005 school year, local school administrative units shall take all of the vocational education budget reductions for the 2003-2005 biennium in the seventh grade before making reductions to other grades.~~ Priority use of these funds should be to provide vocational education in grades eight through 12."

SECTION 7.15.(b) G.S. 115C-151 reads as rewritten:

"**§ 115C-151. Statement of purpose.**

It is the intent of the General Assembly that vocational and technical education be an integral part of the educational process. The State Board of Education shall administer through local boards of education a comprehensive program of vocational and technical education that shall be available to all ~~students~~ students, with priority given to students in grades eight through 12, who desire it in the public secondary schools and middle schools of this State. The purposes of vocational and technical education in North Carolina public secondary schools shall be:

(1) Occupational Skill Development. – To prepare individuals for paid or unpaid employment in recognized occupations, new occupations, and emerging occupations.

(2) Preparation for Advanced Education. – To prepare individuals for participation in advanced or highly skilled vocational and technical education.

(3) Career Development; Introductory. – To assist individuals in the making of informed and meaningful occupational choices.

It is also legislative intent to authorize the State Board of Education to support appropriate vocational and technical education instruction and related services for individuals who have special vocational and technical education needs which can be fulfilled through a comprehensive vocational and technical education program as designated by State Board of Education policy or federal vocational and technical education legislation."

SECTION 7.15.(c) G.S. 115C-157 reads as rewritten:

"**§ 115C-157. Responsibility of local boards of education.**

Each local school administrative unit, shall provide free appropriate vocational and technical education instruction, activities, and services in accordance with the provisions of this Part for all ~~youth~~ youth, with priority given to youth in grades eight through 12, who elect the instruction and shall have responsibility for administering the instruction, activities, and services in accordance with federal and State law and State Board of Education policies."

HEALTHFUL SCHOOL FOOD CHOICES/PILOT PROGRAM

SECTION 7.17.(a) The State Board of Education, with the advice and assistance of The North Carolina School Food Service Association and the Academy of Family Physicians, shall develop and implement a pilot program to support the efforts of local school administrative units to provide only healthful, nutritious food choices to students. The State Board of Education shall select up to eight local school administrative units to participate in the pilot program and shall set standards for the food choices offered to students. In selecting the eight pilot units, the State Board shall give priority to those units that volunteer to be a pilot. The pilots shall be distributed geographically throughout the State.

For the 2004-2005 school year, pilot units shall implement the program in elementary schools.

SECTION 7.17.(b) If, at the end of the 2004-2005 school year, the State Board of Education finds that a pilot unit experienced a decrease in food service revenues because students opted not to purchase the healthful, nutritious food choices offered by the school food service, the State Board shall reimburse the unit for that decrease in revenues.

VISITING INTERNATIONAL FACULTY

SECTION 7.18. Section 7.41 of S.L. 2003-284 reads as rewritten:

"**SECTION 7.41.** The State Board of Education shall convert teacher positions to dollars for Visiting International Faculty Program teachers for the 2003-2004 fiscal year and the 2004-2005 fiscal year on the basis of the allotted average teacher salary and benefits."

STATE BOARD OF EDUCATION AUTHORITY TO SET CERTIFICATION STANDARDS FOR TEACHERS

SECTION 7.19.(a) G.S. 115C-296 reads as rewritten:

"**§ 115C-296. Board sets certification requirements.**

(a) The State Board of Education shall have entire control of certifying all applicants for teaching 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~~ authorizes.

The State Board of Education ~~shall~~ may require ~~each~~ an applicant for an initial bachelors degree certificate or graduate degree certificate to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. The State Board of Education shall permit an applicant to fulfill ~~this~~ any such testing requirement before or during the applicant's second year of teaching provided the applicant took the examination at least once during the first year of teaching. The State Board of Education shall make ~~the~~ any required standard initial certification exam sufficiently rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has adequate academic and professional preparation to teach.

(a1) The State Board shall adopt policies that establish the minimum scores for ~~the~~ any required standard examinations and other measures necessary to assess the qualifications of professional personnel as required under subsection (a) of this section. For purposes of this subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the General Statutes. At least 30 days prior to changing any policy adopted under this subsection, the State Board shall provide written notice to all North Carolina schools of education and to all local boards of education. The written notice shall include the proposed revised policy.

…."

SECTION 7.19.(b) G.S. 115C-296.1(c) reads as rewritten:

"(c) A local board may re-employ as a teacher an individual the board initially employed under subdivisions (a)(2)b and (a)(2)c of this section. If the individual, either prior to initial employment or within one year after initial employment, takes and passes ~~the~~ any required standard examination adopted by the State Board under G.S. 115C-296(a) that is or was applicable to the grade or subject the individual is employed to teach, then upon re-employment the individual is deemed to have satisfied the academic and professional preparation required to receive an initial State teacher certificate. An individual who receives an initial certificate under this subsection is subject to the same requirements for continuing certification as other teachers who hold initial State teacher certificates. If the individual, within one year of the initial employment, does not take and pass ~~the~~ any required standard examination adopted by the State Board under G.S. 115C.296(a) that is applicable to the grade or subject the individual is employed to teach, then upon re-employment the individual shall continue to hold a provisional certificate and is subject to G.S. 115C-296(c)."

SECTION 7.19.(c) Subsection (b) of this section expires September 1, 2006.

STUDY STRATEGIES FOR FACILITATING STUDENT PARTICIPATION IN TEACHER PREPARATION PROGRAMS

SECTION 7.19A. The Joint Legislative Education Oversight Committee shall study strategies for facilitating student participation in teacher preparation

programs. In the course of the study, the Committee shall review existing programs that facilitate student participation in teacher preparation programs such as (i) university and community college collaborative programs; (ii) distance learning programs; and (iii) any other existing teacher preparation programs other than traditional four-year residential programs. The Committee shall also consider other strategies for increasing the number of teachers certified such as establishing branch campuses and providing other distance learning programs. The Committee shall make recommendations, including recommendations on pilot programs, to the 2005 General Assembly by January 15, 2005.

MAINTAIN 12-MONTH VOCATIONAL AGRICULTURE TEACHER POSITIONS

SECTION 7.20. G.S. 115C-302.1(b) reads as rewritten:

"(b) Salary Payments. – State-allotted teachers shall be paid for a term of 10 months. State-allotted months of employment for vocational education to local boards shall be used for the employment of teachers of vocational and technical education for a term of employment to be determined by the local boards of education. However, 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. In addition, local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 2003-2004 school year for any school year thereafter.

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

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

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. The 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 the teacher's annual salary nor in any other way alter the contract made between the teacher and the local school administrative unit. Teachers employed for a period of less than 10 months shall not receive their salaries in 12 installments."

ACCOUNTABILITY ASSESSMENT FOR AGRICULTURAL EDUCATION

SECTION 7.20A. During the 2005-2006 school year, the State Board of Education shall submit an amended State Career-Technical Education Plan to the United States Department of Education to:

(1) Permit the State Board to field test the North Carolina Agricultural Education Program Standards and collect data on these Standards for two years;

(2) Permit the use of the data collected under the field test as an alternative to the end-of-course tests in the Vocational Education Competency Achievement Tracking System (VoCATS) and authorize the use of that data to satisfy the technical attainment requirement for continued Carl D. Perkins funding;

(3) Require the Department of Public Instruction and the Department of Agricultural Education at North Carolina State University to monitor the program to ensure compliance with all Standards; and
(4) Authorize the State Board of Education to determine whether to use the North Carolina Agricultural Education Program Standards on a statewide basis if the two years of field testing are successful.

The Department of Public Instruction and the Department of Agricultural Education at North Carolina State University shall report on the field test to the Joint Legislative Education Oversight Committee by October 15, 2006.

ADDITIONAL TEACHER POSITIONS FOR THIRD GRADE

SECTION 7.21.(a) The maximum class size limits for third grade established by the State Board of Education for the 2004-2005 school year shall be reduced by 4.23 from the 2003-2004 limits, based on an allotment ratio of one teacher for every 18 students.

SECTION 7.21.(b) For the 2004-2005 school year, local school administrative units shall use these additional teacher positions to reduce class size in third grade.

HIGH SCHOOL WORKFORCE DEVELOPMENT PROGRAM

SECTION 7.22.(a) Funds are appropriated in this act for a high school workforce development program. The purpose of the program shall be to identify students who may not plan to attend or be adequately prepared to attend a two- or four-year degree program and to provide the assistance those students need to earn an Associate Degree the year after their senior year in high school. The Department of Public Instruction shall work closely with the Education Cabinet and the New Schools Project in administering the program.

These funds shall be used to establish five pilot projects in which a local school administrative unit, two- and four-year colleges and universities, and local employers work together to ensure that high school and community college curricula operate seamlessly and meet the needs of participating employers.

SECTION 7.22.(b) The State Board of Education shall conduct an annual evaluation of this program. The evaluation shall include (i) an assessment of the overall impact of this program on student achievement, retention, and employability, (ii) an accounting of how funds and personnel resources were utilized and their impact on student achievement, retention, and employability, and (iii) recommendations for continuance and improvement of the program. The State Board of Education shall report the results of this evaluation to the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division, by September 15 of each year.

FUNDS FOR EDUCATION OF STUDENTS AT ECKERD YOUTH ALTERNATIVES THERAPEUTIC CAMP

SECTION 7.22A. If a school-age child is placed in an Eckerd Youth Alternatives therapeutic camp, the local school administrative unit in which the child resides shall be responsible for the cost of the educational services to the child. The unit shall be responsible for a maximum of one one-hundred-eightieth (1/180) of:

(1) The State average per pupil allocation from State funds for average daily membership allotments except for the allocation for children with special needs and for the allocation for children with limited English proficiency; and
(2) If the child is a child with special needs, the State per pupil allocation for children with special needs,

for each day that the child receives educational services in an Eckerd Youth Alternatives therapeutic camp, for a maximum of 180 days.

The Department of Public Instruction shall reduce the allotment to the unit in which the child resides by this amount and shall remit the funds to Eckerd Youth Alternatives.

FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW STUDENT INFORMATION SYSTEM

SECTION 7.23. The Office of State Budget and Management shall, after consultation with the Department of Public Instruction, modify the budget structure for funds budgeted for the Uniform Education Reporting System to separate funds for the development and implementation of NC WISE from funds for other reporting systems. The modified structure shall provide a level of detail sufficient to isolate expenditures for each project.

COUNTY FUNDS FOR CHARTER SCHOOL FACILITY PILOT PROGRAM

SECTION 7.25.(a) A charter school, prior to July 1, 2005, may adopt and present to the local board of education of the local school administrative unit in which it is located a resolution requesting funds for the construction of charter school facilities. The resolution shall describe the intended use of the funds. If the local board of education approves the request, the local board of education shall submit the charter school's request to the board of county commissioners along with the budget request for the local board of education. If the county appropriates funds for the construction of charter school facilities, the local board of education shall transfer the funds to the charter school. The local board of education shall require that the charter school account for the appropriation at the close of the fiscal year. This subsection applies only to the Mount Airy City School Administrative Unit and to Surry County. Definitions applicable to Part 6A of Article 16 of Chapter 115C of the General Statutes apply to this subsection.

SECTION 7.25.(b) If a local board of education, prior to July 1, 2005, submits a charter school's request for funds for the construction of charter school facilities to a county in accordance with subsection (a) of this section, the county may appropriate funds for capital outlay for a charter school located in the county. Before it appropriates funds under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once a week for two consecutive weeks before the hearing in a newspaper having general circulation in the area. An ordinance appropriating funds under this section may not be adopted after June 30, 2005. No funds may be expended under this section unless the county receives a security interest in the facilities being constructed in the amount of the funds expended.

The county shall not appropriate for charter school facilities (i) any local sales tax revenues earmarked by G.S. 105-487(a) or G.S. 105-502(a) for public school capital outlay purposes or for the retirement of debt incurred for public school capital outlay purposes or (ii) any corporate tax revenues earmarked by G.S. 115C-546.1(b) for the Public School Building Capital Fund. The ordinance making the appropriation shall state specifically what the appropriation is to be used for.

This subsection applies only to the Mount Airy City School Administrative Unit and to Surry County. Definitions applicable to Chapter 153A of the General Statutes apply to this subsection.

IMPLEMENTATION OF ALTERNATE COMPETENCY TESTS

SECTION 7.27. Section 2 of S.L. 2003-275 reads as rewritten:

"**SECTION 2.** This act becomes effective July 1, 2003. G.S. 115C-174.11(b)(3a), as created in Section 1 of this act, shall be implemented no later than the 2004-2005 school year. The State Board of Education shall adopt or develop and validate the alternate tests required under G.S. 115C-174.11(b)(3), as amended by Section 1 of this act, no

later than April 15, 2005, and shall implement these alternate tests beginning with the 2005-2006 school year."

TEACHERS FOR GEOGRAPHICALLY ISOLATED SCHOOLS

SECTION 7.28. The State Board of Education shall modify its policy on the allotment of additional classroom teachers to small schools when consolidation is not feasible due to the geographic isolation of the school to provide for the allotment of additional teachers to any such school in which the average daily membership is 110 or less. In administering this policy with regard to a school located in a local school administrative unit in which the average daily membership is less than 1.5 per square mile, the State Board of Education shall, at a minimum:

(1) Allot teachers to the geographically isolated school on the basis of one classroom teacher per grade level; and

(2) Allot teachers to the remainder of the local school administrative unit under the regular teacher allotment formula.

The State Board may allot additional teachers to the local school administrative unit if demographic conditions warrant.

ENHANCE NUTRITION IN SCHOOL FOOD PROGRAM

SECTION 7.29.(a) G.S. 115C-264 reads as rewritten:

"**§ 115C-264. Operation.**

In the operation of their public school food programs, the public schools shall participate in the National School Lunch Program established by the federal government. The program shall be under the jurisdiction of the Division of School Food Services of the Department of Public Instruction and in accordance with federal guidelines as established by the Child Nutrition Division of the United States Department of Agriculture.

For nutritional purposes, the public schools shall not (i) use cooking oils in their school food programs that contain trans-fatty acids or (ii) sell processed foods containing trans-fatty acids that were formed during the commercial processing of the foods.

Each school may, with the approval of the local board of education, sell soft drinks to students so long as soft drinks are not sold (i) during the lunch period, (ii) at elementary schools, or (iii) contrary to the requirements of the National School Lunch Program.

All school food services shall be operated on a nonprofit basis, and any earnings therefrom over and above the cost of operation as defined herein shall be used to reduce the cost of food, to serve better food, or to provide free or reduced-price lunches to indigent children and for no other purpose. The term "cost of operation" shall be defined as actual cost incurred in the purchase and preparation of food, the salaries of all personnel directly engaged in providing food services, and the cost of nonfood supplies as outlined under standards adopted by the State Board of Education. "Personnel" shall be defined as food service supervisors or directors, bookkeepers directly engaged in food service record keeping and those persons directly involved in preparing and serving food: Provided, that food service personnel shall be paid from the funds of food services only for services rendered in behalf of lunchroom services. Any cost incurred in the provisions and maintenance of school food services over and beyond the cost of operation shall be included in the budget request filed annually by local boards of education with boards of county commissioners. It shall not be mandatory that the provisions of G.S. 115C-522(a) and 143-129 be complied with in the purchase of supplies and food for such school food services."

SECTION 7.29.(b) This section becomes effective August 1, 2005.

ENCOURAGE LEAS TO APPLY FOR E-RATE REIMBURSEMENTS

SECTION 7.30. The State Board of Education shall identify all local school administrative units not applying for reimbursements under the federal E-rate Program and shall encourage and provide them with technical assistance on doing so.

STUDY THE EFFICACY OF PROVIDING FOR STAFF DEVELOPMENT THROUGH REGIONAL EDUCATION SERVICE ALLIANCES

SECTION 7.31. The Joint Legislative Education Oversight Committee may consider the efficacy of providing for staff development in the core curricular areas through teacher-on-loan positions at Regional Education Service Alliances (RESAs). The Regional Education Service Alliances would:

(1) Establish a uniform system of delivery that provides member school systems with the opportunity for consistent professional development activities;
(2) Expand services to member school systems, which include regional, on-site, and follow-up training for educators in the core curricular areas;
(3) Employ content specialists highly knowledgeable of the North Carolina Standard Course of Study as consistent and reliable resources for member school districts; and
(4) Identify, communicate, and assist with the implementation of State educational initiatives.

The positions would be under the direction and supervision of an on-site RESA director.

If the Joint Legislative Education Oversight Committee undertakes the study, the Committee shall report the results of the study to the 2005 General Assembly.

LOCAL SCHOOL CONSTRUCTION FINANCING STUDY

SECTION 7.32.(a) Establishment of the Commission. – The Local School Construction Financing Study Commission is established.

SECTION 7.32.(b) Membership. – The Commission shall be composed of 20 members, as follows:

(1) One member appointed by the Governor, after consultation with the President Pro Tempore of the Senate and the Speaker of the House of Representatives, who shall serve as chair;
(2) Eight members appointed by the President Pro Tempore of the Senate: two members of the Senate from urban areas, two members of the Senate from rural areas, one member representing a large, fast-growing, urban school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member from the financial services industry, one county commissioner, and one educator;
(3) Eight members appointed by the Speaker of the House of Representatives: two members of the House of Representatives from urban areas, two members of the House of Representatives from rural areas, one member representing a rural school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member who is knowledgeable about municipal and school finance, one school board member, and one educator;
(4) The State Treasurer or a designee;
(5) The State Superintendent of Public Instruction or a designee; and
(6) The chair of the State Board of Education.

Vacancies shall be filled by the appointing authority.

SECTION 7.32.(c) Duties of the Commission. – The Commission shall examine the present system of local financing for school facilities and shall study alternative options for financing local school construction, renovation, repair, and maintenance. The Commission may study and consider public-private partnerships for school construction and facility ownership, sale lease-back arrangements, private and

commercial financing arrangements, design standards for school facilities that may facilitate alternative financing techniques, alternative local revenue sources for financing school facilities, the use of real estate investment trusts, State and local construction bond pools, and any other financing issues deemed pertinent by the Commission.

SECTION 7.32.(d) Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 7.32.(e) Consultants and Other Staff. – The Commission may hire consultants to provide research, staff support, and information about school financing in other states to the Commission, in accordance with G.S. 120-32.02. The Legislative Services Office, with the prior approval of the Legislative Services Commission, shall also assign professional and clerical staff to assist the Commission in its work.

SECTION 7.32.(f) Cooperation by Government Agencies. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision of the State for facilities, data, or other assistance. All State departments and agencies, local governments, and their subdivisions shall cooperate with the Commission and, upon request, shall furnish the Commission and its staff any information in their possession or available to them.

SECTION 7.32.(g) Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly.

SECTION 7.32.(h) Meeting Location. – The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building. The Commission may also meet at various locations around the State in order to promote greater public participation in its deliberations.

SECTION 7.32.(i) Reports. – The Commission shall make an interim report to the 2005 General Assembly no later than January 31, 2005, and a final report to the 2006 Regular Session of the 2005 General Assembly no later than March 31, 2006. The final report shall contain recommendations for legislation to implement recommendations made by the Commission. The interim report may also contain recommendations for legislation. The Commission shall terminate on March 31, 2006.

SECTION 7.32.(j) Notwithstanding the provisions of G.S. 115C-546.1(b), the Secretary of Revenue shall remit to the State Treasurer for credit to the General Assembly the sum of one hundred thousand dollars ($100,000) of the funds to be deposited in the Public School Building Capital Fund pursuant to G.S. 115C-546.1(b) during the 2004-2005 fiscal year. These funds shall be used for the expenses of the Local School Construction Financing Study Commission. The Commission may also apply for, receive, or accept grants and contributions, subject to the provisions of G.S. 120-32.03, to support the work of the Commission.

CHILDREN'S TRUST FUND

SECTION 7.33.(a) The Department of Public Instruction, in carrying out its duties and responsibilities under Article 13 of Chapter 7B of the General Statutes, shall collaborate with the Division of Social Services and with statewide child abuse and neglect prevention experts with regards to the following:

(1) Best practices in child abuse and neglect prevention programs and policies.
(2) Exploration of additional revenue sources for the protection of children in this State.
(3) Educational programs to ensure statewide awareness of the Children's Trust Fund, and its purpose and mission.

SECTION 7.33.(b) The Department of Public Instruction shall report annually on revenues and expenditures of the Children's Trust Fund to the Joint Legislative Commission on Governmental Operations.

PART VIII. COMMUNITY COLLEGES

USE OF FUNDS FOR THE COLLEGE INFORMATION SYSTEM PROJECT

SECTION 8.1.(a) Funds appropriated to the Community Colleges System Office for the College Information System Project shall not revert at the end of the 2003-2004 fiscal year but shall remain available until expended.

SECTION 8.1.(b) The Community Colleges System Office shall report on a quarterly basis to the Joint Legislative Education Oversight Committee on the implementation of the College Information System Project.

SECTION 8.1.(c) Subsection (a) of this section becomes effective June 30, 2004.

CARRYFORWARD FOR EQUIPMENT

SECTION 8.2.(a) Subject to the approval of the Office of State Budget and Management and cash availability, the North Carolina Community Colleges System may carry forward an amount not to exceed ten million dollars ($10,000,000) of the operating funds held in reserve that were not reverted in fiscal year 2003-2004 to be reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These funds shall be distributed to colleges consistent with G.S. 115D-31.

SECTION 8.2.(b) This section becomes effective June 30, 2004.

SALARIES OF COMMUNITY COLLEGE FACULTY AND PROFESSIONAL STAFF

SECTION 8.3.(a) It is the intent of the General Assembly to establish a community college faculty salary plan that (i) provides accountability to the General Assembly, (ii) maintains local flexibility and autonomy for the community colleges, and (iii) ensures that community college faculty members have a uniform minimum salary based on level of education, equivalent applicable experience, or both.

It is imperative that the State move community college faculty and professional staff salaries to the national average. The estimated incremental costs of doing so over five years are thirty-three million two hundred eighty-nine thousand three hundred seventy-one dollars ($33,289,371) for the 2004-2005 fiscal year, twenty-one million ninety-two thousand sixty-six dollars ($21,092,066) for the 2005-2006 fiscal year, twenty-one million five hundred seventy-four thousand five hundred three dollars ($21,574,503) for the 2006-2007 fiscal year, twenty-two million ninety-five thousand five hundred thirty-two dollars ($22,095,532) for the 2007-2008 fiscal year, and twelve million four hundred twenty-seven thousand five hundred thirty-one dollars ($12,427,531) for the 2008-2009 fiscal year.

SECTION 8.3.(b) The minimum salaries for community college faculty shall be based on the following education levels:

(1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.
(2) Associates Degree or Equivalent. – This education level includes faculty members who have an associates degree or have completed two or more years of college but have no degree.
(3) Bachelors Degree.
(4) Masters Degree or Education Specialist.
(5) Doctoral Degree.

SECTION 8.3.(c) For the 2004-2005 school year, the minimum salaries for nine-month, full-time, curriculum community college faculty shall be as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	$28,512
Associates Degree or Equivalent	$28,944
Bachelors Degree	$30,817
Masters Degree or Education Specialist	$32,478
Doctoral Degree	$34,874.

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

SECTION 8.3.(d)

(1) It is the intent of the General Assembly to encourage community colleges to make faculty salaries a priority and to reward colleges that have taken steps to achieve the national average, therefore:

a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up to eight percent (8%) of the State funds allocated to it for faculty salaries.

b. If the average faculty salary at a community college is at least ninety-five percent (95%) but less than one hundred percent (100%) of the national average community college faculty salary, the college may transfer up to six percent (6%) of the State funds allocated to it for faculty salaries.

c. If the average faculty salary at a community college is at least ninety percent (90%) but less than ninety-five percent (95%) of the national average community college faculty salary, the college may transfer up to five percent (5%) of the State funds allocated to it for faculty salaries.

d. If the average faculty salary at a community college is at least eighty-five percent (85%) but less than ninety percent (90%) of the national average community college faculty salary, the college may transfer up to three percent (3%) of the State funds allocated to it for faculty salaries.

e. If the average faculty salary at a community college is eighty-five percent (85%) or less of the national average community college faculty salary, the college may transfer up to two percent (2%) of the State funds allocated to it for faculty salaries.

Except as provided by subdivision (2) of this subsection, a community college shall not transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by this subsection.

(2) With the approval of the State Board of Community Colleges, a community college at which the average faculty salary is eighty-five percent (85%) or less of the national average may transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by sub-subdivision e. of subdivision (1) of this subsection. The State Board shall approve the transfer only for purposes that directly affect student services.

The State Board of Community Colleges shall adopt rules to implement the provisions of this subdivision.

(3) A local community college may use all State funds allocated to it except for Literacy Funds and Funds for New and Expanding Industries to increase faculty salaries.

SECTION 8.3.(e) As used in this section:

(1) "Average faculty salary at a community college" means the total nine-month salary from all sources of all nine-month, full-time, curriculum faculty at the college, as determined by the North Carolina Community College System on October 1 of each year.

(2) "National average community college faculty salary" means the nine-month, full-time, curriculum salary average, as published by the Integrated Postsecondary Education Data System (IPEDS), for the most recent year for which data are available.

SECTION 8.3.(f) The State Board of Community Colleges shall adopt rules to implement the provisions of this section.

SECTION 8.3.(g) The State Board of Community Colleges shall report to the appropriations subcommittees on education, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division, and the Office of State Budget and Management by December 1, 2004, and every year thereafter through December 1, 2009, on the implementation of this section.

SECTION 8.3.(h) Funds appropriated in this act for salary increases shall be used to:

(1) Implement the minimum salaries set out in subsection (c) of this section. Funds shall be allocated to those colleges with faculty below the minimum salary in each education level as determined by the North Carolina Community College System. These funds shall only be used to bring the salaries of full-time faculty members to the applicable minimum; and

(2) Increase faculty and professional staff salaries by an average of two percent (2%). These increases are in addition to other salary increases provided for in this act and shall be calculated on the average salaries prior to the issuance of the compensation increase. Colleges may provide additional increases from funds available.

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

MODIFY REPORTING REQUIREMENT FOR NEW AND EXPANDING INDUSTRY TRAINING PROGRAM

SECTION 8.4. G.S.115D-5(i) reads as rewritten:

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

(1) The total amount of funds received by the company or individual;

(2) The amount of funds per trainee received by the company or individual;

(3) The amount of funds received per trainee by the community college training the trainee;

(4) The number of trainees trained by company and by community college; and

(5) The number of years the companies or individuals have been funded."

NEW AND EXPANDING INDUSTRIES TRAINING PROGRAM FUNDS

SECTION 8.5.(a) Funds available to the New and Expanding Industries Program shall not revert at the end of the 2003-2004 fiscal year but shall remain available until expended.

SECTION 8.5.(b) This section becomes effective June 30, 2004.

CENTER FOR APPLIED TEXTILE TECHNOLOGY/MODIFY BOARD MEMBERSHIP

SECTION 8.6. G.S. 115D-68 reads as rewritten:

"**§ 115D-68. Creation of board of trustees; members and terms of office; no compensation.**

The North Carolina Center for Applied Textile Technology shall be managed, subject to policies and regulations of the State Board of Community Colleges, by a board of trustees. The board of trustees shall consist of ~~the President of the North Carolina System of Community Colleges and~~ nine members appointed by the Governor. The terms of office of the trustees ~~appointed by the Governor~~ shall be as follows: Three of the trustees shall be appointed for a term of two years; three for three years; and three for four years. At the expiration of those terms, the appointments shall be made for periods of four years. In the event of any vacancy on the board, the vacancy shall be filled by appointment of the Governor for the unexpired term of the member causing the vacancy. The members of the board of trustees ~~appointed by the Governor~~ shall serve without compensation."

STUDY OF THE NORTH CAROLINA CENTER FOR APPLIED TEXTILE TECHNOLOGY

SECTION 8.6A.(a) The State Board of Community Colleges shall study the North Carolina Center for Applied Textile Technology (NCCATT). In the course of the study, the State Board shall consider:

(1) The mission and purpose of the Center;
(2) The Center's programs and course of study;
(3) Any duplication of courses offered by community colleges;
(4) The Center's expenditures, receipts, and potential funding mechanisms;
(5) The population served by the Center, including students and industry; and
(6) The Center's status within the Community College System.

The State Board shall seek input, during the course of the study, from representatives of the North Carolina textile industry, members of the NCCATT Board of Trustees, the Department of Commerce, representatives of the College of Textiles at North Carolina State University, the Director of the Hosiery Technology Center at Catawba Valley Community College, and other interested parties.

SECTION 8.6A.(b) The State Board shall determine whether the Center should (i) remain an independent institution under the Community College System, (ii) be administered by a community college, (iii) be dissolved and the property transferred from State to county ownership, or (iv) be otherwise administered.

If the State Board determines that the Center should remain an independent institution under the Community College System or be administered by a community college, the State Board shall identify necessary changes to the Center's organization and funding structure, mission and purpose, programs or services currently offered, and governance.

SECTION 8.6A.(c) The State Board shall consult with the Education Subcommittee of the Joint Legislative Commission on Governmental Operations on the results of the study and shall provide a written report on the results of the study to the Office of State Budget and Management, the chairs of the Joint Legislative Education Oversight Committee, and the chairs of the finance committees of the Senate and the House of Representatives, no later than October 30, 2004.

SECTION 8.6A.(d) Notwithstanding Article 6 of Chapter 115D of the General Statutes or any other provision of law, the State Board of Community Colleges,

in consultation with the Office of State Budget and Management, shall implement the results of the study by January 1, 2005.

FUNDS FOR THE BUREAU OF TRAINING INITIATIVES

SECTION 8.7.(a) The Community Colleges System Office may carry forward the unexpended balance of funds appropriated for the 2003-2004 fiscal year from the Worker Training Trust Fund to the Community College System Office, Bureau of Training Initiatives. These funds shall be used for pilot programs that support the retraining of the existing workforce in new skills related to specific industry sectors. The purposes for which the funds may be used in the pilot programs include targeted assessments, training equipment, software, third-party trainers, and supplies and material costs. Any unexpended balance remaining in this program shall revert to the Worker Training Trust Fund on June 30, 2005.

SECTION 8.7.(b) This act becomes effective June 30, 2004.

FUNDS FOR THE COMPREHENSIVE ARTICULATION AGREEMENT STUDY

SECTION 8.8.(a) Section 8.12(h) of S.L. 2003-284 reads as rewritten:

"**SECTION 8.12.(h)** The University of North Carolina, Office of the President, and the North Carolina Community College System shall each transfer thirty-five thousand dollars ($35,000) to the Joint Legislative Education Oversight Committee to carry out this study. Funds transferred by the North Carolina Community College System that are not expended shall not revert on June 30, 2004, but shall remain available for the 2004-2005 fiscal year to pay costs associated with the study."

SECTION 8.8.(b) This section becomes effective June 30, 2004.

REPORT ON THE ADEQUACY OF MULTICAMPUS AND OFF-CAMPUS CENTER FUNDS

SECTION 8.9. The General Assembly finds that additional data are needed to determine the adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and colleges with off-campus centers shall report annually, beginning September 1, 2005, to the Community Colleges System Office on all expenditures by line item of funds used to support their multicampuses and off-campus centers. The Community Colleges System Office shall report on these expenditures to the Education Appropriation Subcommittees of the House of Representatives and the Senate, the Office of State Budget and Management, and the Fiscal Research Division by October 1 of each year.

Of the funds appropriated in this act for off-campus centers, ten thousand dollars ($10,000) shall be used by the State Board to assist State Board-approved centers with less than 50 FTE. The State Board shall allocate these funds to qualifying colleges on the basis of actual FTE enrollment at the centers.

Notwithstanding any other provision of law, funds appropriated to the Community Colleges System Office for multicampus colleges or off-campus centers shall be used only for the administration of the multicampus college or off-campus center for which the funds were allotted. These funds shall not be transferred to any other campus or center, or used for any other purpose.

MIDDLE COLLEGE START-UP FUNDS

SECTION 8.11.(a) Funds appropriated for a middle college program at Edgecombe Community College shall not revert at the end of the 2003-2004 fiscal year but shall remain available until expended.

SECTION 8.11.(b) This section becomes effective June 30, 2004.

MATCHING FUNDS FOR THE CAREER START PROJECT

SECTION 8.12. Community colleges may use funds earned through the continuation education enrollment allotment for Human Resource Development Programs to match federal grants for the Career Start Project.

STUDY OF FTE FUNDING FORMULA

SECTION 8.13. The State Board of Community Colleges shall consider modifications to its funding formulas to ensure that colleges have sufficient funds to adequately serve students when enrollment increases. In the course of the study, the State Board shall consider methods of accurately projecting enrollment for the upcoming academic year and using projected enrollment in its funding formulas. The State Board shall also consider modifications to its funding formulas to ensure that adequate funding is provided for high-cost programs.

The State Board shall report the results of its study to the Joint Legislative Education Oversight Committee and to the chairs of the appropriations committees of the House of Representatives and the Senate by January 15, 2005.

CONTINGENCY RESERVES

SECTION 8.14. Funds are appropriated in this act for the 2004-2005 fiscal year to create a contingency reserve fund for community college enrollment increases. The State Board of Community Colleges shall use these funds to:

(1) Increase the FTE allotment for the spring semester of the 2004-2005 school year at colleges that experience a total enrollment growth for the fall semester of the 2004-2005 school year of over ten percent (10%). Each such college shall receive an increase in its FTE allotment for the spring semester equal to the amount the enrollment increase exceeded ten percent (10%), insofar as funds are available within the enrollment reserve; and

(2) Provide one-time grants to colleges in areas with high unemployment due to manufacturing job losses. These funds shall be used only for additional faculty, guidance counselors, financial aid officers, and equipment that are necessary to meet the specific needs of the workers who are unemployed due to manufacturing job losses.

Funds not expended or encumbered for this purpose shall revert to the General Fund at the end of the 2004-2005 fiscal year.

The State Board of Community Colleges shall adopt rules to determine eligibility for funds from the contingency reserve.

STATE BOARD RESERVE ALLOCATION FOR MAINTENANCE OF PLANT

SECTION 8.16. The State Board of Community Colleges may use up to one hundred thousand dollars ($100,000) from the State Board Reserve for the 2004-2005 fiscal year to assist small rural low-wealth community colleges with operation and maintenance of plant costs if they need to assist new or expanding industries in their service delivery areas.

STATEWIDE MILITARY BUSINESS CENTER AND HOMELAND SECURITY BUSINESS INCUBATOR

SECTION 8.17.(a) The funds appropriated in this act to the Community Colleges System Office for a military business center to provide for a statewide system of military procurement shall be used as follows:

(1) The sum of two hundred thousand dollars ($200,000) shall be used by the North Carolina Electronics and Information Technologies Association to develop, in conjunction with MCNC, a proposal for the development and operation of a homeland security business incubator. The North Carolina Electronics and Information Technologies Association shall make a report on this proposal to the Joint

Legislative Education Oversight Committee no later than February 28, 2005.

(2) The remainder of these funds shall be used for the development and operation of a military business center by Fayetteville Technical Community College. The military business center shall provide services to residents and businesses throughout the State. These funds shall be used for:

a. The development and operation of a statewide business assistance center. The purpose of the business assistance center is to serve as a coordinator and facilitator for small- and medium-sized businesses throughout the State seeking to win and complete military contracts. Activities of the business assistance center shall include:

1. Training and mentoring eligible businesses on effectively marketing their products and services to military clients and contracting offices.
2. Assisting eligible businesses with any required accreditations and qualifications for government contracting.
3. Teaching eligible businesses about federal set-aside programs and how to take advantage of these programs directly or through partnering with other eligible businesses.
4. Training and assisting clients with the registration, proposal development, and bidding processes related to military contracts.
5. Training eligible businesses on legal and regulatory compliance.
6. Designing and implementing mentoring programs to facilitate the development of interrelationships between eligible businesses.
7. Forecasting the need for and assisting eligible businesses in obtaining advanced certifications and accreditations and advanced manufacturing skills and technologies.
8. Assisting eligible businesses in advising military clients on retaining project funding.
9. Working with Small Business Centers throughout the State to carry out these activities on a statewide basis.

b. The development and maintenance of an Internet-based system to match the knowledge, skills, and abilities of active-duty military personnel, veterans, and their families throughout the State with the needs of North Carolina businesses.

c. The study of community resources and existing business capacity to meet the current and future needs of the military and the development of proposals for further developing community resources and developing or recruiting new businesses to meet those needs.

d. The marketing of the services provided by the military business center.

e. The planning and implementation of the development of an industrial park to house military contractors.

These funds shall not revert at the end of the fiscal year but shall remain available for expenditure for these purposes.

SECTION 8.17.(b) G.S. 66-58(c) is amended by adding a new subdivision to read:

"(3b) The operation of a military business center by a community college. For the purposes of this subdivision, the term 'military business center' means a facility that serves to coordinate and facilitate interactions between the United States Armed Forces; military personnel, veterans, and their families; and private businesses."

SECTION 8.17.(c) Fayetteville Technical Community College shall report to the Joint Legislative Education Oversight Committee prior to September 1, 2005, on expenditures of funds pursuant to this section.

PART IX. UNIVERSITIES

UNC FLEXIBILITY GUIDELINES

SECTION 9.1. The Chancellor of each constituent institution shall report to the Board of Governors of The University of North Carolina on the management flexibility adjustments made to the General Fund budget codes in order to meet the reserve amounts for that institution. The President of The University of North Carolina shall report to the Board of Governors of The University of North Carolina on the reductions made to the General Fund budget codes controlled by the Board in order to meet the reduction reserve amounts for those entities. The Board of Governors shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division by December 31, 2004, on all reductions made by these entities and constituent institutions in order to reduce the budgets by the targeted amounts.

NEED-BASED FINANCIAL AID FROM ESCHEAT FUNDS

SECTION 9.2.(a) There is appropriated from the Escheat Fund to the Board of Governors of The University of North Carolina the sum of twenty-eight million six hundred ten thousand two hundred forty dollars ($28,610,240) for the 2004-2005 fiscal year and to the State Board of Community Colleges the sum of seven hundred eighteen thousand three hundred ninety-six dollars ($718,396) for the 2004-2005 fiscal year. These funds shall be allocated by the State Educational Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7 and this act. The use of principal is allowed if interest income is insufficient.

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

SECTION 9.2.(c) There is appropriated from the Escheat Fund to the Board of Governors of The University of North Carolina the sum of three hundred ninety thousand dollars ($390,000) for the 2004-2005 fiscal year to be allocated to the State Education Assistance Authority for need-based student financial aid to be used in accordance with G.S. 116B-7 and this act. The State Education Assistance Authority shall use these funds only to provide scholarship loans to North Carolina high school seniors interested in preparing to teach in the State's public schools who also enroll at any of the Historically Black Colleges and Universities that do not have Teaching Fellows. An allocation of 20 grants of six thousand five hundred dollars ($6,500) each shall be given to the three universities without any Teaching Fellows for the purposes specified in this subsection. The State Education Assistance Authority shall administer these funds and shall establish any additional criteria needed to award these scholarship loans, the conditions for forgiving the loans, and the collection of the loan repayments when necessary.

AREA HEALTH EDUCATION CENTER (AHEC) FUNDS

SECTION 9.3. Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2004-2005 fiscal year and in all subsequent fiscal years, the Board of Governors shall allocate the sum of twenty-four

thousand dollars ($24,000) to the Wilmington AHEC program annually and the sum of twenty-four thousand dollars ($24,000) to the Region L AHEC program on an annual basis for information highway line charges.

UNC BOND PROJECT MODIFICATIONS

SECTION 9.4.(a) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at North Carolina Agricultural & Technical State University by:

(1) Substituting a project entitled "New School of Education" for a project entitled "Central Cooling Plant Phase I" as contained in Section 2(a) of S.L. 2000-3, as it has been determined, based on an independent engineering analysis, that the cooling plant project is not technically feasible.

(2) The cancellation of "New Student Housing" and "Curtis Residence Hall-Replacement." The money from "New Student Housing" and "Curtis Residence Hall-Renovation" should be transferred to "Scott Residence Hall-Replacement."

(3) The cancellation of "Holland Residence Hall-Comprehensive Renovation." The unused money should be transferred to "Zoe Barbee Residence Hall-Comprehensive Renovation."

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North Carolina Agricultural & Technical State University as follows:

(1) By substituting the "New School of Education" for "Central Cool Plant-Phase I."

(2) By deleting "New Student Housing 1,897,900" and "Curtis Residence Hall-Replacement 3,723,500" and by amending "Scott Residence Hall-Replacement" to create a total allocation of thirty-one million eight hundred seventy-four thousand seven hundred dollars ($31,874,700).

(3) By deleting "Holland Residence Hall-Comprehensive Renovation 856,800" and by amending "Zoe Barbee Residence Hall-Comprehensive Renovation" to create a total allocation of four million five hundred fifty thousand six hundred dollars ($4,550,600).

SECTION 9.4.(b) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at East Carolina University to reduce the scope of "Expansion & Renovation of the Old Nursing Building" by three million dollars ($3,000,000) to a total allocation of eleven million six hundred eighty-five thousand five hundred dollars ($11,685,500) and transferring the unused funds to " 'Old Cafeteria' Office Building-Comprehensive Renovation for Student Services/Academic Use" to create a total allocation of seven million four hundred forty-two thousand one hundred dollars ($7,442,100).

Section 2(a) of S.L. 2000-3 is therefore amended under the portion under East Carolina University by reduction of allocations for the project entitled "Expansion and Renovation of the Old Nursing Building 14,685,500" by three million dollars ($3,000,000) to a total allocation of eleven million six hundred eighty-five thousand five hundred dollars ($11,685,500) and the addition of the money to allocations for the project entitled " 'Old Cafeteria' Office Building-Comprehensive Renovation for Student Services/Academic Use 4,442,100" by three million dollars ($3,000,000) to create a total allocation of seven million four hundred forty-two thousand one hundred dollars ($7,442,100).

SECTION 9.4.(c) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at the University of North Carolina at

Wilmington, due to growth in enrollment and programs offered, by reducing the scope of the comprehensive renovation of the "Alderman Hall Classroom Building" and by reducing the scope of the comprehensive renovation of the "Kenan Auditorium," both as contained in Section 2(a) of S.L. 2000-3, and by transferring a portion of the funds allocated to these two projects to the comprehensive renovation of the "King Hall Classroom Building," "James Hall Classroom Building," and "Kenan Hall Classroom Building," as contained in Section 2(a) of S.L. 2000-3.

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Wilmington, by reducing the money allocated to "Alderman Hall Classroom Building" by two million two hundred four thousand six hundred fifty-two dollars ($2,204,652) to create a total allocation of seven hundred thirty-six thousand one hundred forty-eight dollars ($736,148), by reducing the monies allocated to "Kenan Auditorium" by one million one hundred seventy-three thousand three hundred twenty-five dollars ($1,173,325) to create a total allocation of one million nine hundred twenty-one thousand nine hundred seventy-five dollars ($1,921,975) and by reallocating the money saved as follows: increase the budget of "King Hall" from two million six hundred ninety-seven thousand four hundred dollars ($2,697,400) to three million five hundred twenty-seven thousand four hundred dollars ($3,527,400), increase the budget for "Hinton James Hall" from one million four hundred sixty-eight thousand dollars ($1,468,000) to two million eight hundred fifty-four thousand twenty-five dollars ($2,854,025), and increase the budget of "Kenan Hall" from three million fifty-six thousand six hundred dollars ($3,056,600) to four million two hundred eighteen thousand five hundred fifty-two dollars ($4,218,552).

SECTION 9.4.(d) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interests of the State to respond to current educational and research program requirements at Fayetteville State University by changing the scope of the "Comprehensive Renovation and Conversion of Spaulding (Old Infirmary) for Public Safety Facilities" to "Comprehensive Renovation of Spaulding for Student Health Services and Student Counseling."

Section 2(a) of S.L. 2000-3 is therefore amended by retitling the project currently entitled "Comprehensive Renovation and Conversion of Spaulding (Old Infirmary) for Public Safety Facilities" to "Comprehensive Renovation of Spaulding for Student Health Services and Student Counseling."

SECTION 9.4.(e) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interests of the State to respond to current educational and research program requirements at Fayetteville State University by reallocating unused money from the "William Collins Building Renovation" to a new project entitled "Mitchell Building Renovation for use by Public Safety".

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Fayetteville State University by reducing the money allocated to "William Collins Building-Comprehensive Renovation" by three hundred thousand dollars ($300,000) to a total of three hundred forty thousand six hundred dollars ($340,600) and by the addition of a project entitled "Mitchell Building-Comprehensive Renovation for use by Public Safety $300,000."

SECTION 9.4.(f) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interests of the State to respond to current educational and research program requirements at North Carolina State University by substituting a project entitled "Harrelson Classroom Building-Replacement Classroom Facility Construction" for the project entitled "Harrelson Classroom Building-Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3.

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under North Carolina State University, by deleting "Harrelson Classroom Building-Comprehensive Renovation" and substituting "Harrelson Classroom Building-Replacement Classroom Facility Construction."

SECTION 9.4.(g) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interests of the State to respond to current educational and research program requirements at the University of North Carolina at Chapel Hill by deleting a project entitled "Community Health Building-Consolidation of Programs" as contained in Section 2(a) of S.L. 2000-3, and dispersing the funds from that project to other health affairs related bond projects.

Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Chapel Hill by deleting "Community Health Building Consolidation of Programs" and disbursing the funds associated with that project as follows: adding ten million six hundred twenty-five thousand seven hundred forty-seven dollars ($10,625,747) to the project entitled "School of Medicine-Medical Research Building-Comprehensive Renovation of Classroom & Laboratory Space," for a total of twenty-three million five hundred twenty thousand seven hundred forty-seven dollars ($23,520,747); adding one million forty thousand six hundred dollars ($1,040,600) to a project entitled "Burnett Womack Building Research Laboratory-Comprehensive Renovation," for a total of twenty-five million eight hundred eighty-eight thousand six hundred dollars ($25,888,600), and adding six million six hundred seventy-three thousand six hundred fifty-three dollars ($6,673,653) to a project entitled "Berryhill Hall Laboratory Building-Comprehensive Renovation" for a total of seventeen million three hundred seventy-three thousand six hundred fifty-three dollars ($17,373,653).

SECTION 9.4.(h) Nothing in this section is intended to supersede any other requirement of law or policy for approval of the substituted capital improvement projects.

FAYETTEVILLE STATE UNIVERSITY AND NORTH CAROLINA SCHOOL OF THE ARTS RETAIN REAL PROPERTY PROCEEDS

SECTION 9.5. Notwithstanding any other provision of law, Fayetteville State University and the North Carolina School of the Arts may retain the proceeds from the sale of their existing chancellor's residences and the appurtenant land.

Fayetteville State University may use the proceeds from the sale of its existing chancellor's residence and the appurtenant land, and any other nonappropriated funds available, to construct or otherwise acquire a new chancellor's residence. Proceeds from the sale not used for that purpose shall revert.

The North Carolina School of the Arts may use the proceeds from the sale of its existing chancellor's residence and the appurtenant land, and any other nonappropriated funds available, to construct or otherwise acquire a new chancellor's residence. Proceeds from the sale not used for that purpose shall revert.

NORTH CAROLINA SCHOOL OF SCIENCE AND MATH CARRYOVER/ONETIME EXPENDITURES

SECTION 9.6. G.S. 116-30.2(b) reads as rewritten:

"(b) The North Carolina School of Science and Mathematics is authorized to be designated as a special responsibility constituent institution for the purposes of G.S. 116-30.1, G.S. 116-30.3, G.S. 116-30.4, G.S. 116-30.5, G.S. 116-30.6, and G.S. 116-31.10. In addition, all General Fund appropriations made by the General Assembly for continuing operations of the North Carolina School of Science and Mathematics shall be made in the form of a single sum to each budget code of the School for each year of the fiscal period for which the appropriations are being made. Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), and G.S. 120-76(8), the North Carolina School of Science and Mathematics may expend monies from the overhead receipts special fund budget code and the General Fund monies so appropriated to it in the manner deemed by the Director of the School to be calculated to maintain and advance the programs and services of the School, consistent with the directives and policies of the Board of Trustees of the North Carolina School of Science and Mathematics. The preparation, presentation, and review of General Fund budget

requests of the North Carolina School of Science and Mathematics shall be conducted in the same manner as are requests of the constituent institutions. The quarterly allotment procedure established under G.S. 143-17 shall apply to the General Fund appropriations made for the current operations of the North Carolina School of Science and Mathematics. All General Fund monies so appropriated to the North Carolina School of Science and Mathematics shall be recorded, reported, and audited in the same manner as are General Fund appropriations to constituent institutions of The University of North Carolina."

EVALUATE SCIENCE & MATH SCHOOL TUITION GRANTS

SECTION 9.6A.(a) It is the intent of the General Assembly that the Board of Governors of The University of North Carolina review, evaluate, and study G.S. 116-238.1, which provides a four-year tuition grant to any North Carolina resident who graduates from the North Carolina School of Science and Mathematics and enrolls as a full-time student in a constituent institution of The University of North Carolina.

SECTION 9.6A.(b) The North Carolina School of Science and Mathematics shall collect data on the median family income of the students attending the school.

SECTION 9.6A.(c) The President of the North Carolina School of Science and Mathematics and the Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Committee regarding the information collected in compliance with subsections (a) and (b) of this section and any findings and recommendations of the Board of Governors. The Joint Legislative Education Oversight Committee shall report to the 2005 General Assembly the information received from the President of the North Carolina School of Science and Mathematics and the Board of Governors and the findings and recommendations of the Board of Governors, along with the Committee's own findings and recommendations regarding the continuation of the tuition grant program.

UNC-CHAPEL HILL CONTINUE TO OPERATE HORACE WILLIAMS AIRPORT

SECTION 9.7.(a) The University of North Carolina at Chapel Hill shall operate the Horace Williams Airport and continue air transportation support for the Area Health Education Center (AHEC) and the public from that location until a replacement facility that is accessible to the University of North Carolina at Chapel Hill becomes operational.

SECTION 9.7.(b) The University of North Carolina at Chapel Hill shall report to the Joint Legislative Commission on Governmental Operations by July 1, 2006, and biannually thereafter, on progress locating a replacement facility for the Area Health Education Center. The Departments of Administration and Transportation shall assist the University of North Carolina at Chapel Hill as needed to secure a replacement facility.

RESTORE BOND FUNDS USED FOR MOLD REMEDIATION

SECTION 9.8.(a) Of the funds appropriated by this act to the Reserve for Repairs and Renovations and allocated to the Board of Governors of The University of North Carolina for the 2004-2005 fiscal year the sum of eight million nine hundred six thousand six hundred forty-two dollars ($8,906,642) shall be allocated to North Carolina Central University to restore the bond funds that were transferred for mold remediation.

SECTION 9.8.(b) The Board of Governors of The University of North Carolina shall repay the Reserve for Repairs and Renovations for the amount allocated by subsection (a) of this section from the proceeds of any recovery by or on behalf of the Board of Governors or North Carolina Central University as a result of litigation, a legal settlement, or an insurance settlement related to recovering the cost of mold remediation.

NORTH CAROLINA SCHOOL OF THE ARTS EXEMPT FROM THE UMSTEAD ACT

SECTION 9.13. G.S. 66-58(b)(8) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

…

(8) The ~~Greater~~ University of North Carolina with regard ~~to its~~ to:

a. The University's utilities and other services now operated by ~~it nor to the~~ it.

b. The sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled ~~students nor to the~~ students.

c. The sale of meals or merchandise to persons attending meetings or conventions as invited ~~guests nor to the~~ guests.

d. The operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or ~~inn, nor to the~~ inn.

e. The hospital and Medical School of the University of North ~~Carolina, nor to the~~ Carolina.

f. The Coliseum of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the ~~State, nor to the~~State.

g. The Centennial Campus of North Carolina State University at ~~Raleigh, nor to the~~ Raleigh.

h. The Horace Williams Campus of the University of North Carolina at Chapel ~~Hill, nor to a~~ Hill.

i. A Millennial Campus of a constituent institution of The University of North ~~Carolina, nor to the~~ Carolina.

j. The comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.

k. Agreements by the North Carolina School of the Arts to the use of that school's facilities, equipment, and services of students, faculty, and staff for the creation of commercial materials and productions that may be unrelated to educational purposes, so long as the proceeds from those agreements are used for the benefit of the educational mission of the North Carolina School of the Arts.

…."

UNIVERSITY SYSTEM AND COMMUNITY COLLEGE SYSTEM STUDY

SECTION 9.14. The Board of Governors of The University of North Carolina shall use up to two million dollars ($2,000,000) of funds appropriated to The University of North Carolina for the 2004-2005 fiscal year for the comprehensive study of the mission and educational program needs for the University System and the Community College System provided for in House Bill 1264 of the 2004 Regular Session of the 2003 General Assembly if that legislation becomes law.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTRALIZE CRIMINAL RECORD CHECK FUNCTIONS

SECTION 10.1. The Department of Health and Human Services shall centralize all activities throughout the Department relating to the coordination and processing of criminal record checks required by law. The centralization shall include the transfer of positions, corresponding State appropriations, federal funds, and other funds. The Department shall implement the centralization beginning January 1, 2005, and shall report on the details of the centralization and implementation to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than January 1, 2005.

STUDY ISSUES RELATED TO MENTALLY ILL RESIDENTS OF LONG-TERM CARE FACILITIES

SECTION 10.2.(a) The Department of Health and Human Services shall work with long-term care providers and advocates for the elderly and the mentally ill to study issues concerning the care of mentally ill individuals residing in long-term care facilities. The study shall include:

(1) Examining whether current State statutes and Departmental rules adequately address the populations served by long-term care facilities.

(2) Exploring the development of separate licensure categories within the adult care home and nursing home designations to address the various populations being served.

(3) Examining adult care home rules to determine whether they are easy to understand, attainable under current staffing patterns, give appropriate guidance to facility operators according to the needs and characteristics of residents served, support residents' freedom of choice, and whether they support the autonomy, dignity, and independence philosophy of assisted living.

(4) Determining the most effective way to identify mentally ill individuals that have mental health treatment needs.

(5) Examining the criteria for admission of mentally ill individuals to long-term care facilities to ensure that the health and safety of all residents are safeguarded.

(6) Providing recommendations for improving the quality of care for mentally ill individuals in adult care homes and nursing homes including the potential cost associated with implementing the recommendations.

(7) Identifying specific problems that exist due to mixing aging and mentally ill populations.

SECTION 10.2.(b) The Department shall report its findings and recommendations to the North Carolina Study Commission on Aging by October 1, 2005. The Department of Health and Human Services shall include in this report how it defines "mentally ill" for purposes of this study.

AUTOMATIC ENROLLMENT MEDICARE PRESCRIPTION DRUG DISCOUNT CARD

SECTION 10.2B. Notwithstanding any other provision of law to the contrary, the Department of Health and Human Services may enroll senior citizens into the federal Medicare Prescription Drug Discount Program, as follows:

(1) Current and future participants in the State's Senior Care Prescription Drug Assistance Program whose income is not more than one hundred thirty-five percent (135%) of the federal poverty level are eligible for automatic enrollment.

(2) Prior to automatic enrollment, the Department shall give any person eligible for automatic enrollment the opportunity to decline automatic enrollment.

(3) The State's Senior Care Prescription Drug Assistance Program shall be payor of last resort.

CONSOLIDATION OF MANAGEMENT OF IT OPERATIONS, SERVICES, AND FUNCTIONS WITHIN DHHS

SECTION 10.2C.(a) Based upon information gathered by the Department of Health and Human Services in conducting the recently completed department-wide examination and analysis of the Department's information technology infrastructure, including IT expenditures and management structure, the Department shall complete planning and begin implementation of those plans to consolidate management of all IT operations, services, and functions that are common to and necessary in all divisions, offices, and programs of the Department.

SECTION 10.2C.(b) The consolidation and implementation should place emphasis on improving successful and timely implementation of IT projects and ongoing maintenance within the Department while eliminating duplication of efforts and equipment, controlling the use of personal service contracts, establishing continuity in process and systems development, strengthening systems security, coordinating and overseeing all IT efforts within the Department, and identifying other efficiencies. The plan for consolidation of these IT functions shall be implemented in a manner that will allow for the maintenance of a complete accounting of IT efforts within the Department and the costs related to those efforts, including identification of funding needs. The plan should set forth the management and operational structure of the consolidated IT function, including how the structure will enhance IT operations and efficiency within the Department.

SECTION 10.2C.(c) The Department shall restrict the future creation or filling of any IT-related position within any departmental division, office, or program when the function of the position is determined under the consolidation plan to be properly placed or managed within the consolidated IT function.

SECTION 10.2C.(d) The consolidation plan, including time lines for implementation, shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division upon completion, but not later than October 1, 2004. The Department shall provide a report on the progress of implementation of the consolidation plan to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on or before March 1, 2005.

DHHS PAYROLL DEDUCTION FOR CHILD CARE SERVICES

SECTION 10.2D. Pursuant to rules adopted by the State Controller, an employee of the Department of Health and Human Services may, in writing, authorize the Department to periodically deduct from the employee's salary or wages paid for employment by the State, a designated lump sum to be paid to satisfy the cost of services received for child care provided by the Department.

REGULATION OF PHYSICIAN ASSISTANTS RECEIVING, PRESCRIBING, OR DISPENSING FREE PRESCRIPTION DRUGS

SECTION 10.2E.(a) Article 1 of Chapter 90 is amended by adding a new section to read:

"**§ 90-18.2A. Physician assistants receiving, prescribing, or dispensing prescription drugs without charge or fee.**

The North Carolina Medical Board shall have sole jurisdiction to regulate and license physician assistants receiving, prescribing, or dispensing prescription drugs under the supervision of a licensed physician without charge or fee to the patient. The provisions of G.S. 90-18.1(c)(1), (c)(2), and G.S. 90-85.21(b), shall not apply to the receiving, prescribing, or dispensing of prescription drugs without charge or fee to the patient."

SECTION 10.2E.(b) This section is effective when it becomes law.

NO STATE FUNDS FOR REBIRTHING TECHNIQUE PERFORMED IN ANOTHER STATE

SECTION 10.2F. G.S. 14-401.21 reads as rewritten:

"**§ 14-401.21. Practicing "rebirthing technique"; penalty.**

(a) It is unlawful for a person to practice a technique, whether known as a "rebirthing technique" or referred to by any other name, to reenact the birthing process in a manner that includes restraint and creates a situation in which a patient may suffer physical injury or death.

(b) A violation of this section is punishable as follows:

(1) For a first offense under this section, the person is guilty of a Class A1 misdemeanor.

(2) For a second or subsequent offense under this section, the person is guilty of a Class I felony.

(c) No State funds shall be used to pay for the rebirthing technique made unlawful by this section and performed in another state notwithstanding that the technique, whether known as a rebirthing technique or referred to by any other name, is lawful in that other state."

COMMUNITY HEALTH GRANT FUNDS

SECTION 10.3(a) Of the funds appropriated in this act for Community Health Grants for the 2004-2005 fiscal year, the sum of five million dollars ($5,000,000) in nonrecurring funds shall be used for federally qualified health centers and for those health centers that meet the criteria for federally qualified health centers, and the sum of two million dollars ($2,000,000) shall be used for State-designated rural health centers and public health departments.

(1) Increase access to preventative and primary care services by uninsured or medically indigent patients in existing or new health center locations;

(2) Establish community health center services in counties where no such services exist;

(3) Create new services or augment existing services provided to uninsured or medically indigent patients, including primary care and preventative medical services, dental services, pharmacy, and behavioral health; and

(4) Increase capacity necessary to serve the uninsured by enhancing or replacing facilities, equipment, or technologies.

Grant funds may not be used to enhance or increase compensation or other benefits of personnel, administrators, directors, consultants, or any other parties. Grant funds may not be used to supplant federal funds traditionally received by federally qualified community health centers and may not be used to finance or satisfy any existing debt.

SECTION 10.3.(b) The Office shall work with the North Carolina Community Health Center Association (hereafter "NCCHCA") and the North Carolina Public Health Association (hereafter "NCPHA") to establish an advisory committee to develop an objective and equitable process for awarding grant funds. The Office shall also develop auditing and accountability procedures. Not more than one percent (1%) of

the funds appropriated in this section may be used to reimburse the Office for administering the grant program in collaboration with the NCCHCA and the NCPHA.

SECTION 10.3.(c) Recipients of grant funds shall provide to the Office annually a written report detailing the number of additional uninsured and medically indigent patients that are cared for, the types of services that were provided, and any other information requested by the Office as necessary for evaluating the success of the grant program.

SECTION 10.3.(d) The Office shall work with the NCCHCA and NCPHA to study and present recommendations for continuing funds to support the expansion of community health centers, State-designated rural health centers, and public health departments to serve more of the State's uninsured and indigent population. The Office shall submit the report to the 2005 General Assembly upon its convening.

MEDICAID

SECTION 10.4. Section 10.19 of S.L. 2003-284 reads as rewritten:

"**MEDICAID**

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

Services and payment bases:

(1) Hospital-Inpatient. – Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Health and Human Services.

(2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.

(3) Nursing Facilities. – Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid Program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare. The Division of Medical Assistance shall allow nursing facility providers sufficient time from the effective date of this act to certify additional Medicare beds if necessary. In determining the date that the requirements of this subdivision become effective, the Division of Medical Assistance shall consider the regulations governing certification of Medicare beds and the length of time required for this process to be completed.

(4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed in the State Plan as established by the Department of Health and Human Services.

(5) Drugs. – Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section or in accordance with the State Plan adopted by the

Department of Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents ($5.60) per prescription for generic drugs and four dollars ($4.00) per prescription for brand name drugs. Adjustments to the professional services fee shall be established by the General Assembly.

(6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services, Nurse Practitioners. – Fee schedules as developed by the Department of Health and Human Services. 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 the rate schedule developed by the Department of Health and Human Services.

(8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment. – Payment to be made according to reimbursement plans developed by the Department of Health and Human Services.

(9) Medicare Buy-In. – Social Security Administration premium.

(10) Ambulance Services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.

(11) Hearing Aids. – ~~Actual~~ Wholesale cost plus a dispensing ~~fee.~~fee to the provider.

(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 Health and Human Services.

(15) Optical Supplies. – ~~One hundred percent (100%) of reasonable wholesale cost of materials.~~Payment for materials is made to a contractor in accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers are negotiated fees established by the State agency based on industry charges.

(16) Ambulatory Surgical Centers. – Payment as prescribed in the reimbursement plan established by the Department of Health and Human Services.

(17) Medicare Crossover Claims. – By not later than October 1, 2005, the Department shall apply Medicaid medical policy to Medicare claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services.

(18) Physical Therapy and Speech Therapy. – Services limited to EPSDT-eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy (including occupational therapy) and speech therapy services are subject to prior approval and utilization review.

(19) Personal Care Services. – Payment in accordance with the State Plan approved by the Department of Health and Human Services.

(20) Case Management Services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.

(21) Hospice. – Services may be provided in accordance with the State Plan developed by the Department of Health and Human Services.

(22) Other Mental Health Services. – Unless otherwise covered by this section, coverage is limited to:

a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in 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 State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and

b. For children eligible for EPSDT ~~services:~~services provided by:

1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, ~~and~~ nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the ~~Carolina ACCESS~~ Community Care of North Carolina primary care ~~physician~~ physician, a Medicaid-enrolled psychiatrist, or the area mental health ~~program,~~program or local management entity, and

2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

c. For Medicaid-eligible adults, services provided by licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addictions specialists, and certified clinical supervisors, Medicaid-eligible adults may be self-referred.

d. Payments made for services rendered in accordance with this subdivision shall be to qualified providers in accordance with approved policies and the State Plan. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to modify the scope of practice of any service provider, practitioner, or licensee, nor to modify or attenuate any collaboration or supervision requirement related to the professional activities of any service provider, practitioner, or

licensee. Nothing in sub-subdivision b. or c. of this subdivision shall be interpreted to require any private health insurer or health plan to make direct third-party reimbursements or payments to any service provider, practitioner, or licensee.

e. The Department of Health and Human Services shall not enroll licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, certified clinical addiction specialists, and certified clinical supervisors until all of the following conditions have been met:

1. The fiscal impact of payments to these qualified providers has been projected;
2. Funding for any projected requirements in excess of budgeted Division of Medical Assistance funding has been identified from within State funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to support area mental health programs or county programs, or identified from other sources; and
3. Approval has been obtained from the Office of State Budget and Management to transfer these State or other source funds from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to the Division of Medical Assistance. Upon approval and implementation, the Department of Health and Human Services shall, on a quarterly basis, provide a status report to the Office of State Budget and Management and the Fiscal Research Division.

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

(23) Medically Necessary Prosthetics or ~~Orthotics for EPSDT Eligible Children.~~ Orthotics. – Reimbursement in accordance with the State Plan approved by the Department of Health and Human ~~Services.~~Services, except that in order to be eligible for reimbursement providers must be Board certified not later than July 1, 2005. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review.

(24) Health Insurance Premiums. – Payments to be made in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal regulations.

(25) Medical Care/Other Remedial Care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this subdivision are limited to those prescribed in the State Plan as established by the Department of Health and Human Services.

(26) Pregnancy-Related Services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and

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

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

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

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children, emergency rooms, and mental health services subject to independent utilization review are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Health and Human Services 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.

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

"**SECTION 10.19.(c)** Copayment for Medicaid Services. – The Department of Health and Human Services may establish co-payment up to the maximum permitted by federal law and regulation.

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

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

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

The payment level for Work First Family Assistance 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.

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

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

Monthly Net Wages	Monthly Incentive Allowance
$1.00 to $100.99	Up to $50.00
$101.00 to $200.99	$80.00
$201.00 to $300.99	$130.00
$301.00 and greater	$212.00.

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

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

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

"**SECTION 10.19.(j)** Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services or when the Department determines

that such a waiver will result in a reduction in the total Medicaid costs for the recipient. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly.

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

"**SECTION 10.19.(l)** Cost-Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost-containment programs in accordance with Section 3 of S.L. 2001-395, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

"**SECTION 10.19.(m)** 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 April 1 immediately following publication of federal poverty guidelines.

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

"**SECTION 10.19.(o)** The Department of Health and Human Services shall provide coverage to pregnant women and to 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 April 1 shall be covered for Medicaid benefits. ~~In determining income eligibility under this subdivision, the income of a minor's parents shall be counted if the minor is residing in the home.~~

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

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

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

(5) The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection 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 described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

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

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

"**SECTION 10.19.(r)** If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human

Services, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed the currently allocated funds for the new contract for the fiscal agent for the Medicaid Management Information System.

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

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

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

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

"**SECTION 10.19.(w)** The Department of Health and Human Services, Division of Medical Assistance, shall implement a new coding system for therapeutic mental health services as required by the Health Insurance Portability and Accountability Act of 1996. In implementing the new coding system, the Division shall ensure that the new coding system does not discriminate between providers of therapeutic mental health services with similar qualifications and training. In meeting the requirements of this subsection, the Division shall consult with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and the professional licensing boards responsible for licensing the affected professionals.

"**SECTION 10.19.(x)** The Department of Health and Human Services may apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the Social Security Act, including the attachment of liens, to real property excluded as "income producing", tenancy-in-common, or as nonhomesite property made "income producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer of assets policy shall apply only to an institutionalized individual or the individual's spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This

subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset policies and attachment of liens to properties excluded as tenancy-in-common or as nonhomesite property made "income producing" in accordance with this subsection shall become effective not earlier than November 1, 2002.

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

"**SECTION 10.19.(z)** Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars ($3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding three million dollars ($3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars ($3,000,000).

"**SECTION 10.19.(aa)** The Department of Health and Human Services, Division of Medical Assistance, shall convene a work group to review the current Medicaid standards for vision screening for Medicaid-eligible children to determine whether the standards are meeting the vision needs of these children. The Secretary shall appoint to the work group pediatricians, ophthalmologists, optometrists, and other individuals with expertise or interest in children's vision care. The Department shall report the findings of the work group to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division by March 1, 2004. The report shall include recommendations on whether current Medicaid standards need to be modified to meet the vision care needs of Medicaid-eligible children and, if modification is necessary, the cost of providing vision services based on the modified standards.

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

(1) During the development of new medical coverage policy or amendment to existing medical coverage policy, consult with and seek the advice of the Physician Advisory Group of the North Carolina Medical Society and other organizations the Secretary deems appropriate. The Secretary shall also consult with and seek the advice of officials of the professional societies or associations representing providers ~~groups listed in subdivision (a)(6) of this section~~ who are affected by the new medical coverage policy or amendments to existing medical coverage ~~policy due to their involvement with or use of new technologies or therapies.~~policy.

(2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:

a. Publish the proposed new or amended medical coverage policy on the Department's web site;

b. Notify all Medicaid providers of the proposed, new, or amended policy; and

c. Upon request, provide persons copies of the proposed medical coverage policy.

(3) During the 45-day period immediately following publication of the proposed new or amended medical coverage policy, accept oral and written comments on the proposed new or amended policy.

(4) If, following the comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption:

a. Notify all Medicaid providers of the proposed policy;

b. Upon request, provide persons notice of amendments to the proposed policy; and

c. Accept additional oral or written comments during this 15-day period."

MEDICAID RESERVE FUND TRANSFER

SECTION 10.5.(a) Section 10.20 of S.L. 2003-284 reads as rewritten:

"**SECTION 10.20.** Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of sixty-two million five hundred thousand dollars ($62,500,000) for the 2003-2004 fiscal year and the sum of ~~sixty-two million five hundred thousand dollars ($62,500,000)~~ eighty-six million nine hundred fifty-four thousand two hundred fifty-one dollars ($86,954,251) for the 2004-2005 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act."

SECTION 10.5.(b) Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of five million dollars ($5,000,000) for the 2004-2005 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for the implementation of the Medicaid Management Information System (MMIS).

TRANSFER OF PROPERTY TO QUALIFY FOR MEDICAID/TECHNICAL CORRECTION

SECTION 10.6. G.S. 108A-58, as amended by Section 10.26 of S.L. 2003-284, reads as rewritten:

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

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

(b) Any sale, gift, assignment or transfer of real or personal property or an interest in real or personal property, as provided in subsection (a) of this section, shall be presumed to have been made for the purpose of retaining or establishing eligibility for medical assistance benefits unless the person, or the person's legal representative, who sells, gives, assigns or transfers the property or interest, receives valuable

consideration at least equal to the fair market value, less encumbrances, of the property or interest.

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

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

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

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

(g) Repealed by Session Laws 2003-284, s. 10.26, effective July 1, 2003.

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

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

MEDICAID ASSESSMENT PROGRAM FOR ICF/MR FACILITIES

SECTION 10.8.(a) The Secretary of Health and Human Services shall implement a Medicaid assessment program for State ICF/MR facilities and ICF/MR facilities licensed under Chapter 122C of the General Statutes. The assessment shall be imposed in a manner consistent with federal regulations under 42 C.F.R. Part 433, Subpart B. The Department shall impose the assessment effective on or before October 1, 2004. Funds realized from assessments imposed shall be used only to draw down federal Medicaid matching funds and to implement a rate increase for private ICF/MR facility rates.

SECTION 10.8.(b) Funds realized from the Medicaid assessment program established pursuant to subsection (a) of this section shall not be used to supplant State funds appropriated for private ICF/MR services. The Secretary shall use funds realized from the Medicaid assessment program to reduce State funds appropriated for public ICF/MR services.

SECTION 10.8.(c) Funds realized from the assessment on licensed ICF/MR facilities shall be used to pay one hundred percent (100%) of the nonfederal share for increasing rates for licensed ICF/MR facilities.

SECTION 10.8.(d) The Secretary shall adopt rules to implement this section.

COMMUNITY ALTERNATIVES PROGRAMS

SECTION 10.9.(a) In administering CAP Programs, the Department of Health and Human Services shall ensure that expenditures do not exceed the budget for these programs. The Department shall further ensure that CAP slots are fully allocated and filled in a timely manner within budgeted expenditures and shall ensure that budgeted expenditures are not limited by the nonallocation of or delays in filling CAP slots.

SECTION 10.9.(b) Community Alternatives Programs for Disabled Adults (CAP/DA) services shall be provided for the 2004-2005 fiscal year to any eligible person who entered a nursing facility on or before June 1, 2004, within the existing availability of the county allocation or within the existing availability of services.

PILOT PROGRAM TO TEST NEW APPROACHES TO MANAGING ACCESS TO AND UTILIZATION OF HEALTH CARE SERVICES TO MEDICAID RECIPIENTS

SECTION 10.11. The Department of Health and Human Services shall establish and implement two or more pilot programs to test new approaches to management of access to and utilization of health care services to Medicaid recipients. The purpose of the pilot programs is to determine if additional cost savings can be achieved in addition to that provided by the Community Care of North Carolina program. With respect to at least two of the pilot programs, the Department shall contract with a physician-owned and managed network that has demonstrated success in improving the cost-effectiveness of Medicaid services in at least one state other than North Carolina. The Department shall develop a payment methodology that may include sharing savings with contractors providing medical management services but the methodology shall not allow increased spending relative to current appropriations. The Department may apply for federal waivers necessary to implement this section. The Department shall report on the implementation of the pilot programs to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than February 1, 2005.

PACE PILOT PROGRAM FUNDS

SECTION 10.12.(a) The Department of Health and Human Services, Division of Medical Assistance, shall develop a pilot program to implement the Program for All-Inclusive Care for the Elderly (PACE). One pilot site shall be planned for the southeastern area of the State and the other pilot site shall be planned for the western area of the State. The Division shall design the pilot program to access federal Medicaid and Medicare dollars to provide acute and long-term care services for older patients through the use of interdisciplinary teams. When implemented, services provided through the PACE pilot program may include physician visits, drugs, rehabilitation services, personal care services, hospitalization, and nursing home care. The PACE pilot program may also offer social services intervention, case management, respite care, or extended home care nursing.

SECTION 10.12.(b) Of the funds appropriated to the Department of Health and Human Services, Division of Medical Assistance, for the 2004-2005 fiscal year, the sum of one hundred twenty-three thousand one hundred fifty-six dollars ($123,156) shall be used to support two positions in the Division of Medical Assistance to develop the pilot programs in accordance with subsection (a) of this section. These funds may

also be used to contract for actuarial analysis as part of the development of the pilot programs.

SECTION 10.12.(c) The Department of Health and Human Services shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services on March 1, 2005, on PACE pilot program development. The report shall include services proposed to be offered under the pilot program, administrative structure of the pilot program, number of Medicare and Medicaid eligible recipients anticipated to receive services from the PACE pilot sites, and the projected savings to the State from PACE pilot program implementation.

SECTION 10.12.(d) Nothing in this section obligates the General Assembly to appropriate funds to implement the PACE program statewide.

DHHS STUDY MEDICAID INSTITUTIONAL BIAS

SECTION 10.13.(a) The Department of Health and Human Services shall contract with an independent entity to study whether the State's Medicaid program has a bias that favors support for individuals in institutional settings over support for individuals living at home and, if a bias is found, to determine and recommend ways to alleviate the bias. The entity selected by the Department shall be one that has documented experience in conducting similar studies. The study shall include consideration of all in-home services paid under the State's Medicaid program, including CAP/DA, home health, and personal care services. The Department shall report the results of the study to the North Carolina Study Commission on Aging by January 2005.

SECTION 10.13.(b) From State and federal funds available to the Department of Health and Human Services for the 2004-2005 fiscal year, the sum of one hundred fifty thousand dollars ($150,000) may be used to fund the study required by this section.

FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 10.17. Section 10.46 of S.L. 2003-284 reads as rewritten:

"**SECTION 10.46.(a)** The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

(1) ~~$365.00~~$390.00 per child per month for children aged birth through 5;
(2) ~~$415.00~~$440.00 per child per month for children aged 6 through 12; and
(3) ~~$465.00~~$490.00 per child per month for children aged 13 through 18.

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

"**SECTION 10.46.(b)** The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

(1) ~~$365.00~~$390.00 per child per month for children aged birth through 5;
(2) ~~$415.00~~$440.00 per child per month for children aged 6 through 12; and
(3) ~~$465.00~~$490.00 per child per month for children aged 13 through 18.

"**SECTION 10.46.(c)** In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

"**SECTION 10.46.(d)** The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

(1) $800.00 per child per month with indeterminate HIV status;
(2) $1,000 per child per month confirmed HIV-infected, asymptomatic;
(3) $1,200 per child per month confirmed HIV-infected, symptomatic; and

(4) $1,600 per child per month terminally ill with complex care needs."

SPECIAL CHILDREN ADOPTION FUND

SECTION 10.18. Section 10.47 of S.L. 2003-284 reads as rewritten:

"**SECTION 10.47.(a)** Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one hundred thousand dollars ($100,000) shall be used to support the Special Children Adoption Fund for the 2004-2005 fiscal year. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special Children Adoption Fund may be used for post-adoption services for families whose income exceed two hundred percent (200%) of the federal poverty level.

"**SECTION 10.47.(b)** Of the total funds appropriated for the Special Children Adoption Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31, 2004, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

"**SECTION 10.47.(c)** The Division of Social Services shall monitor the total expenditures in the Special Children Adoption Fund and redistribute unspent funds to ensure that the funds are used according to the guidelines established in subsection (a) of this section. The Division shall implement strategies to ensure that funds that have historically reverted for this program are used for the intended purpose. The Division shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the expenditures and activities of the program no later than December 1, 2004, and June 30, 2005."

FUNDS FOR CHILD PROTECTIVE SERVICES STAFF

SECTION 10.19. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of four million dollars ($4,000,000) shall be used to hire additional child protective services staff at the local level for the 2004-2005 fiscal year. The Division of Social Services shall distribute the funds based on a funding formula that shall address the needs of counties that have high caseload per child protective services worker ratios. These funds shall not be used to supplant any other source of funding for staff. These funds shall be used to increase the number of child protective services workers throughout the State and shall be used to pay for salaries and related expenses only. The Department of Health and Human Services shall report on the use of these funds to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than January 1, 2005.

TANF BENEFIT IMPLEMENTATION

SECTION 10.19A. Section 10.49(a) of S.L. 2003-284 reads as rewritten:

"**SECTION 10.49.(a)** The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005", prepared by the Department of Health and Human Services and presented to the General Assembly on April 28, 2003, as revised in accordance with subsection (b) of this ~~section.~~section, except that the provision contained in the approved North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005 eliminating

pay-after-performance as a benefit delivery method for two-parent families will only be implemented if the federal two-parent work participation rate is eliminated. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2003, through September 30, 2005. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services as amended by this act or any other act of the 2003 General Assembly."

IV-E CHILD CARING INSTITUTIONS

SECTION 10.19B. The Department of Health and Human Services shall work with the federal government and child caring institutions to ensure that adequate funds are available to support child caring institution operations.

LONG-TERM CARE FACILITY CRIMINAL RECORD CHECKS

SECTION 10.19D.(a) G.S. 131E-265(a) and 131E-265(a1) read as rewritten:

"**§ 131E-265. Criminal history record checks required for certain applicants for employment.**

(a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to an applicant to fill a position that requires entering the patient's home is conditioned on consent to a criminal history record check of the applicant. In addition, employment status change of a current employee of a home care agency licensed under this Chapter from a position that does not require entering the patient's home to a position that requires entering the patient's home shall be conditioned on consent to a criminal history record check of that current employee. If the applicant for employment or if the current employee who is changing employment status has been a resident of this State for less than five years, then the offer of employment or change in employment status is conditioned on consent to a State and national criminal history record check. The national criminal history record check shall include a check of the applicant's or current employee's fingerprints. If the applicant or current employee has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant or current employee applying for a change in employment status. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. In addition, a home care agency shall not change a current employee's employment status from a position that does not require entering the patient's home to a position that requires entering the patient's home who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a nursing home or home care agency shall submit a request to the Department of Justice under G.S. 114.19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the

national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the nursing home or home care agency the results of the national criminal history check. Nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home or agency is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer of employment by a contract agency of a nursing home or home care agency licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of a nursing home or home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a contract agency of a nursing home or home care agency shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the contract agency of the nursing home or home care agency the results of the national criminal history check. Contract agencies of nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

…."

SECTION 10.19D.(b) G.S. 131D-40(a) and 131D-40(a1) read as rewritten:

"**§ 131D-40. Criminal history record checks required for certain applicants for employment.**

(a) Requirement; Adult Care Home. – An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an adult care home shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G. S. 114-19.10, the Department of Justice shall return the results of national criminal history record

checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the adult care home the results of the national criminal history check. Adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Adult Care Home. – An offer of employment by a contract agency of an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a contract agency of an adult care home shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 114-19.10, the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the contract agency of the adult care home the results of the national criminal history check. Contract agencies of adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

…."

SECTION 10.19D.(c) G.S. 122C-80(b) reads as rewritten:

"**§ 122C-80. Criminal history record check required for certain applicants for employment.**

…

(b) Requirement. – An offer of employment by an area authority licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An area authority shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Except as otherwise provided in this subsection, within five business days of making the conditional offer of employment, an area authority shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a criminal history record check required by this section. Notwithstanding G. S. 114-19.10,

the Department of Justice shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Division of Facility Services. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Division of Facility Services, shall provide to the area authority the results of the national criminal history check. Area authorities shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. A county that has adopted an appropriate local ordinance and has access to the Division of Criminal Information data bank may conduct on behalf of an area authority a State criminal history record check required by this section without the area authority having to submit a request to the Department of Justice. In such a case, the county shall commence with the State criminal history record check required by this section within five business days of the conditional offer of employment by the area authority. All criminal history information received by the area authority is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section.

…."

SECTION 10.19D.(d) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Facility Services, the sum of two hundred thousand dollars ($200,000) for the 2004-2005 fiscal year shall be used to carry out the duties under this Section.

SECTION 10.19D.(e) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of two hundred fifty thousand dollars ($250,000) for the 2004-2005 fiscal year shall be transferred to the Department of Justice. These funds shall be used to expedite the processing of criminal record checks by upgrading the billing system.

SECTION 10.19D.(f) Of the funds available to the Department of Health and Human Services for the 2004-2005 fiscal year, the sum of thirty-four thousand dollars ($34,000) shall be transferred to the Department of Justice. These funds shall be used for additional office space needed to carry out the requirements of this section. It is the intent of the General Assembly that this transfer of funds shall be for one year only after which funds needed for continuing expenses shall be included in the Department of Justice continuation budget recommendation.

SECTION 10.19D.(g) G.S. 131D-40(d) reads as rewritten:

"(d) Relevant Offense. – As used in this section, 'relevant offense' means a ~~State crime,~~ county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of aged or disabled persons. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related

offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 10.19D.(h) G.S. 122C-80(e) reads as rewritten:

"(e) Relevant Offense. – As used in this section, 'relevant offense' means a ~~State crime,~~ county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of persons needing mental health, developmental disabilities, or substance abuse services. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 10.19D.(i) Subsections (a) through (c) of this section become effective January 1, 2005. The remainder of this section becomes effective July 1, 2004.

ADULT DAY SERVICES TRAINING AND REIMBURSEMENT METHODOLOGY

SECTION 10.21.(a) In an effort to support and sustain adult day services in North Carolina, the Department of Health and Human Services shall contract with a national adult day services resource center to provide training and consultation to adult day services providers and State and county adult day services consultants. The selected consultant shall study the current method of reimbursement for adult day services and make recommendations regarding changes to the reimbursement methodology. The final report shall be presented to the Study Commission on Aging by January 1, 2005.

SECTION 10.21.(b) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of up to two hundred fifty thousand dollars ($250,000) for the 2004-2005 fiscal year shall be used to implement this section.

STATE/COUNTY SPECIAL ASSISTANCE

SECTION 10.21A. Effective October 1, 2004, the maximum monthly rate for residents in adult care home facilities shall be one thousand eighty-four dollars ($1,084) per month per resident unless adjusted by the Department in accordance with Section 10.52(f) of S.L. 2003-284.

ADMINISTRATION OF REDUCTION IN FUNDS TO AREA AUTHORITIES

SECTION 10.22. In administering the two-million-dollar ($2,000,000) reduction in funds to area programs enacted in this act, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall do the following:

(1) Apply the reduction to area authority funds that have reverted in each of the past two fiscal years; and
(2) Apportion the area authority reduction across disability groups by the proportion of the total funds reverted for each disability fund code in fiscal year 2003-2004.

DHHS POLICIES AND PROCEDURES IN DELIVERING COMMUNITY MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 10.22A. The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall in cooperation with area mental health authorities and county programs, identify and eliminate administrative and fiscal barriers created by existing State and local policies and procedures in the delivery of community-based mental health, developmental disabilities, and substance abuse services provided through the area programs and county programs, including services provided through the Comprehensive Treatment Services Program for Children and services delivered to multiply diagnosed adults. The Department shall implement changes in policies and procedures in order to facilitate all of the following:

(1) The provision of services to adults and children as defined in the Mental Health System Reform State Plan as priority or targeted populations.
(2) A revised system of allocating State and federal funds to area mental health authorities and county programs that reflects projected needs, including the impact of system reform efforts rather than historical allocation practices and spending patterns.
(3) The provision of services to children not deemed eligible for the Comprehensive Treatment Services Program for Children, but who would otherwise be in need of medically necessary treatment services to prevent out-of-home placement.
(4) The provision of services in the community to adults remaining in and being placed in State institutions addressed in Olmstead v. L.C.

Area mental health, developmental disabilities, and substance abuse services authorities and county programs shall use all funds appropriated for and necessary to provide mental health, developmental disabilities, and substance abuse services to meet the need for these services. If excess funds are available after expending appropriated funds to fully meet service needs, one-half of these excess funds shall not revert to the General Fund but shall be transferred to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs, except that one-half of the funds appropriated for the Comprehensive Treatment Services Program for Children that are unexpended and unencumbered shall not revert to the General Fund but shall be carried forward and used only for services for children and adolescents.

The Department, in consultation with the area mental health authorities and county programs, shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the progress in implementing these changes. The report shall be submitted on October 1, 2004, and February 1, 2005.

FUNDS FOR PATH PROGRAM RESIDENCE PURCHASE

SECTION 10.23. The Department of Health and Human Services may use up to five hundred thousand dollars ($500,000) from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs

to purchase an existing house or other residential facility, and the land on which the house or facility is located, for use by the PATH Program at the Murdoch Center.

USE OF MENTAL HEALTH TRUST FUND MONIES FOR CAPITAL IMPROVEMENTS AND EXPANSIONS AT ADACT CENTERS

SECTION 10.24. Of the funds appropriated to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs for the 2004-2005 fiscal year, not more than three million five hundred thousand dollars ($3,500,000) may be used by the Department of Health and Human Services for capital improvements and capital expansions at the State's Alcohol and Drug Abuse Treatment Centers (ADACT) in accordance with G.S. 143-15D.

AREA PROGRAM AND COUNTY PROGRAM TRANSITION FLEXIBILITY

SECTION 10.26.(a) G.S. 122C-115(a) reads as rewritten:

"(a) A county shall provide mental health, developmental disabilities, and substance abuse services through an area authority or through a county program established pursuant to G.S. 122C-115.1. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control. If a county that is a member of an area authority determines to provide its services through a county program or through a multicounty program, it may, with the agreement of the other counties comprising the area authority and the approval of the Secretary, simultaneously participate in a county program or a multicounty program while remaining a participating member of the area authority until the end of the subsequent fiscal year."

SECTION 10.26.(b) This section is effective upon ratification and expires on July 1, 2005.

DOROTHEA DIX MASTER PLAN

SECTION 10.26A.(a) S.L. 2003-314 is amended by adding a new section to read:

"**SECTION 3.4.(a1)** The State Property Office, in consultation with the City of Raleigh, shall develop a Master Plan for the Dorothea Dix Campus. The State Property Office shall hire a consultant to assist with the development of the Master Plan. The State Property Office shall examine, among other things, operations for land conservation, mixed-use development, and anticipated State office space needs. The Master Plan shall reflect both State needs and local considerations. The State Property Office shall submit the Master Plan to the Dorothea Dix Property Study Commission no later than April 1, 2005. The Commission shall review the Master Plan and shall make recommendations to the 2005 General Assembly.

In order to enhance communication and feedback regarding the planning process, an oversight committee shall be established to oversee the development of the Master Plan. The oversight committee shall consist of five members: three shall be appointed by the Cochairs of the Dorothea Dix Property Study Commission; one shall be appointed by the Raleigh City Council; and one shall be appointed by the Wake County Board of Commissioners. The oversight committee shall terminate upon the submission of the Master Plan to the Dorothea Dix Property Study Commission."

SECTION 10.26A.(b) Section 3.4(a) of S.L. 2003-314 reads as rewritten:

"**SECTION 3.4.(a)** Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental ~~Operations~~Operations, the 2005 General Assembly, and the Appropriations Committees

of the Senate and the House of Representatives before any sale of any or all parts of the property. The Commission shall terminate upon submission of its final report."

SECTION 10.26A.(c) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of one hundred thousand dollars ($100,000) for the 2004-2005 fiscal year shall be transferred to the Department of Administration, State Property Office. These funds shall be used to develop a Master Plan for the Dorothea Dix Property.

DHHS CENTRAL OFFICE CONTRACTS REDUCTION

SECTION 10.26B. Reductions in funds appropriated to the Department of Health and Human Services for the 2004-2005 fiscal year for technical assistance, training, and service contracts through the Central Office of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall not apply to the contract with the North Carolina High School Athletics Association.

MENTAL HEALTH TREATMENT COURTS

SECTION 10.27.(a) The Administrative Office of the Courts shall establish pilot programs in judicial districts 15B, 26, and 28 that add a mental health treatment component to the existing drug treatment courts in those districts, thereby expanding those courts into therapeutic court programs aimed at providing treatment to repeat adult offenders with needs for either mental health or substance abuse services. The purpose of the mental health treatment component of the pilot programs is to facilitate cooperation between the State mental health system, mental health service providers, and the judicial system in order for the State mental health system to provide repeat adult offenders that need mental health services with treatment and other mental health services aimed at improving their ability to function in the community, thereby reducing recidivism and easing the workload of the courts.

In expanding the drug treatment courts in these districts into therapeutic courts under this section, the Administrative Office of the Courts and the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall collaborate on a plan for the structure of the court process, treatment services provided by area authorities or county programs and other appropriate mental health service providers, and administration of the pilot programs. Treatment services provided under the mental health treatment court component shall use best treatment practices approved by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. The collaborative effort required under this section shall also include consideration of the effectiveness and efficiency of the mental health treatment court component to determine feasibility of the statewide expansion of drug treatment courts into therapeutic courts.

SECTION 10.27.(b) The Administrative Office of the Courts shall report to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Chairs of the Senate and House Appropriations Subcommittees on Health and Human Services by March 1, 2005, on the implementation of the therapeutic treatment court pilot programs provided for in this section, including an evaluation of the effectiveness of the new mental health treatment component of those programs and recommendations on the feasibility and desirability of expanding the existing drug treatment court program into a statewide therapeutic court program.

SECTION 10.27.(c) There is appropriated from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs to the Judicial Department the sum of thirty-six thousand one hundred sixty-one dollars ($36,161) for the 2004-2005 fiscal year. These funds shall be used for administrative costs associated with expanding the Drug Treatment Court to serve adult repeat offenders who are within the targeted population for mental health, developmental disabilities, and substance abuse services as defined in G.S. 122C-3(38).

SECTION 10.27.(d) There is appropriated from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of one hundred thirty-seven thousand nine hundred forty dollars ($137,940) for the 2004-2005 fiscal year. These funds shall be used for mental health treatment services to repeat adult offenders within the targeted population for mental health, developmental disabilities, and substance abuse services as defined in G.S. 122C-3(38).

SECTION 10.27.(e) Of the funds appropriated in this act to the Judicial Department, the sum of twenty thousand dollars ($20,000) for the 2004-2005 fiscal year shall be used to obtain an independent evaluation of the effectiveness of the pilot programs authorized under this section.

SECTION 10.27.(f) A county may appropriate county or other non-State funds to expand mental health services to adult repeat offenders served by the pilot programs for mental health treatment established under subsection (a) of this section. No State funds appropriated for this section shall be used to provide mental health services to nontargeted population adult repeat offenders.

PUBLIC HEALTH IMPROVEMENTS

SECTION 10.28A.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of fifty thousand dollars ($50,000) for the 2004-2005 fiscal year shall be allocated to accredited local public health agencies for one or more of the following purposes:

(1) To facilitate the creation of Quality Officers in each agency to oversee the quality improvement structure and process, develop and ensure compliance with the agency's quality improvement plan against internal and external requirements, develop critical incident reporting and management plans, assess organizational and workforce development gaps, and oversee the accreditation process.

(2) To facilitate the development of private or public partnerships through contracts, interlocal agreements, memoranda of understanding, and community grants.

(3) To provide incentives to agencies to collaborate and partner with other counties in the development of regional public health incubators to improve service delivery, organization, and preparedness.

(4) To enable accredited agencies to assist other counties in their efforts to achieve public health accreditation.

(5) To promote partnerships between local agencies and universities through development of academic health departments.

(6) To provide incentives to develop local and regional business plans to create hybrid health departments, including public health authorities and public health districts, and identify new sources of public health revenue.

(7) To create community health plans to improve community health and reduce health disparities, including the creation of a Community Wellness Index.

(8) To strengthen the role of local boards of health through training, technical assistance, and consultation.

(9) To create public internships at the local level.

(10) To support new insights and innovative solutions to health problems that will result in improved quality, greater accountability, improved health outcomes, and the elimination of health disparities.

SECTION 10.28A.(b) The Department shall report on the accreditation process to the House of Representatives Appropriations Subcommittee on Health and

Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than January 1, 2005.

PILOT PROCESS FOR LOCAL HEALTH DEPARTMENTS

SECTION 10.28B.(a) The Department of Health and Human Services shall expand the pilot accreditation process for local health departments to include additional counties.

SECTION 10.28B.(b) The Pilot Accreditation Advisory Board (hereafter "Advisory Board") is established within the North Carolina Institute for Public Health. The Advisory Board shall be composed of 15 members appointed by the Secretary of Health and Human Services as follows:

(1) Four shall be county commissioners recommended by the North Carolina Association of County Commissioners, and four shall be members of a local board of health as recommended by the North Carolina Association of Local Boards of Health.
(2) Two local health directors.
(3) One staff member from the Department of Health and Human Services, Division of Public Health.
(4) Three members at large.
(5) One recommended by the Secretary of Environment and Natural Resources, from the Division of Environmental Health.

SECTION 10.28B.(c) Members of the Advisory Board who are not officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Advisory Board who are officers or employees of the State shall receive reimbursement for travel and subsistence at the rate set out in G.S. 138-6.

SECTION 10.28B.(d) The Advisory Board shall evaluate the Department's pilot accreditation process for local health departments, including the following:

(1) The standards by which the pilot local health departments are judged.
(2) The self-assessment process used by the pilot counties.
(3) The process for local site reviews and appeals.
(4) The makeup of the proposed State accrediting entity and its relationship to the Department.
(5) The cost of meeting the accreditation standards in the pilot counties.

SECTION 10.28B.(e) Of the funds appropriated in this act to the Department of Health and Human Services the sum of fifty thousand dollars ($50,000) for the 2004-2005 fiscal year shall be allocated for administrative costs and for activities of the Pilot Accreditation Advisory Board for the accreditation of additional local health departments. The Department shall contract with the Institute for Public Health, which shall be responsible for implementation of the pilot accreditation process.

SECTION 10.28B.(f) Not later than April 1, 2005, the Pilot Accreditation Advisory Board shall report its findings to the Director of the Institute for Public Health, the Secretary of the Department of Health and Human Services, and the cochairs of the House and Senate Appropriations Committees for Health and Human Services.

SECTION 10.28B.(g) The North Carolina Public Health Task Force 2004 shall continue its work on the Public Health Improvement Plan and in its final report to the General Assembly shall include comparisons of the recommendations of the Task Force with the Model State Public Health Act, Public Health Statute Modernization National Excellence Collaborative, September 2003.

EARLY INTERVENTION REPORTING REQUIREMENT

SECTION 10.29. The Department of Health and Human Services, Division of Public Health, shall track and report on the number of children referred to the Early Intervention program through Department of Social Services abuse and neglect agents.

The report shall include the number and types of services provided to these children and the fiscal impact to the program. The Department shall submit a report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division by January 30, 2005.

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

SECTION 10.30. Section 10.31 of S.L. 2003-284 reads as rewritten:

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

"**SECTION 10.31.(b)** The Department of Health and Human Services shall make an interim report on ADAP program utilization by ~~January 1, 2004,~~January 1, 2005, and a final report on ADAP program utilization by ~~May 1, 2004,~~May 1, 2005, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on ADAP. The reports shall include the following:

(1) ADAP program utilization:

a. Monthly data on total cumulative AIDS/HIV cases reported in North Carolina.

b. Monthly data on the number of individuals who have applied to participate in ADAP that have been determined to be ineligible.

c. Monthly data on the income level of participants in ADAP and of individuals who have applied to participate in ADAP who have been determined to be ineligible.

d. Monthly data on fiscal year-to-date expenditures of ADAP. The interim report shall contain monthly data on the calendar year-to-date expenditures of ADAP.

e. An update on the status of the information management system.

f. Monthly data on ADAP usage patterns and demographics of participants in ADAP.

g. Fiscal year-to-date budget information."

MAXIMIZE ADAP PROGRAM FUNDING

SECTION 10.31. The Department of Health and Human Services shall budget all 340B rebates received from pharmaceutical purchases for the AIDS Drug Assistance Program (ADAP) for use in the ADAP program. The Department shall consider changing the ADAP program to a six-month eligibility process in its effort to control costs. If, after consideration, it is determined that a savings will occur, the Department shall implement the change. The Department shall report on its findings to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division in its January report.

NORTH CAROLINA PUBLIC HEALTH DEPARTMENT INCUBATORS

SECTION 10.32.(a) There is appropriated from the General Fund to the Department of Health and Human Services the sum of one million one hundred twenty-five thousand dollars ($1,125,000) for the 2004-2005 fiscal year. These funds shall be allocated to the North Carolina Institute for Public Health, School of Public Health at the University of North Carolina at Chapel Hill to coordinate the development of "public health incubators." Core participants in these incubators will be local public

health departments in selected underserved regions. Other governmental agencies and nonprofit organizations will also be invited to participate. The funds shall be used to:

(1) Establish or strengthen the capacity to conduct epidemiological investigation and to actively monitor public health conditions, diseases, and risk factors.

(2) Establish or strengthen the capacity to monitor health disparities and to develop plans to reduce those disparities.

(3) Conduct regional community health assessments with the assistance of other members of the public health community including other governmental agencies and nonprofit organizations, to establish partnership health priorities based on these findings, and to draft public health interventions to address the highest health priorities.

(4) Raise public awareness of the health-related issues in partnership communities, collaborating with members of the larger public health community and with local and State media, reporting health issues to the county commissioners, the boards of health, legislators, at-risk groups, and to the community at large.

(5) Provide regular, supplemental training to members of the participating boards of health to inform them about their overall responsibilities including their role in policy development, to introduce them to evidence-based best practices in public health with an emphasis on collaborative initiatives, and to update them on emerging public health issues, particularly those that are of greatest concern to their communities.

(6) Conduct workforce preparedness assessments and follow-on training for the public health workforce in the pilot regions and to establish or supplement policy to facilitate effective responses to public health emergencies where appropriate.

(7) Establish a formal, systematic review of the incubators to track and evaluate the efficacy of roles, organization, and programs, to identify best practices, and to develop recommendations for improvement based on these findings.

SECTION 10.32.(b) The Department of Health and Human Services shall report on the use of these funds and an evaluation of the incubator efforts to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The Department shall submit the report not later than January 14, 2005.

FUNDS FOR SCHOOL NURSES

SECTION 10.33. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of four million dollars ($4,000,000) shall be used for a school nurse funding initiative. The Department of Health and Human Services, Division of Public Health, in conjunction with the Department of Public Instruction, shall provide funds to communities to hire school nurses. The program will fund 80 permanent local nurses. The criteria shall include determining the areas in the greatest need for school nurses with the greatest inability to pay for these nurses. Other criteria to be considered shall include: (i) the current nurse-to-student ratio; (ii) the economic status of the community; and (iii) the health needs of area children.

There shall be no supplanting of local, State, or federal funds with these funds. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used for funding nurses for State agencies. All funding shall be used for direct services.

The Department of Health and Human Services shall report on the use of funds allocated under this section by December 1, 2004, to the House of

Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

HOSPITAL EMERGENCY DEPARTMENT DATA REPORTING

SECTION 10.34.(a) Effective January 1, 2005, G.S. 130A-476(f) is repealed.

SECTION 10.34.(b) Effective January 1, 2005, Article 22 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

"**§ 130A-480. Emergency department data reporting.**

(a) For the purpose of ensuring the protection of the public health, the State Health Director shall develop a syndromic surveillance program for hospital emergency departments in order to detect and investigate public health threats that may result from (i) a terrorist incident using nuclear, biological, or chemical agents or (ii) an epidemic or infectious, communicable, or other disease. The State Health Director shall specify the data to be reported by hospitals pursuant to this program, subject to the following:

(1) Each hospital shall submit electronically available emergency department data as specified by rule by the Commission. The Commission, in consultation with hospitals, shall establish by rule a schedule for the implementation of full electronic reporting capability of all data elements by all hospitals. The schedule shall take into consideration the number of data elements already reported by the hospital, the hospital's capacity to electronically maintain the remaining elements, available funding, and other relevant factors.

(2) None of the following data for patients or their relatives, employers, or household members may be collected by the State Health Director: names; postal or street address information, other than town or city, county, state, and the first five digits of the zip code; geocode information; telephone numbers; fax numbers; electronic mail addresses; social security numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators (URLs); Internet protocol (IP) address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(b) The following are not public records under Chapter 132 of the General Statutes and are privileged and confidential:

(1) Data reported to the State Health Director pursuant to this section.

(2) Data collected or maintained by any entity with whom the State Health Director contracts for the reporting, collection, or analysis of data pursuant to this section.

The State Health Director shall maintain the confidentiality of the data reported pursuant to this section and shall ensure that adequate measures are taken to provide system security for all data and information. The State Health Director may share data with local health departments for public health purposes, and the local health departments are bound by the confidentiality provisions of this section. The State Health Director shall not allow information that it receives pursuant to this section to be used for commercial purposes and shall not release data except as authorized by other provisions of law.

(c) A person is immune from liability for actions arising from the required submission of data under this Article.

(d) For purposes of this section, "hospital" means a hospital, as defined in G.S. 131E-214.1(3), that operates an emergency room on a 24-hour basis. The term

does not include a psychiatric hospital subject to Article 2 of Chapter 122C of the General Statutes.

(e) Administrative emergency department data shall be reported by hospitals under Article 11A of Chapter 131E of the General Statutes."

SECTION 10.34.(c) This section is effective when this act becomes law.

AUTHORIZE CHILD CARE COMMISSION TO ADOPT RULES FOR CHILD CARE FACILITIES FOR MEDICALLY FRAGILE CHILDREN

SECTION 10.35. G.S. 110-88 is amended by adding a new subdivision to read:

"The Commission shall have the following powers and duties:

…

(13) To adopt rules for child care facilities that provide care for medically fragile children.

…."

CRIMINAL HISTORY RECORD CHECKS FOR LOCAL CHILD CARE CENTERS

SECTION 10.36. It is the intent of the General Assembly that the Division of Child Development be able to conduct criminal history record checks for local child care centers in an expedient manner during the 2004-2005 fiscal year. The Division of Child Development shall use lapsed salary funds to support up to three additional temporary positions during fiscal year 2005 to eliminate the backlog and keep current the criminal history record checks process. The Office of State Budget and Management and the Department of Health and Human Services shall expedite the approval process for these temporary positions.

INCREASE NORTH CAROLINA PARTNERSHIP FOR CHILDREN BOARD MEMBERSHIP

SECTION 10.37. G.S. 143B-168.12(a)(1) reads as rewritten:

"(1) The North Carolina Partnership shall have a Board of Directors consisting of the following ~~25~~ 26 members:

a. The Secretary of Health and Human Services, ex officio, or the Secretary's designee;

b. Repealed by Session Laws 1997, c. 443, s. 11A.105.

c. The Superintendent of Public Instruction, ex officio, or the Superintendent's designee;

d. The President of the Community Colleges System, ex officio, or the President's designee;

e. Three members of the public, including one child care provider, one other who is a parent, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate;

f. Three members of the public, including one who is a parent, one other who is a representative of the faith community, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives;

g. Twelve members, appointed by the Governor. Three of these 12 members shall be members of the party other than the Governor's party, appointed by the Governor. Seven of these 12

members shall be appointed as follows: one who is a child care provider, one other who is a pediatrician, one other who is a health care provider, one other who is a parent, one other who is a member of the business community, one other who is a member representing a philanthropic agency, and one other who is an early childhood educator;

h. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.

h1. The Chair of the North Carolina Partnership Board shall be appointed by the Governor;

i. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.

j. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the Senate;

k. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the House of Representatives;

l. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the Senate; ~~and~~

m. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the House of ~~Representatives.~~Representatives; and

n. The Director of the More at Four Pre-Kindergarten Program, or the Director's designee.

All members appointed to succeed the initial members and members appointed thereafter shall be appointed for three-year terms. Members may succeed themselves.

All appointed board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the North Carolina Partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the North Carolina Partnership regarding the disbursement of funds.

All ex officio members are voting members. Each ex officio member may be represented by a designee. These designees shall be voting members. No members of the General Assembly shall serve as members.

The North Carolina Partnership may establish a nominating committee and, in making their recommendations of members to be appointed by the General Assembly or by the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Majority Leader of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the Governor shall consult with and consider the recommendations of this nominating committee.

The North Carolina Partnership may establish a policy on members' attendance, which policy shall include provisions for reporting absences of at least three meetings immediately to the appropriate appointing authority.

Members who miss more than three consecutive meetings without excuse or members who vacate their membership shall be replaced by the appropriate appointing authority, and the replacing member shall serve either until the General Assembly and the Governor can appoint

a successor or until the replaced member's term expires, whichever is earlier.

The North Carolina Partnership shall establish a policy on membership of the local boards. No member of the General Assembly shall serve as a member of a local board. Within these requirements for local board membership, the North Carolina Partnership shall allow local partnerships that are regional to have flexibility in the composition of their boards so that all counties in the region have adequate representation.

All appointed local board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the partnership regarding the disbursement of funds."

MORE AT FOUR PROGRAM

SECTION 10.38. Section 10.40 of S.L. 2003-284 reads as rewritten:

"**SECTION 10.40.(a)** Of the funds appropriated to the Department of Health and Human Services, the sum of forty-three million one hundred twenty-one thousand eight hundred dollars ($43,121,800) in the 2003-2004 fiscal year and the sum of ~~forty-one million nine hundred twenty-one thousand eight hundred dollars ($41,921,800)~~ fifty million nine hundred seventy-nine thousand two dollars ($50,979,002) in the 2004-2005 fiscal year shall be used to implement "More At Four", a voluntary prekindergarten program for at-risk four-year-olds.

"**SECTION 10.40.(b)** The Department of Health and Human Services and the Department of Public Instruction shall establish the "More At Four" Pre-K Task Force to oversee development and implementation of the pilot program. The membership shall include:

(1) Parents of at-risk children.
(2) Representatives with expertise in early childhood development.
(3) Classroom teachers who are certified in early childhood education.
(4) Representatives of the private not-for-profit and for-profit child care providers in North Carolina.
(5) Employees of the Department of Health and Human Services who are knowledgeable in the areas of early childhood development, current State and federally funded efforts in child development, and providing child care.
(6) Representatives of local Smart Start partnerships.
(7) Representatives of local school administrative units.
(8) Representatives of Head Start prekindergarten programs in North Carolina.
(9) Employees of the Department of Public Instruction.

"**SECTION 10.40.(c)** The Department of Health and Human Services and the Department of Public Instruction, with guidance from the Task Force, shall continue the implementation of the "More At Four" prekindergarten program for at-risk four-year-olds who are at risk of failure in kindergarten. The program is available statewide to all counties that choose to participate, including underserved areas. The goal of the program is to provide quality prekindergarten services to a greater number of at-risk children in order to enhance kindergarten readiness for these children. The program shall be consistent with standards and assessments established jointly by the Department of Health and Human Services, the Department of Public Instruction, and the Task Force and may consider the "More At Four" Pre-K Task Force recommendations. The program shall include:

(1) A process and system for identifying children at risk of academic failure.

(2) A process and system for identifying children who are not being served first priority in formal early education programs, such as child care, public or private preschools, Head Start, Early Head Start, early intervention programs, or other such programs, who demonstrate educational needs, and who are eligible to enter kindergarten the next school year, as well as children who are underserved.

(3) A curriculum or several curricula that are recommended by the Task Force. The Task Force will identify and approve appropriate research-based curricula. These curricula shall: (i) focus primarily on oral language and emergent literacy; (ii) engage children through key experiences and provide background knowledge requisite for formal learning and successful reading in the early elementary years; (iii) involve active learning; (iv) promote measurable kindergarten language-readiness skills that focus on emergent literacy and mathematical skills; and (v) develop skills that will prepare children emotionally and socially for kindergarten.

(4) An emphasis on ongoing family involvement with the prekindergarten program.

(5) Evaluation of child progress through pre- and post-assessment of children in the statewide evaluation, as well as ongoing assessment of the children by teachers.

(6) Guidelines for a system to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children.

(7) A system built upon existing local school boards and systems, private child care providers, and other entities that demonstrate the ability to establish or expand prekindergarten capacity.

(8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services, the Department of Public Instruction, and the Task Force. The Department may use the child care rating system to assist in determining program participation.

(9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth to kindergarten education.

(10) A local contribution. Programs must demonstrate that they are accessing resources other than "More At Four".

(11) A system of accountability.

(12) Collaboration with State agencies and other organizations. The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall collaborate with State agencies and other organizations such as the North Carolina Partnership for Children, Inc., in the design and implementation of the program.

(13) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall consider the reallocation of existing funds from State and local programs that provide prekindergarten related care and services.

(14) Recommendations for long-term organizational placement and administration of the program.

"**SECTION 10.40.(d)** During the 2003-2004 fiscal year, the Department of Health and Human Services shall plan for expansion of the "More At Four" program within existing resources to include four and five star rated centers and schools serving

four-year-olds and develop guidelines for these programs. The Department shall analyze guidelines for use of the "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a complementary plan for administration of funds for all four-year-old classrooms. The four and five star centers that choose to become a "More at Four" program shall, at a minimum, receive curricula and access to training and workshops for "More at Four" programs and be considered along with other "More at Four" programs for T.E.A.C.H. funding. The Department shall ensure that no individual receives funding from more than one source for the same purpose or activity during the same funding period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.$., and T.E.A.C.H. Health Insurance programs for individual recipients.

~~The Department may use nonobligated "More At Four" funds for the 2003-2004 fiscal year to reduce the waiting list for subsidy, with priority given to four-year-olds attending three star or better centers. If there are funds remaining after the waiting list for four-year-olds has been satisfied, then the waiting list for other children may be addressed with the remaining funds.~~

The "More At Four" program shall review the number of slots filled by counties on a monthly basis and shift the unfilled slots to counties with waiting lists. The shifting of slots shall occur through January 30, 2005, at which time any remaining funds for slots unfilled shall be transferred to the Division of Child Development to meet the needs of the waiting list for subsidized child care.

"**SECTION 10.40.(e)** The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall submit a progress report by ~~January 1, 2004, and May 1, 2004,~~January 1, 2005, and May 30, 2005, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. This final report shall include the following:

(1) The number of children participating in the program.
(2) The number of children participating in the program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.
(3) The expected expenditures for the programs and the source of the local match for each grantee.
(4) The location of program sites and the corresponding number of children participating in the program at each site.
(5) Activities involving Child Find in counties.
(6) A comprehensive cost analysis of the program, including the cost per child served by the program.
(7) The plan for expansion of "More At Four" through existing resources as outlined in this section.

"**SECTION 10.40.(f)** Beginning in the 2004-2005 fiscal year, the "More At Four" program shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income to make the program consistent with the child care subsidy requirements. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors.

"**SECTION 10.40.(g)** The "More At Four" program funding shall not supplant any funding for classrooms serving four-year-olds as of the 2003-2004 fiscal year."

AGAPE OF NORTH CAROLINA, INC., ON THE LIST OF AGENCIES ELIGIBLE TO RECEIVE FUNDING FROM STATE FUNDS PROGRAM

SECTION 10.39. The Division of Social Services, within the Department of Health and Human Services, shall include Agape of North Carolina, Inc., on its list of

member agencies eligible to receive funding from the State Funds Program. Agape of North Carolina, Inc., shall be reimbursed for allowable expenditures from the State Fund For Child Caring Institutions for the uncompensated cost of care. Funding for Agape of North Carolina, Inc., shall be based on the current funding methodology applied to other eligible providers that have historically been reimbursed for expenditures with funds from the State Funds Program.

CHILD CARE ALLOCATION FORMULA

SECTION 10.40 Section 10.36 of S.L. 2003-284 is amended by adding a new subsection to read:

"**SECTION 10.36.(c)** Notwithstanding subsection (a) of this section, of the funds appropriated in this act to the Department of Health and Human Services for the 2004-2005 fiscal year to increase State and federal Block Grant funds for subsidized child care services, the Department may allocate those funds for the 2004-2005 fiscal year in order to prevent termination of services."

PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SALE OF UMSTEAD FARM DAIRY HERD AND USE OF PROCEEDS

SECTION 11.1.(a) The Department of Agriculture and Consumer Services may sell the dairy herd, including embryos and semen inventories, at the Umstead Farm Unit in Butner and may place the proceeds of the sale in a nonreverting special revenue fund within the Department. This fund shall be used only for any one or more of the following purposes:

(1) To relocate the milking parlor equipment and nutrition barn from the Umstead Farm Unit to the Piedmont Research Station in Salisbury.
(2) To purchase additional dairy animals to fully utilize dairy facilities located at the Piedmont Research Station in Salisbury.
(3) To purchase or construct grain and feed storage facilities and to purchase equipment and supplies necessary for dairy research at the dairy units operated by the Department.
(4) To demolish or remove unneeded or obsolete dairy buildings at the Umstead Farm Unit or for the closure of any animal waste management system located at the Umstead Farm Unit.

SECTION 11.1.(b) The proceeds in the special revenue fund under subsection (a) of this section are appropriated to the Department of Agriculture and Consumer Services for the 2004-2005 fiscal year to be used for the purposes under subsection (a) of this section.

SECTION 11.1.(c) Beginning with the 2005-2007 biennium, the special revenue fund established under subsection (a) of this section shall be included in the Governor's recommended budget.

STUDY OPERATIONS, FUNDING, AND EFFICIENCIES FOR DACS RESEARCH STATIONS

SECTION 11.2.(a) The Department of Agriculture and Consumer Services and the Agricultural Research Service, North Carolina State University, in consultation with the Fiscal Research Division, shall study the 18 research stations within the Department of Agriculture and Consumer Services, including the differences as to how the Department of Agriculture and Consumer Services and the Agricultural Research Service fund and operate the facilities sponsored by each, the differences as to how the Department of Agriculture and Consumer Services and the Agricultural Research Service allocate federal grant funds for administration of the research stations, and the efforts of the Department of Agriculture and Consumer Services and the Agricultural Research Service to collaborate on providing necessary funding and management of the research stations.

SECTION 11.2.(b) No later than December 15, 2004, the Department of Agriculture and Consumer Services and the Agricultural Research Service, North Carolina State University, in consultation with the Fiscal Research Division, shall prepare a final joint report of the findings and recommendations of the study and submit this report to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division.

PART XI-A. DEPARTMENT OF LABOR

DEPARTMENT OF LABOR/APPRENTICESHIP PROGRAM

SECTION 11A.1. The Department of Labor may use up to four hundred ninety-nine thousand six hundred twelve dollars ($499,612) of indirect cost receipts deposited in the Individual Development Account (IDA) Fund for the 2004-2005 fiscal year to partly restore funding for the Apprenticeship Program.

PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

GRASSROOTS SCIENCE PROGRAM

SECTION 12.1.(a) Section 11.1 of S.L. 2003-284 is repealed.

SECTION 12.1.(b) Funds appropriated to the Department of Environment and Natural Resources for the Grassroots Science Program for the 2004-2005 fiscal year shall be allocated as follows:

Aurora Fossil Museum	$56,691
Cape Fear Museum	$185,501
Carolina Raptor Center, Inc.	$95,370
Catawba Science Center	$134,932
Colburn Gem and Mineral Museum, Inc.	$66,862
Discovery Place	$624,536
Fascinate-U Children's Museum	$81,720
Granville County Museum Commission, Inc. – Harris Gallery	$55,886
Greensboro Children's Museum	$131,105
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$121,131
Highlands Nature Center	$73,536
Imagination Station	$85,316
Iredell County Children's Museum	$56,618
KidSenses, Inc.	$50,000
Museum of Coastal Carolina	$69,315
Natural Science Center of Greensboro	$183,446
North Carolina Museum of Life and Science	$388,359
Rocky Mount Children's Museum	$72,815
Schiele Museum of Natural History	$234,566
Sci Works Science Center and Environmental Park of Forsyth County	$147,600
Western North Carolina Nature Center	$118,594
Wilmington Children's Museum, Inc.	$63,864
Total	$3,097,762

SECTION 12.1.(c) No later than January 15, 2005, the Department of Environment and Natural Resources shall report to the Fiscal Research Division the

following information for each museum that receives funds under subsection (b) of this section:

(1) The operating budget for the 2004-2005 fiscal year.
(2) The proposed operating budget for the 2005-2006 fiscal year.
(3) The total attendance at the museum during the 2004 calendar year.

TWENTY-FOUR-HOUR ACCESS TO FORT FISHER STATE RECREATION AREA DURING THE FALL AND WINTER/FUNDS FOR DEPARTMENT STUDY/ACTIVITIES AT FORT FISHER

SECTION 12.3.(a) G.S. 113-35 is amended by adding a new subsection to read:

"(b1) Members of the public who pay a fee under subsection (b) of this section for access to Fort Fisher State Recreation Area may have 24-hour access to Fort Fisher State Recreation Area from September 15 through March 15 of each year."

SECTION 12.3.(b) The Department of Environment and Natural Resources shall conduct a study of vehicle use at Fort Fisher State Recreation Area. In preparing the study, the Department shall consult with experts in fields pertinent to this study at the University of North Carolina at Wilmington. This study shall consider and determine in its findings the demand for vehicle access to the beach at Fort Fisher State Recreation Area during different times of the year. This study also shall include a review of scientific studies on the impact of vehicle use on sea turtles and nesting seabirds and shorebirds. This study shall provide an opportunity for comment from interested citizens. This study shall include in its report its findings on sea turtle and bird nesting activity at Fort Fisher State Recreation Area as compared with nesting activity on the adjoining beach that is managed by Bald Head Conservancy and on Masonboro Island and an analysis of the economic impact of restricting 24-hour vehicle access to the beach at Fort Fisher State Recreation Area. No later than February 1, 2005, the Department shall report its findings under this subsection, any other pertinent findings, and any recommendations or legislative proposals to the Environmental Review Commission.

SECTION 12.3.(c) Of the funds appropriated to the Department of Environment and Natural Resources for the 2004-2005 fiscal year, the sum of twenty-five thousand dollars ($25,000) shall be used for the costs to the Department of conducting the study under subsection (b) of this section and for education, conservation, and enforcement activities by the Department at Fort Fisher State Recreation Area.

ACCOUNTING FOR WILDLIFE RESOURCES COMMISSION REVENUE

SECTION 12.4.(a) The Director of the Budget and the State Controller shall review the accounts of the Wildlife Resources Commission. The Director of the Budget and the State Controller shall establish accounts, or make any changes to existing accounts, of the Wildlife Resources Commission as needed to segregate revenue affected by the requirements or conditions of federal law from revenue that is not affected by the requirements or conditions of federal law.

SECTION 12.4.(b) No later than April 1, 2005, the Director of the Budget and the State Controller shall jointly report to the Fiscal Research Division the actions taken under subsection (a) of this section and any conforming statutory changes needed to reflect the accounts of the Wildlife Resources Commission.

WILDLIFE RESOURCES COMMISSION TEMPORARY EXEMPTION OF SURPLUS PROPERTY/RECYCLABLE MATERIAL FEE

SECTION 12.5. Notwithstanding G.S. 143-64.02(1), the Wildlife Resources Commission is not subject to the payment of fees under G.S. 143-64.05 for the acquisition, receipt, warehousing, distribution, or transfer prior to July 20, 2004, of surplus property or for the transfer or sale prior to July 20, 2004, of recyclable material.

COST SHARE FUNDS FOR LIMITED RESOURCE FARMERS CLARIFICATION

SECTION 12.6. G.S. 143-215.74(b)(9) reads as rewritten:

"(9) When the applicant is either a limited-resource farmer or a beginning farmer, State funding shall be limited to ninety percent (90%) of the average cost for each practice with the assisted farmer providing ten percent (10%) of the cost, which may include in-kind support of the practice, with a maximum of one hundred thousand dollars ($100,000) per year to each applicant. The following definitions apply in this subdivision:

a. Beginning farmer. – A farmer who has not operated a farm or who has operated a farm for not more than 10 years and who will materially and substantially participate in the operation of the farm.

b. Limited-resource farmer. – A farmer with direct and indirect annual gross farm sales that do not exceed one hundred thousand dollars ~~($100,000).~~($100,000) and with an adjusted household income in each of the previous two years that is at or below the greater of the county median household income, as determined by the United States Department of Housing and Urban Development, or two times the national poverty level based on the federal poverty guidelines established by the United States Department of Health and Human Services and revised each April 1.

c. Materially and substantially participate. –

1. In the case of an individual, for the individual, including members of the immediate family of the individual, to provide substantial day-to-day labor and management of the farm, consistent with the practices in the county in which the farm is located.

2. In the case of an entity, for all members of the entity, to participate in the operation of the farm, with some members providing management and some members providing labor and management necessary for day-to-day activities such that if the members did not provide the management and labor, the operation of the farm would be seriously impaired."

AUTHORIZE THE USE OF AVAILABLE FUNDS FOR PURCHASE OF BERTIE COUNTY FORESTRY HEADQUARTERS BUILDING/CONSTRUCTION OF MCDOWELL COUNTY FORESTRY HEADQUARTERS BUILDING

SECTION 12.7.(a) The Division of Forest Resources of the Department of Environment and Natural Resources may use any funds available to the Department of Environment and Natural Resources for the 2004-2005 fiscal year to purchase an existing building to be used as the Bertie County Forestry Headquarters.

SECTION 12.7.(b) In the event that property located in McDowell County is donated to the State by transfer of title in fee simple and the Department of Environment and Natural Resources approves the land as a suitable location for a forestry headquarters building, the Division of Forest Resources of the Department of Environment and Natural Resources may use any funds available to the Department of Environment and Natural Resources for the 2004-2005 fiscal year to construct a building on that donated property to be used as the McDowell County Forestry Headquarters.

SECTION 12.7.(c) The Division of Forest Resources of the Department of Environment and Natural Resources shall conduct an evaluation of requirements for real property and equipment under its charge and provide this information to the Senate and House Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division no later than January 15, 2005.

PARTNERSHIP FOR THE SOUNDS FUNDS

SECTION 12.7A. Of the funds previously appropriated to the Partnership for the Sounds for the Pamlico County education initiative, fifty percent (50%) of the funds remaining shall provide for a budget reduction to the Department of Environment and Natural Resources. The remainder shall be transferred as a State grant-in-aid to Pamlico County for education initiatives.

UNDER DOCK OYSTER CULTURE PROGRAM

SECTION 12.7B. Article 16 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-210. Under Dock Oyster Culture.**

(a) Under Dock Oyster Culture Permit. – An Under Dock Oyster Culture Permit authorizes the holder of the permit to attach up to 90 square feet of oyster cultivation containers to a dock or pier owned by the permit holder.

(b) Application. – The owner of a dock or pier who wishes to obtain an Under Dock Oyster Culture Permit shall apply to the Director of the Division of Marine Fisheries.

(c) Issuance. – The Director of the Division of Marine Fisheries shall issue an Under Dock Oyster Culture Permit only if the Director determines all of the following:

(1) That the dock or pier is not located in an area that the State Health Director has recommended be closed to shellfish harvest due to pollution or that has been closed to harvest by statute, rule, or proclamation due to suspected pollution.

(2) That the owner of the dock or pier has satisfied the training requirements established by the Marine Fisheries Commission pursuant to subsection (j) of this section.

(3) That the attachment of the oyster cultivation containers to the dock or pier will be compatible with all lawful uses by the public of other marine and estuarine resources. Other lawful public uses include, but are not limited to, navigation, fishing, and recreation.

(d) Duration. – An Under Dock Oyster Culture Permit is valid for a one-year period from the date of issuance.

(e) Renewal. – The Director of the Division of Marine Fisheries shall renew an Under Dock Oyster Culture Permit only if the Director determines the requirements of subsection (c) of this section continue to be satisfied and the holder of the permit is attempting to utilize the permit to cultivate oysters on a continuing basis.

(f) Reporting Requirements. – The holder of an Under Dock Oyster Culture Permit shall comply with the biological data sampling and survey programs of the Marine Fisheries Commission and the Division of Marine Fisheries.

(g) Posting of Signs. – The holder of an Under Dock Oyster Culture Permit shall post signs that indicate the presence of the oyster cultivation containers and that the oyster cultivation containers and their contents are private property.

(h) Sale of Oysters Prohibited. – It is unlawful for the holder of an Under Dock Oyster Culture Permit to sell oysters cultivated pursuant to the permit.

(i) Assignment and Transfer Prohibited. – An Under Dock Oyster Culture Permit is not assignable or transferable.

(j) Oyster Cultivation Training Requirements. – The Marine Fisheries Commission, in consultation with the Sea Grant College Program at The University of

North Carolina, shall develop and adopt rules for the training of individuals who cultivate oysters pursuant to this section.

(k) Revocation of Permit. – If the Director of the Division of Marine Fisheries determines that the holder of an Under Dock Oyster Culture Permit has failed to comply with any provision of this section, the Director shall revoke the Permit. The owner of the dock or pier shall remove the oyster cultivation containers that were authorized by the revoked permit within 15 days of revocation."

REQUIREMENTS FOR ANIMAL WASTE MANAGEMENT SYSTEMS TECHNICAL SPECIALISTS

SECTION 12.7C. Before July 1, 2006, the requirements and qualifications for animal waste management systems technical specialists shall not be changed and the scope of the work that animal waste management systems technical specialists are authorized to perform shall not be decreased. As used in this section, "animal waste management system" has the same meaning as in G.S. 143-215.10B.

STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS AND FOR FEDERAL WATER QUALITY ACT FUNDS

SECTION 12.8.(a) Notwithstanding the provisions of Chapter 159G of the General Statutes, the Department of Environment and Natural Resources may transfer from the General Water Supply Revolving Loan Account up to six million nine hundred thousand dollars ($6,900,000) to the Department of Environment and Natural Resources to be used to match the federal grant moneys authorized by section 1452 of the federal Safe Drinking Water Act amendments of 1996 for the 2004-2005 fiscal year and to match the federal grant moneys authorized by Title VI of the federal Water Quality Act of 1987 for the 2004-2005 fiscal year. The General Water Supply Revolving Loan Account is an account under the Clean Water Revolving Loan and Grant Fund and is established under G.S. 159G-4. The Clean Water Revolving Loan and Grant Fund is established by G.S. 159G-5.

SECTION 12.8.(b) Notwithstanding the provisions of G.S. 143B-437.01, the Department of Commerce shall transfer from the Industrial Development Fund to the Department of Environment and Natural Resources the sum of seven hundred seventy-six thousand six hundred eighty dollars ($776,680) to be used to match the federal grant moneys authorized by section 1452 of the federal Safe Drinking Water Act amendments of 1996 for the 2004-2005 fiscal year and to match the federal grant moneys authorized by Title VI of the federal Water Quality Act of 1987 for the 2004-2005 fiscal year. The Industrial Development Fund is established by G.S. 143B-437.01.

EXPAND EXPRESS REVIEW PILOT PROGRAM

SECTION 12.9.(a) The Department of Environment and Natural Resources shall continue the Express Review Pilot Program established by Section 11.4A of S.L. 2003-284 that was implemented in the Wilmington and Raleigh regional offices and shall expand the Express Review Pilot Program to two additional regional offices within the Department, to be selected by the Department based on the Department's determination of where the Pilot Program is most needed.

SECTION 12.9.(b) The Department of Environment and Natural Resources shall continue and support the eight positions that were authorized under Section 11.4A of S.L. 2003-284 to administer the expanded Express Review Pilot Program under this section. This expanded Program and these positions and support shall be funded from the Express Review Fund, created by Section 11.4A of S.L. 2003-284.

SECTION 12.9.(c) The Department of Environment and Natural Resources may establish and support four additional positions to administer the expanded Express Review Pilot Program under this section. These positions and support may be funded for the 2004-2005 fiscal year from funds appropriated in this act to the Department of

Environment and Natural Resources for this purpose. It is the intent of the General Assembly that these positions and support be funded in future fiscal years from the Express Review Fund.

SECTION 12.9.(d) The Department of Environment and Natural Resources may establish and support four additional positions to administer the expanded Express Review Pilot Program under this section. These positions and support shall be funded from the Express Review Fund, created by Section 11.4A of S.L. 2003-284.

SECTION 12.9.(e) No later than March 1, 2005, the Department of Environment and Natural Resources shall report to the Fiscal Research Division and the Environmental Review Commission its findings on the success of the continued Express Pilot Review Program and whether it recommends that the Program be continued or expanded and any other findings or recommendations, including any legislative proposals, that it deems pertinent.

SECTION 12.9.(f) Subsection (c) of this section becomes effective January 1, 2005. The remaining subsections of this section become effective July 1, 2004.

ONETIME GRANT TO SWAIN COUNTY

SECTION 12.11. The Wildlife Resources Commission shall provide a onetime grant of thirty-seven thousand five hundred dollars ($37,500) for the 2004-2005 fiscal year from the Wildlife Resources Fund created under G.S. 143-250 to Swain County as compensation to the County for the loss of ad valorem taxes associated with the fee simple purchase by the Wildlife Resources Commission of the 3,431-acre Needmore game lands property located on the Little Tennessee River in Swain County, which grant shall be used to provide public services to the residents of Swain County.

EXPAND ONE-STOP PERMIT ASSISTANCE PROGRAM STATEWIDE

SECTION 12.12.(a) Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-279.12. One-stop permits for certain environmental permits.**

(a) The Department of Environment and Natural Resources shall establish a one-stop environmental permit application assistance and tracking system program for all its regional offices. The Department shall provide to each person who submits an application for any environmental permit subject to this section to any regional office a time frame within which that applicant may expect a final decision regarding the issuance or denial of the permit. The Department shall identify the environmental permits that are subject to this section. The procedure regulating the time frame estimates and sanction for failing to honor the time frame shall be as set out in subsections (b) and (c) of this section.

(b) Upon receipt of a complete application for an environmental permit, the Department of Environment and Natural Resources shall provide to the applicant a good faith estimate of the date by which the Department expects to make the final decision of whether to issue or deny the permit.

(c) Unless otherwise provided by law, when an applicant has provided to the Department of Environment and Natural Resources the information and documentation required and requested by the Department and the Department fails to issue or deny the permit within 60 days of the date projected by the Department for the final decision of whether to issue or deny the permit, the permit shall be automatically granted to the applicant. This subsection does not apply when an applicant submits a substantial amendment to its application after the Department has provided the applicant the projected time frame as required by this section. This subsection does not apply when an applicant agrees to receive a final decision from the Department more than 60 days from the date projected by the Department under subsection (b) of this section.

(d) The Department of Environment and Natural Resources shall track the time required to process each complete environmental permit application that is subject to this section. The Department shall compare the time in which the permit was issued or

denied with the projected time frame provided to the applicant by the Department as required by this section. The Department shall identify each permit that was issued or denied more than 90 days after receipt of a complete application by the Department and shall document the reasons for the delayed action.

(e) No later than October 1, 2004, and annually thereafter, the Department of Environment and Natural Resources shall report to the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission the number of environmental permits subject to this section that took more than 90 days to issue or deny, the types of permits those were, the reasons for the extended processing time of those permits, and how the time within which the permit was actually issued or denied compared with the projected time frame provided to the applicant by the Department as required by this section. Based on the data gathered under this subsection, the Department shall include in its annual report recommendations regarding permit time frames for all major permits issued by the Department.

(f) The Department may adopt temporary rules to implement this section."

SECTION 12.12.(b) The Department of Environment and Natural Resources shall expand to a statewide program that operates in each regional office of the Department the one-stop environmental permit application assistance and tracking system pilot project established under Section 13.7 of S.L. 2000-67 for those environmental permits that were subject to this pilot program, and the provisions of G.S. 143B-12, as enacted by subsection (a) of this section, shall apply to this statewide program.

SECTION 12.12.(c) Any positions that were used by the Department of Environment and Natural Resources to staff the one-stop environmental permit application assistance and tracking system pilot project established under Section 13.7 of S.L. 2000-67 shall be used for the 2004-2005 fiscal year to staff the statewide one-stop environmental permit application assistance and tracking system program under G.S. 143B-279.12, as enacted in subsection (a) of this section. The Department of Environment and Natural Resources shall use available funds for the 2004-2005 fiscal year to continue and support these positions, and the Department of Environment and Natural Resources shall use funds appropriated in this act to the Department only for the purposes of implementing the statewide one-stop environmental permit application assistance and tracking system and establishing and supporting four positions to staff this statewide program for the 2004-2005 fiscal year.

SECTION 12.12.(d) This section becomes effective January 1, 2005.

MONITORING AND EMERGENCY CLEANUP FUNDS FOR TEXFI SITE CONTAMINATION

SECTION 12.14. Of the funds appropriated to the Department of Environment and Natural Resources, Division of Waste Management, for the 2004-2005 fiscal year to cost share federal funds for the cleanup of Superfund sites, up to fifty thousand dollars ($50,000) may be used by the Department of Environment and Natural Resources, Division of Waste Management, for the 2004-2005 fiscal year for monitoring the groundwater and other contamination located at the Texfi site in Fayetteville and for any emergency cleanup activities needed at this site.

TRANSFER SIX VACANT POSITIONS WITHIN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO MUSEUM OF NATURAL SCIENCES

SECTION 12.15. The Secretary of Environment and Natural Resources shall transfer six vacant positions within the Department of Environment and Natural Resources to the Museum of Natural Sciences.

MODIFY APPROPRIATION TO SALTWATER FISHING FUND

SECTION 12.16.(a) If House Bill 831, 2003 Regular Session, becomes law, then Section 13 of House Bill 831 is repealed.

SECTION 12.16.(b) If House Bill 831, 2003 Regular Session, becomes law, then of the funds appropriated to the Department of Environment and Natural Resources for the 2004-2005 fiscal year, the Division of Marine Fisheries may use up to four hundred fifty thousand dollars ($450,000) to implement the provisions of House Bill 831, and notwithstanding the provisions of G.S. 113-175.3, as enacted by Section 1 of House Bill 831, the Board of Trustees of the North Carolina Saltwater Fishing Fund may use up to three hundred thousand dollars ($300,000) to implement the provisions of House Bill 831. It is the intent of the General Assembly that all of the funds appropriated under this subsection are onetime funds. Notwithstanding G.S. 113-175.3, as enacted by Section 1 of House Bill 831, the Board of Trustees shall repay all of the funds appropriated pursuant to this subsection to the General Fund by 1 July 2008.

SECTION 12.16.(c) If House Bill 831, 2003 Regular Session, does not become law, then subsection (b) of this section shall not become effective.

MUSEUM OF NATURAL SCIENCES FUNDS

SECTION 12.17. If the Department of Environment and Natural Resources receives non-State matching funds on a dollar-for-dollar basis, the Department may use available funds up to five hundred thousand dollars ($500,000) during the 2004-2005 fiscal year to conduct a feasibility study and to develop a schematic site plan for expansion of the Museum of Natural Sciences and for the expansion of office space.

PART XIII. DEPARTMENT OF COMMERCE

COUNCIL OF GOVERNMENT FUNDS

SECTION 13.1. Section 12.2(c) of S.L. 2003-284 reads as rewritten:

"**SECTION 12.2.(c)** Funds appropriated by this section for the 2004-2005 fiscal year shall be paid by electronic transfer in two equal installments, the first no later than September 1, ~~2003,~~2004, and the second subsequent to acceptable submission of the annual report due to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2005, as specified in subdivision (e)(2) of this section."

TOURISM PROMOTION FUNDS STUDY

SECTION 13.3. The Department of Commerce shall study alternative methods for ranking counties in an effort to direct tourism promotion funds to counties most in need. In conducting the study, the Department shall consider the number and quality of tourism attractions in the county and the county's financial ability to promote tourism, including sales and property tax revenue. The Department of Commerce shall report its findings and recommendations to the Chairs of the Appropriations Subcommittees on Natural and Economic Resources of the Senate and the House of Representatives by January 16, 2005.

INDUSTRIAL DEVELOPMENT FUND

SECTION 13.5. Section 12.5 of S.L. 2003-284 reads as rewritten:

"**SECTION 12.5.(a)** The Department of Commerce shall reduce the cash balance of the Industrial Development Fund by ~~one hundred eighty-two thousand one hundred fifty-four dollars ($182,154).~~two million two hundred eleven thousand six hundred sixty-seven dollars ($2,211,667).

"**SECTION 12.5.(b)** This section becomes effective ~~June 30, 2003.~~June 30, 2004."

WANCHESE SEAFOOD INDUSTRIAL PARK

SECTION 13.5A.(a) Funds appropriated to the Department of Commerce for the 2003-2004 fiscal year for the Oregon Inlet Project that are unexpended and

unencumbered as of June 30, 2004, shall not revert to the General Fund on June 30, 2004, but shall remain available to the Department to be expended by the NC Seafood Industrial Park Authority for operations, maintenance, expansion, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to any other funds that are available to the Authority for the purposes stated in this section. This subsection becomes effective June 30, 2004.

SECTION 13.5A.(b) Funds appropriated to the Department of Commerce prior to the 2003-2004 fiscal year for the Oregon Inlet Project that did not revert to the General Fund but remained available to the Department for legal costs associated with the Project shall be available to the NC Seafood Industrial Park Authority for securing adequate channel maintenance of Oregon Inlet and for general operations, maintenance, expansion, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes. These funds shall be in addition to any other funds available to the Authority for the purposes stated in this section. This subsection becomes effective June 30, 2004.

SECTION 13.5A.(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the Office of State Budget and Management shall reduce the carry forward for Wanchese Seafood Industrial Park authorized in this section by the sum of three hundred thousand dollars ($300,000).

REGIONAL PARTNERSHIPS VISION PLANS

SECTION 13.6.(a) There is appropriated from the General Fund to the North Carolina Partnership for Economic Development, Inc., the sum of one million seven hundred fifty thousand dollars ($1,750,000) for the 2004-2005 fiscal year. From these funds, the Partnership shall allocate two hundred fifty thousand dollars ($250,000) to each of the seven regional economic development partnerships. These funds shall be used by each partnership to develop and implement a strategic economic development plan in accordance with this section.

SECTION 13.6.(b) In developing and implementing a strategic economic development plan, each of the regional partnerships shall do the following:

(1) Perform a comprehensive study of the region's resources and existing businesses located in the region to determine what business clusters exist and the boundaries of those clusters, to develop ways to strengthen those clusters, and to determine in what areas the region has a competitive advantage that could lead to the development of future clusters.

(2) Ensure that the benefits of the economic development plan are widely dispersed and that the plan provides real opportunities in rural areas as well as in urban and suburban areas.

(3) Develop focused and targeted economic development initiatives related to the recruitment and development of new businesses and the retention of existing businesses.

(4) Provide a mechanism for continuous monitoring of the regional economy and competitiveness indicators and for updating the strategic economic development plan to take account of changing economic conditions.

(5) Recommend infrastructure investments to meet the region's current and anticipated future needs.

(6) Integrate the North Carolina Community College System and The University of North Carolina into economic development efforts and planning.

(7) Create leadership networks that span the public and private sectors and that facilitate communication within clusters, between members of complementary clusters, and between members of the public and private sectors.

SECTION 13.6.(c) Section 8.3 of S.L. 2002-126 is repealed.

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

SECTION 13.7. Section 12.7(b) of S.L. 2003-284 reads as rewritten:

"**SECTION 12.7.(b)** Funds appropriated pursuant to subsection (a) of this section shall be allocated to each Regional Economic Development Commission as follows:

(1) First, the Department shall establish each Commission's allocation by determining the sum of allocations to each county that is a member of that Commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3; and

(2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Commission the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars ($171,979) in ~~each fiscal year,~~the 2003-2004 fiscal year and the sum of one hundred twenty-five thousand six hundred eighty-one dollars ($125,681) in the 2004-2005 fiscal year which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars ($171,979) ~~in each fiscal year~~ in the 2003-2004 fiscal year and the sum of one hundred twenty-five thousand six hundred eighty-one dollars ($125,681) in the 2004-2005 fiscal year to the seven Regional Economic Development Commissions named in subsection (a) of this section. Each Commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each Commission's allocation determined under subdivision (1) of this subsection."

TRADE JOBS FOR SUCCESS

SECTION 13.7A.(a) The Employment Security Commission shall take all actions practicable to obtain from the U.S. Department of Labor as quickly as possible a waiver under the Trade Adjustment Act to allow the Trade Jobs for Success initiative to (i) serve persons regardless of their age, (ii) use unemployment funds to provide direct monetary incentives to participating employers and direct income to eligible workers in the retraining program, and (iii) use funds for in-State relocation assistance. Waivers shall be sought for other program components, as appropriate.

SECTION 13.7A.(b) The Department of Commerce, in cooperation with the Employment Security Commission and the North Carolina Community College System shall begin implementation of the Trade Jobs for Success initiative in the counties hardest hit by trade impacted job losses and the resulting decline of traditional North Carolina industries including the textile, clothing, and furniture industries and other manufacturing operations. Counties having an unemployment rate of eight percent (8%) or more shall receive priority consideration.

SECTION 13.7A.(c) The Department of Commerce shall seek, and may receive, private grants and federal funds for the Trade Jobs for Success initiative.

SECTION 13.7A.(d) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 3C. Trade Jobs for Success.

"**§ 143B-438.15. Legislative findings and purpose.**

(a) The General Assembly finds that State, national, and global economic conditions and the passage of international trade agreements have impacted the State workforce adversely and resulted in significant losses in the availability of jobs in manufacturing and the State's other traditional industries. Further, the General Assembly finds that business and plant closings, the weakened State economy, and lengthening periods of unemployment have taken a toll on communities across the State. It is prudent to address the loss of jobs by establishing a statewide initiative to create more jobs for our citizens.

(b) It is the policy of this State to stimulate job growth and hiring by investing in the effective retraining of trade-affected displaced workers while partnering with private business to help those citizens learn new skills for new jobs through on-the-job training and educational assistance.

(c) The purpose of this Part is to establish the Trade Jobs for Success initiative to stimulate job growth and hiring in the State and to assist displaced workers affected by trade-impact business closings. The aim of the Trade Jobs for Success initiative shall be to partner with private business to move displaced workers into new jobs while allowing for a dignified transition from unemployment back to employment.

"**§ 143B-438.16. Trade Jobs for Success initiative established; funds; program components and guidelines.**

(a) There is established within the Department of Commerce the Trade Jobs for Success (TJS) initiative. The Department of Commerce shall lead the TJS initiative in cooperation with the Employment Security Commission and the Community Colleges System Office.

(b) There is created in the Department of Commerce a special, nonreverting fund called the Trade Jobs for Success Fund (Fund). The Fund shall be used to implement the TJS initiative. The Department of Commerce shall develop guidelines for administration of the TJS initiative and the Fund. An advisory council shall assist the Secretary of Commerce in the administration of the Fund. The members of the advisory council shall include:

(1) The Chairman of the Employment Security Commission or that officer's designee.

(2) The President of the Community Colleges System or that officer's designee.

(3) The State Auditor or that officer's designee.

(4) A representative of a statewide association to further the interests of business and industry in North Carolina designated by the Secretary of Commerce.

(c) At a minimum, the Trade Jobs for Success initiative shall include the following programmatic components:

(1) Displaced workers participating in the TJS initiative shall receive (i) on-the-job training to learn new job skills and (ii) educational assistance or remedial education specifically designed to help displaced workers qualify for new jobs.

(2) Displaced workers participating in the TJS initiative shall not lose their eligibility for unemployment insurance benefits while they are in the program and may receive wage supplements, as appropriate.

(3) In-State relocation assistance, in appropriate instances, where participating individuals must relocate to work for participating employers.

(4) Mentoring, both on and off the job, shall be provided to participants in a dignified manner through telephone assistance and other appropriate means.

(5) Financial assistance and other incentives may be provided to participating employers who provide jobs to participating displaced workers to help defray the costs of providing the on-the-job training opportunities.

(6) Work provided by participating employers as part of the TJS initiative must be full-time employment. Wages paid shall not be less than the hourly entry-level wage normally paid by the employer.

(7) Staff of the Employment Security Commission, in conjunction with staff of the Department of Commerce, shall match participating displaced workers to the most suitable employer.

(8) Local Employment Security Commission offices and community colleges shall enter into partnership agreements with local chambers of commerce, and other appropriate organizations, that would encourage employer participation in the TJS initiative.

(9) Tracking of participating individuals and businesses by the Department of Commerce and the Employment Security Commission to assure program integrity and effectiveness and the compilation of data to generate the reports necessary to evaluate the success of the TJS initiative.

(10) Coordination and integration of existing programs in the Department of Commerce, the Employment Security Commission, and the North Carolina Community College System in a manner that maximizes the flexibility of these agencies to effectively assist participating individuals and businesses.

"**§ 143B-438.17. Reporting.**

The Department of Commerce, in conjunction with the Employment Security Commission and the Community Colleges System Office, shall publish a quarterly report on the Trade Jobs for Success initiative. The report shall provide information on the commitment, disbursement, and use of funds and the status of any grant proposals or waivers requested on behalf of the Trade Jobs for Success initiative. The report shall also include legislative proposals and recommendations regarding statutory changes needed to maximize the effectiveness and flexibility of the TJS initiative. Copies of the report shall be provided to the Joint Legislative Commission on Governmental Operations, to the chairs of the Senate and House of Representatives Appropriations Committees, and to the Fiscal Research Division of the General Assembly."

OMNIBUS CHANGES TO EMPLOYMENT SECURITY LAWS/FUNDS TO SUPPORT LOCAL ESC OFFICES

SECTION 13.7B.(a) G.S. 96-9(d)(2)d. reads as rewritten:

"d. As of July 31 of each year, and prior to January 1 of the succeeding year, the Commission shall determine the balance of each such employer's account and shall furnish him with a statement of all charges and credits thereto.

As of the second computation date (August 1) following the effective date of liability and as of each computation date thereafter, any credit balance remaining in the employer's account (after all applicable postings) in excess of whichever is the greater (a) benefits charged to such account during the 12 months ending on such computation date, or (b) one percent (1%) of taxable wages for the 12 months ending on June 30 preceding such computation date shall be refunded. Any such refund shall be made prior to February 1 following such computation date.

Should the balance in such account not equal that requiring a refund, the employer shall upon notice and demand for

payment mailed to his last known address pay into his account an amount that will bring such balance to the minimum required for a refund. Such amount shall become due on or before the tenth day following the mailing of such notice and demand for payment. Any such amount unpaid on the due date shall be collected in the same manner, including interest, as prescribed in G.S. 96-10.

Upon a change in election as to the method of payment from reimbursement to contributions, or upon termination of coverage and after all applicable benefits paid based on wages paid prior to such change in election or termination of coverage have been charged, any credit balance in such account shall be refunded to the employer.

Should there be a debit balance in such account, the employer shall, upon notice and demand for payment, mailed to his last-known address, pay into his account an amount equal to such debit balance. Such amount shall become due on or before the tenth day following the mailing of such notice and demand for payment.

Any such amount unpaid on the date due shall be collected in the same manner, including interest, as prescribed in G.S. 96-10.

Beginning January 1, 1978, each employer paying by reimbursement shall have his account computed on computation date (August 1) and if there is a deficit shall be billed for an amount necessary to bring his account to one percent (1%) of his taxable payroll. Any amount of his account in excess of that required to equal one percent (1%) of his payroll shall be refunded. Amounts due from any employer to bring his account to a one percent (1%) balance shall be billed as soon as practical and payment will be due within 25 days from the date of mailing of the statement of amount due. Amounts due from any nonprofit organization to bring its account to a one percent (1%) balance shall be billed as soon as practical, and payment will be due within 60 days from the date of mailing of the statement of the amount due."

SECTION 13.7B.(b) G.S. 96-5(c1) is repealed.

SECTION 13.7B.(c) G.S. 96-15(c) reads as rewritten:

"(c) Appeals. – Unless an appeal from the adjudicator is withdrawn, an appeals referee shall set a hearing in which the parties are given reasonable opportunity to be heard. The conduct of hearings shall be governed by suitable regulations established by the Commission. Such regulations need not conform to common law or statutory rules of evidence or technical or formal rules of procedure but shall provide for the conduct of hearings in such manner as to ascertain the substantial rights of the parties. The hearings may be conducted by conference telephone call or other similar means provided that if any party files with the Commission prior written objection to the telephone procedure, that party will be afforded an opportunity for an in-person hearing at such place in the State as the Commission by regulation shall provide. The appeals referee may affirm or modify the conclusion of the adjudicator or issue a new decision in which findings of fact and conclusions of law will be set out or dismiss an appeal when the appellant fails to appear at the appeals hearing to prosecute the appeal after having been duly notified of the appeals hearing. The evidence taken at the hearings before the appeals referee shall be recorded and the decision of the appeals referee shall be deemed to be the final decision of the Commission unless within 10 days after the date of notification or mailing of the decision, whichever is earlier a written appeal is

filed pursuant to such regulations as the Commission may adopt. No person may be appointed as an appeals referee unless he or she possesses the minimum qualifications necessary to be a staff attorney eligible for designation by the Commission as a hearing officer under G.S. 96-4(m). No appeals referee in full-time permanent status may engage in the private practice of law as defined in G.S. 84-2.1 while serving in office as appeals referee; violation of this prohibition shall be grounds for removal. Whenever an appeal is taken from a decision of the appeals referee, the appealing party shall submit a clear written statement containing the grounds for the appeal within the time allowed by law for taking the appeal, and if such timely statement is not submitted, ~~an appeals referee~~ the Commission may dismiss the appeal."

SECTION 13.7B.(d) G.S. 96-8(6)k. is amended by adding a new sub-subdivision to read:

"k. The term "employment" does not include:

…

20. Services performed by an individual who is an alien having residence in a foreign country which the individual has no intention of abandoning who possesses a valid J-1 Visa and is present in the State for a period of six months or less pursuant to the provisions of 8 U.S.C. § 1101(a)(15)(F)(J)(M)(Q)."

SECTION 13.7B.(e) There is appropriated from the Special Employment Security Administration Fund to the Employment Security Commission of North Carolina the sum of six million three hundred thousand dollars ($6,300,000) for the 2004-2005 fiscal year to be used for the following purposes:

(1) Six million dollars ($6,000,000) for the operation and support of local offices.

(2) Two hundred thousand dollars ($200,000) for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs.

(3) One hundred thousand dollars ($100,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

SECTION 13.7B.(f) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the Community College System Office the sum of one hundred fifty thousand dollars ($150,000) for the 2004-2005 fiscal year to be used for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises and the sum of two hundred fifty thousand dollars ($250,000) for the 2004-2005 fiscal year to be used for the operation of the Hosiery Technology Center.

SECTION 13.7B.(g) Subsection (a) of this section becomes effective August 1, 2004, and applies to amounts due on or after that date. Subsections (e) and (f) of this section become effective July 1, 2004. The remainder of this section is effective when it becomes law.

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 13.8. Section 12.11 of S.L. 2003-284 reads as rewritten:

"**SECTION 12.11.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million eight hundred forty-one thousand six hundred ninety-seven dollars ($1,881,697) for the 2003-2004 fiscal year and the sum of ~~one million eight hundred eighty-one thousand six hundred ninety-seven dollars ($1,881,697)~~ three million twenty-five thousand six hundred ninety-seven dollars ($3,025,697) for the 2004-2005 fiscal year shall be allocated as follows:

	2003-2004 FY	2004-2005 FY
Research and Demonstration Grants	$370,000	~~$370,000~~$1,370,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,399	444,399
Center Administration, Oversight, and Other Programs	604,298	604,298
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	199,722	199,722
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	~~125,000.~~ 125,000
Institute for Rural Entrepreneurship		144,000.

"**SECTION 12.11.(a1)** Of the funds allocated to Research and Demonstration Grants for fiscal year 2004-2005 in subsection (a) of this section, the sum of one million dollars ($1,000,000) may be allocated to the e-NC Authority to establish up to four Business and Technology Telecenters.

The e-NC Authority may:

(1) Contract with other State agencies, The University of North Carolina, the North Carolina Community College System, and nonprofit organizations to assist with program development and the evaluation of program activities.

(2) Use up to five percent (5%) of the funds allocated in this section to cover its expenses in program development and implementation of activity areas.

The e-NC Authority shall report to the 2005 General Assembly on the following:

(1) The activities necessary to be undertaken in distressed urban areas of the State to enhance the capability of citizens and businesses residing in these areas to access the high-speed Internet.

(2) An implementation plan for the training of citizens and businesses in distressed urban areas.

(3) The technology and digital literacy training necessary to assist citizens and existing businesses to create new technology-based enterprises in these communities and to use the Internet to enhance the productivity of their businesses.

The e-NC Authority shall, by January 31, 2005, and quarterly thereafter, report to the Joint Legislative Commission on Governmental Operations on program development and the evaluation of program activities.

....

"**SECTION 12.11.(d)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million four hundred fifteen thousand nine hundred ten dollars ($2,415,910) for the 2003-2004 fiscal year and the sum of two million four hundred fifteen thousand nine hundred ten dollars ($2,415,910) for the 2004-2005 fiscal year shall be allocated as follows:

(1) $1,047,410 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any new or previously funded community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds for the 2004-2005 fiscal year as follows:

a. ~~$800,000 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;~~

b. ~~$197,410 in each fiscal year for direct grants to local community development corporations that have not previously received State funds; and~~

a. $997,410 for direct grants to local community development corporations to support operations and project activities.

~~c.~~b. $50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section."

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

SECTION 13.9. Section 12.12(a) of S.L. 2003-284 reads as rewritten:

"**SECTION 12.12.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three hundred sixty-one thousand dollars ($361,000) for the 2003-2004 fiscal year and the sum of three hundred sixty-one thousand dollars ($361,000) for the 2004-2005 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers for ongoing job training programs. ~~allocated as follows:~~

~~(1) $90,250 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;~~

~~(2) $90,250 in each fiscal year to the Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;~~

~~(3) $90,250 in each fiscal year to the Opportunities Industrialization Centers Kinston and Lenoir County, North Carolina, Inc.; and~~

~~(4) $90,250 in each fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc.~~"

TRANSFER BUSINESS LICENSE INFORMATION OFFICE FUNCTIONS AND DUTIES TO THE DEPARTMENT OF COMMERCE

SECTION 13.9A.(a) Article 4B of Chapter 147 of the General Statutes is repealed, and the Business License Information Office of the Department of the Secretary of State is abolished.

SECTION 13.9A.(b) Section 24.1 of S.L. 2003-284 is repealed.

SECTION 13.9A.(c) G.S. 143B-431 is amended by adding the following new subsection to read:

"(e) The Department of Commerce may establish a clearinghouse for State business license information and shall perform the following duties:

(1) Establish a license information service detailing requirements for establishing and engaging in business in the State.

(2) Provide the most recent forms and information sheets for all State business licenses.

(3) Prepare, publish, and distribute a complete directory of all State licenses required to do business in North Carolina.

(4) Upon request, the Department shall assist a person as provided below:

a. Identify the type and source of licenses that may be required and the potential difficulties in obtaining the licenses based on an informal review of a potential applicant's business at an early stage in its planning. Information provided by the Department is for guidance purposes only and may not be asserted by an applicant as a waiver or release from any license requirement. However, an applicant who uses the services of the Department as provided in this subdivision, and who receives a written

statement identifying required State business licenses relating to a specific business activity, shall not be assessed a penalty for failure to obtain any State business license which was not identified, provided that the applicant submits an application for each such license within 60 days after written notification by the Department or the agency responsible for issuing the license.

b. Arrange an informal conference between the person and the appropriate agency to clarify licensing requirements or standards, if necessary.

c. Assist in preparing the appropriate application and supplemental forms.

d. Monitor the license review process to determine the status of a particular license. If there is a delay in the review process, the Department may demand to know the reasons for the delay, the action required to end the delay, and shall provide this information to the applicant. The Department may assist the applicant in resolving a dispute with an agency during the application process. If a request for a license is refused, the Department may explain the recourse available to the person under the Administrative Procedure Act.

(5) Collaborate with the business license coordinator designated in State agencies in providing information on the licenses and regulatory requirements of the agency, and in coordinating conferences with applicants to clarify license and regulatory requirements.

Each agency shall designate a business license coordinator. The coordinator shall have the following responsibilities:

a. Provide to the Department the most recent application and supplemental forms required for each license issued by the agency, the most recent information available on existing and proposed agency rules, the most recent information on changes or proposed changes in license requirements or agency rules and how those changes will affect the business community, and agency publications that would be of aid or interest to the business community.

b. Work with the Department in scheduling conferences for applicants as provided under this subsection.

c. Determine, upon request of an applicant or the Department, the status of a license application or renewal, the reason for any delay in the license review process, and the action needed to end the delay; and to notify the applicant or Department, as appropriate, of those findings.

d. Work with the Department or applicant, upon request, to resolve any dispute that may arise between the agency and the applicant during the review process.

e. Review agency regulatory and license requirements and to provide a written report to the Department that identifies the regulatory and licensing requirements that affect the business community; indicates which, if any, requirements should be eliminated, modified, or consolidated with other requirements; and explains the need for continuing those requirements not recommended for elimination.

f. Report, on a quarterly basis, to the Department on the number of licenses issued during the previous quarter on a form prescribed by the Department."

SECTION 13.9A.(d) The Department of Commerce shall consider hiring the personnel in the Business License Information Office of the Department of the Secretary of State to conduct the business license information functions in the Department of Commerce.

SECTION 13.9A.(e) Part 1 of Article 10 of the General Statutes is amended by adding the following new section:

"**§ 143B-432.1. Department of Commerce – Small Business Ombudsman.**

A Small Business Ombudsman is created in the Department of Commerce to work with small businesses to ensure they receive timely answers to questions and timely resolution of issues involving State government. The Small Business Ombudsman shall have the authority to make inquiry of State agencies on behalf of a business, to receive information concerning the status of a business's inquiry, and to convene representatives of various State agencies to discuss and resolve specific issues raised by a business. The Small Business Ombudsman shall also work with the small business community to identify problems in State government related to unnecessary delays, inconsistencies between regulatory agencies, and inefficient uses of State resources."

PART XIV. JUDICIAL DEPARTMENT

INCREASE MAXIMUM MAGISTRATE AUTHORIZATIONS/STUDY MAGISTRATE FUNDING

SECTION 14.1.(a) G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.	Magistrates Max.	Additional Seats of Court
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	4	
Martin	4	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden
Craven	7	10	Havelock
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	8	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	

Bertie	4	6	
Hertford	5	7	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	5	
Franklin	3	7	
Person	3	4	
Caswell	2	5	
Wake	12	21	Apex, Wendell, Fuquay-Varina, Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson, Clayton, Selma
Lee	4	6	
Cumberland	10	19	
Bladen	4	6	
Brunswick	4	9	
Columbus	6	10	Tabor City
Durham	8	13	
Alamance	7	11	Burlington
Orange	4	11	Chapel Hill
Chatham	3	9	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	27	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2	4	
Randolph	5	10	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	7	
Anson	4	6	
Richmond	5	6	Hamlet
Moore	5	8	Southern

			Pines
Forsyth	3	15	Kernersville
Alexander	2	4	
Davidson	7	10	Thomasville
Davie	2	~~3~~ 4	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	5	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	28	
Gaston	11	22	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	6	
Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	5	
Macon	3	~~4~~ 5	
Swain	2	4"	

SECTION 14.1.(b) The Administrative Office of the Courts shall evaluate the need for magistrates across the State and shall reexamine the caseload formula it uses to assign priority to that need, considering county population, warrant workload, and automation levels. The Administrative Office of the Courts shall report its findings to the General Assembly by March 15, 2005.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 14.2. Section 13.2 of S.L. 2003-284 reads as rewritten:

"**SECTION 13.2.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, ~~2003,~~ 2004, for the purchase or repair of office or information technology equipment during the ~~2003-2004 fiscal year.~~ 2003-2005 biennium. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

The Judicial Department may use up to the sum of five hundred thousand dollars ($500,000) in receipts collected from the Worthless Check Program during the 2004-2005 fiscal year to create up to 10 positions in, and to provide equipment for, district attorney's offices that are establishing or expanding programs for the collection

of worthless checks. The Judicial Department shall report by March 1, 2005, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the prosecutorial districts in which expansion has been implemented."

MEDIATION FUNDING STUDY

SECTION 14.2A. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall study the funding formula used for the provision of State funding to community mediation centers. The Committee shall report its findings and any recommendations to the 2005 General Assembly.

PLAN TO CONTINUE DRUG COURT SERVICES

SECTION 14.2B. The Administrative Office of the Courts shall develop a plan to continue providing drug treatment court services in districts currently offering those services through time-limited non-State funding. This plan shall include a long-range plan for provision of drug treatment court services in any district where feasible and needed. The Administrative Office of the Courts shall report on this plan to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2005.

OFFICE OF INDIGENT DEFENSE SERVICES/EXPANSION FUNDS/JUVENILE DEFENDER

SECTION 14.3.(a) The Office of Indigent Defense Services may use up to the sum of one million two hundred fifty thousand six hundred thirty-seven dollars ($1,250,637) in appropriated funds for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services by creating up to 12 new attorney positions and six new support staff positions. These funds may be used for salaries, benefits, equipment, and related expenses. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

SECTION 14.3.(b) The Office of Indigent Defense Services may use up to the sum of one hundred seventy-seven thousand five hundred dollars ($177,500) in appropriated funds for the creation of an Office of the Juvenile Defender to be comprised of one attorney position and one support staff position. These funds may be used for salaries, benefits, equipment, and related expenses.

ESTABLISH PUBLIC DEFENDER'S OFFICES IN THE FIRST AND TENTH DEFENDER DISTRICTS

SECTION 14.4.(a) G.S.7A-498.7(a) reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke

16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office."

SECTION 14.4.(b) Effective July 1, 2005, G.S.7A-498.7(a), as rewritten by subsection (a) of this section, reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
10	Wake
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office."

SECTION 14.4.(c) Of the funds appropriated to the Judicial Department, Office of Indigent Defense Services, in this act, the Office of Indigent Defense Services shall use up to the sum of six hundred thousand dollars ($600,000) for the 2004-2005 fiscal year to establish a public defender's office in the First Defender District, as established in this section. The funds shall be used to establish the public defender, six assistant public defenders, one investigator, and two support positions.

SECTION 14.4.(d) Subsection (b) of this section becomes effective July 1, 2005. The remainder of this section becomes effective July 1, 2004.

PILOT PROGRAM FOR PROVISION OF COURTROOM TESTIMONY OF LAB ANALYSTS BY VIDEOCONFERENCE/DIRECT JUDICIAL DEPARTMENT TO STUDY FEASIBILITY OF A STATEWIDE PROGRAM FOR PROVIDING TESTIMONY IN THAT MANNER

SECTION 14.5.(a) The Administrative Office of the Courts shall conduct a pilot program in Superior Court District 27B for the provision of State Bureau of Investigation lab analyst testimony by videoconference. Notwithstanding any provision of law to the contrary, lab analysts with the State Bureau of Investigation may provide courtroom testimony by means of videoconferencing to courtrooms in Superior Court District 27B for purposes of participating in this pilot project.

SECTION 14.5.(b) Of the funds appropriated to the Judicial Department in this act, the Department shall use up to the sum of ninety-three thousand two hundred twenty-nine dollars ($93,229) for the 2004-2005 fiscal year for equipment and other expenses to conduct a pilot program in Superior Court District 27B for the provision of SBI lab analyst testimony by videoconference to courtrooms in District 27B.

SECTION 14.5.(c) Of the funds appropriated to the Department of Justice in this act, the Department shall use up to the sum of forty-eight thousand four hundred fifty dollars ($48,450) for equipment, set-up charges, telecommunication charges, and other expenses associated with providing lab analyst testimony by videoconference from the SBI laboratory.

SECTION 14.5.(d) The Judicial Department, in consultation and cooperation with the Department of Justice, shall study the feasibility of statewide implementation of a program to allow lab analysts with the State Bureau of Investigation to provide their testimony establishing chain-of-custody and any other necessary courtroom testimony by means of videoconferencing or other remote means. In conducting this study, the departments shall determine the most efficient and cost-effective means of providing such testimony and agree upon the appropriate equipment needed for the provision of testimony in that manner. The departments shall report their findings and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and the Chairs of the House and Senate Appropriations Committees by January 1, 2005.

ADDITIONAL SUPERIOR COURT JUDGES, DISTRICT COURT JUDGES, AND ASSISTANT DISTRICT ATTORNEYS TO ENHANCE ENFORCEMENT OF DOMESTIC VIOLENCE LAWS, PROSECUTION OF METHAMPHETAMINE CASES, AND ENFORCEMENT OF OTHER RECENT CHANGES IN CRIMINAL PENALTIES

SECTION 14.6.(a) G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a6) Effective December 1, 2004, the Governor may appoint a special superior court judge to serve a term expiring five years from the date that each judge takes office. Successors to the special superior court judge appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

SECTION 14.6.(b) G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1

First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	~~2~~3
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	1
Second	5A	(part of New Hanover, part of Pender see subsection (b))	1
	5B	(part of New Hanover, part of Pender see subsection (b))	1
	5C	(part of New Hanover, see subsection (b))	1
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
First	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
Third	9	Franklin, Granville, Vance, Warren	2
Third	9A	Person, Caswell	1
Third	10A	(part of Wake, see subsection (b))	2
Third	10B	(part of Wake, see subsection (b))	2
Third	10C	(part of Wake, see subsection (b))	1
Third	10D	(part of Wake, see subsection (b))	1
Fourth	11A	Harnett, Lee	1
Fourth	11B	Johnston	1
Fourth	12A	(part of Cumberland, see subsection (b))	1
Fourth	12B	(part of Cumberland, see subsection (b))	1
Fourth	12C	(part of Cumberland, see subsection (b))	2
Fourth	13	Bladen, Brunswick, Columbus	2
Third	14A	(part of Durham, see subsection (b))	1
Third	14B	(part of Durham, see subsection (b))	3
Third	15A	Alamance	2
Third	15B	Orange, Chatham	~~1~~2
Fourth	16A	Scotland, Hoke	1
Fourth	16B	Robeson	2
Fifth	17A	Rockingham	2
Fifth	17B	Stokes, Surry	2
Fifth	18A	(part of Guilford, see subsection (b))	1
Fifth	18B	(part of Guilford, see subsection (b))	1
Fifth	18C	(part of Guilford, see subsection (b))	1
Fifth	18D	(part of Guilford, see subsection (b))	1
Fifth	18E	(part of Guilford, see subsection (b))	1
Sixth	19A	Cabarrus	1
Fifth	19B	Montgomery, Randolph	1
Sixth	19C	Rowan	1
Fifth	19D	Moore	1
Sixth	20A	Anson, Richmond	1
Sixth	20B	Stanly, Union	2
Fifth	21A	(part of Forsyth, see subsection (b))	1
Fifth	21B	(part of Forsyth, see subsection (b))	1
Fifth	21C	(part of Forsyth, see subsection (b))	1
Fifth	21D	(part of Forsyth, see subsection (b))	1
Sixth	22	Alexander, Davidson, Davie, Iredell	3
Fifth	23	Alleghany, Ashe, Wilkes, Yadkin	1

Eighth	24	Avery, Madison, Mitchell, Watauga, Yancey	2
Seventh	25A	Burke, Caldwell	2
Seventh	25B	Catawba	2
Seventh	26A	(part of Mecklenburg, see subsection (b))	2
Seventh	26B	(part of Mecklenburg, see subsection (b))	3
Seventh	26C	(part of Mecklenburg, see subsection (b))	2
Seventh	27A	Gaston	2
Seventh	27B	Cleveland, Lincoln	2
Eighth	28	Buncombe	2
Eighth	29	Henderson, McDowell, Polk, Rutherford, Transylvania	2
Eighth	30A	Cherokee, Clay, Graham, Macon, Swain	1
Eighth	30B	Haywood, Jackson	1."

SECTION 14.6.(c) The Governor shall appoint a superior court judge for the additional judgeship in Superior Court District 3B as authorized by subsection (b) of this section to serve until December 31, 2006. The successor to that judge shall be elected in the 2006 election to serve the remainder of the unexpired term expiring December 31, 2010.

The Governor shall appoint a superior court judge for the additional judgeship in Superior Court District 15B as authorized by subsection (b) of this section to serve until December 31, 2006. The successor to that judge shall be elected in the 2006 election to serve an eight-year term.

SECTION 14.6.(d) As to District 15B, subsection (b) of this section becomes effective December 1, 2004. As to District 3B, subsection (b) of this section becomes effective December 1, 2004, or 15 days after the date upon which that subsection is approved under section 5 of the Voting Rights Act of 1965, whichever is later.

SECTION 14.6.(e) G.S. 7A-133 reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
		Washington
3A	5	Pitt
3B	5	Craven
		Pamlico
		Carteret
4	8	Sampson
		Duplin
		Jones
		Onslow
5	~~7~~ 8	New Hanover
		Pender

6A	2	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance
		see subsection (b))
		Franklin
9A	2	Person
		Caswell
9B	2	Warren
		(part of Vance
		see subsection (b))
10	15	Wake
11	8	Harnett
		Johnston
		Lee
12	9	Cumberland
13	6	Bladen
		Brunswick
		Columbus
14	6	Durham
15A	4	Alamance
15B	4	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	2	Rockingham
17B	~~3~~ 4	Stokes
		Surry
18	12	Guilford
19A	4	Cabarrus
19B	6	Montgomery
		Moore
		Randolph
19C	4	Rowan
20	7	Stanly
		Union
		Anson
		Richmond
21	~~8~~ 9	Forsyth
22	9	Alexander
		Davidson
		Davie
		Iredell
23	4	Alleghany
		Ashe
		Wilkes

		Yadkin
24	4	Avery Madison Mitchell Watauga Yancey
25	8	Burke Caldwell Catawba
26	17	Mecklenburg
27A	6	Gaston
27B	4	Cleveland Lincoln
28	6	Buncombe
29	~~6~~ 7	Henderson McDowell Polk Rutherford Transylvania
30	5	Cherokee Clay Graham Haywood Jackson Macon Swain."

SECTION 14.6.(f) The Governor shall appoint the additional district court judges for Districts 5, 21, and 29 authorized by subsection (e) of this section, and those judges' successors shall be elected in the 2006 general election for four-year terms commencing on the first Monday in December 2006.

The district court judge for the additional judgeship in District 17B, as authorized by subsection (e) of this section, shall be elected in the 2004 general election in the same manner as provided for in G.S. 163-329 to serve a four-year term beginning the first Monday in December 2004, and no vacancy exists before that date.

SECTION 14.6.(g) Subsection (e) of this section is effective when it becomes law, except that the terms of the judges appointed by the Governor pursuant to subsection (f) of this section begin on December 15, 2004.

SECTION 14.6.(h) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	~~9~~10
2	Beaufort, Hyde, Martin, Tyrrell, Washington	~~5~~6
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10
4	Duplin, Jones, Onslow, Sampson	14
5	New Hanover, Pender	14

6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	~~15~~16
8	Greene, Lenoir, Wayne	11
9	Franklin, Granville, Vance, Warren	~~10~~11
9A	Person, Caswell	4
10	Wake	~~30~~31
11	Harnett, Johnston, Lee	14
12	Cumberland	18
13	Bladen, Brunswick, Columbus	~~10~~11
14	Durham	13
15A	Alamance	8
15B	Orange, Chatham	7
16A	Scotland, Hoke	5
16B	Robeson	~~9~~10
17A	Rockingham	5
17B	Stokes, Surry	5
18	Guilford	~~26~~27
19A	Cabarrus	6
19B	Montgomery, Moore, Randolph	11
19C	Rowan	5
20	Anson, Richmond, Stanly, Union	15
21	Forsyth	17
22	Alexander, Davidson, Davie, Iredell	16
23	Alleghany, Ashe, Wilkes, Yadkin	5
24	Avery, Madison, Mitchell, Watauga, Yancey	4
25	Burke, Caldwell, Catawba	~~14~~15
26	Mecklenburg	~~33~~36
27A	Gaston	12
27B	Cleveland, Lincoln	~~8~~9
28	Buncombe	~~10~~11
29	Henderson, McDowell, Polk, Rutherford, Transylvania	11
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	~~8~~9

SECTION 14.6.(i) Subsections (a) and (h) of this section become effective December 1, 2004.

ADDITIONAL INVESTIGATIVE ASSISTANT

SECTION 14.7.(a) G.S. 7A-69 reads as rewritten:

"**§ 7A-69. Investigatorial assistants.**

The district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A, 15B, 16A, 18, 19B, 20, 21, 22, 24, 25, 26, 27A, 27B, 28, 29, and 30 is entitled to one investigatorial assistant, and the district attorney in prosecutorial district 10 is entitled to two investigatorial assistants, to be appointed by the district attorney and to serve at his pleasure.

It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other Duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

SECTION 14.7.(b) This section becomes effective January 1, 2005.

PART XV. DEPARTMENT OF JUSTICE

STUDY COST OF THE DCI-PIN SYSTEM

SECTION 15.1. The Office of State Budget and Management, in consultation with the Department of Justice, shall study the cost of the DCI-PIN system, which allows State and local law enforcement agencies to access criminal information from desktop terminals and mobile data laptops installed in vehicles. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to the DCI-PIN system on a per-unit cost basis. The study shall also include a survey of the funding sources used by other states for their DCI-PIN systems. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division on or before March 1, 2005.

REDUCE BACKLOG OF RAPE KITS/ADMISSIBILITY OF FORENSIC EVIDENCE

SECTION 15.2.(a) Of the funds appropriated to the Department of Justice in this act, the sum of two hundred fifty thousand dollars ($250,000) shall be used to contract with private entities to reduce the backlog of rape kits in storage in local law enforcement agencies as of July 1, 2004. The Department shall contract with private entities to analyze bodily fluids, DNA evidence, as "DNA" is defined in G.S. 15A-266.2, or both, from rape kits that are evidence in cases in which a suspect has not been identified. In addition to the funds appropriated, the Department shall maximize the use of federal grant funds to expedite the elimination of the backlog.

SECTION 15.2.(b) The Department of Justice shall report, on or before May 1, 2005, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the number of rape kits analyzed by private entities and how many of those analyses resulted in arrests or convictions.

SECTION 15.2.(c) Chapter 8 of the General Statutes is amended by adding a new Article to read:

"Article 7C.

"Admissibility of Forensic Evidence.

"**§ 8-58.20. Forensic analysis admissible as evidence.**

(a) In any criminal prosecution, a laboratory report of a written forensic analysis, including an analysis of the defendant's DNA, or a forensic sample alleged to be the defendant's DNA, as that term is defined in G.S. 15A-266.2(2), that states the results of the analysis and that is signed and sworn to by the person performing the analysis may be admissible in evidence without the testimony of the analyst who prepared the report in accordance with the requirements of this section.

(b) A forensic analysis, to be admissible under this section, shall be performed in accordance with rules or procedures adopted by the State Bureau of Investigation, or by another laboratory certified by the American Society of Crime Laboratory Directors (ASCLD), for the submission, identification, analysis, and storage of forensic analyses. The analyses of DNA samples and typing results of DNA samples shall be performed in accordance with the rules or procedures of the State Bureau of Investigation or other ASCLD-certified laboratory.

(c) The analyst who analyzes the forensic sample and signs the report shall complete an affidavit on a form developed by the State Bureau of Investigation. In the affidavit, the analyst shall state (i) that the person is qualified by education, training, and experience to perform the analysis, (ii) the name and location of the laboratory where the analysis was performed, and (iii) that performing the analysis is part of that person's regular duties. The analyst shall also aver in the affidavit that the tests were performed pursuant to the ASCLD standards for that discipline and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory. The affidavit shall be sufficient to constitute prima facie evidence regarding the person's qualifications. The analyst shall attach the affidavit to the laboratory report and shall provide the affidavit to the investigating officer and the district attorney in the prosecutorial district in which the criminal charges are pending. An affidavit by a forensic analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any criminal proceeding with respect to the forensic analysis administered and the procedures followed.

(d) The district attorney shall serve a copy of the laboratory report and affidavit on the attorney of record for the defendant, or on the defendant if that person has no attorney, no later than five business days after receiving the report and affidavit, or 30 business days before any proceeding in which the report may be used against the defendant, whichever occurs first.

(e) Upon receipt of a copy of the laboratory report and affidavit, the attorney of record for the defendant or the defendant if that person has no attorney, shall have 15 business days to file a written objection to the use of the laboratory report and affidavit at any proceeding against the defendant. The written objection shall be filed with the court in which the matter is pending with a copy provided to the district attorney.

(f) If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection with the court to the use of the laboratory report and affidavit within the time allowed by this section, then the laboratory report and affidavit may be admitted in evidence in any proceeding without the testimony of the analyst subject to the presiding judge ruling otherwise at the proceeding when offered. If, however, a written objection is filed, this section does not apply and the admissibility of the evidence shall be determined and governed by the appropriate rules of evidence."

SECTION 15.2.(d) It is the intent of the General Assembly that the Department of Justice hire only non-sworn personnel to fill vacant positions in the State Bureau of Investigation laboratory for which the regular duties do not include serving warrants, responding to crimes prior to the crime scene being secured by other law enforcement officers, or entering hazardous situations that may require the use of force, unless there is a compelling reason to employ sworn agents in these positions. No less than 30 days prior to filling those positions with sworn agents, the Department shall consult with the Joint Legislative Commission on Governmental Operations and report to the Chairs of the Senate and House of Representatives Appropriations Committees and Appropriations Subcommittees on Justice and Public Safety. Nothing in this subsection shall prevent the Department from promoting sworn personnel who were hired prior to July 1, 2004, into such positions.

SECTION 15.2.(e) Subsection (c) of this section becomes effective December 1, 2004, and applies to offenses committed on or after that date. The remainder of this section becomes effective July 1, 2004.

PART XVI. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

STATE FUNDS MAY BE USED AS FEDERAL GRANT MATCHING FUNDS

SECTION 16.1. Section 15.4 of S.L. 2003-284 reads as rewritten:

"**SECTION 15.4.** Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the ~~2003-2004~~ 2004-2005 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the ~~2003-2004~~ 2004-2005 fiscal year, the amount of funds anticipated for the ~~2004-2005~~ 2005-2006 fiscal year, and the allocation of funds by program and purpose."

OPERATION OF BUNCOMBE YOUTH DETENTION CENTER

SECTION 16.2. Section 15.8 of S.L. 2003-284 reads as rewritten:

"**SECTION 15.8.** The Department of Juvenile Justice and Delinquency Prevention shall continue to operate the Buncombe Youth Detention Center at its current site during the ~~2003-2004~~ 2004-2005 fiscal year. To the extent practicable during the ~~2003-2004~~ 2004-2005 fiscal year, the Department shall operate the Buncombe Youth Detention Center at the same average population and staffing levels and at the same budget as the ~~2002-2003~~ 2003-2004 fiscal year."

PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS

SECTION 16.3.(a) The Department of Juvenile Justice and Delinquency Prevention and the Department of Administration, State Construction Office, shall continue planning and design for up to 512 youth development center beds. The Department of Juvenile Justice and Delinquency Prevention shall provide a final recommended plan for new youth development centers by November 1, 2004, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety.

The plan shall include all of the following:

(1) The recommended number of facilities and beds, including plans for up to 512 beds at 13 sites and alternative plans for up to 512 beds at fewer sites.

(2) The project schedule for the new facilities, from the bid phase through completion, and the juvenile occupancy of each of the facilities.

(3) A detailed schematic of a prototype facility.

(4) The facility staffing plan, which shall include the number of positions by job class, the unit cost per position, and the job descriptions of the positions. The plan shall also identify the number of positions to be assigned on each shift for a 24-hour period and the assigned location of each position.

(5) A detailed transition plan for recruiting and establishing new positions and converting current positions to new job classes.

(6) The recommended site locations for each facility, including the specific site location and the county in which each site is located.

(7) A comparison of the cost of constructing and operating a youth development center in North Carolina to the cost of constructing and operating similar juvenile facilities in other states.

(8) A description of major facility programs, including education, health services, recreation, therapy and clinical services, parental

involvement and accountability, and aftercare programs. This description shall also identify programs for female offenders and recommend sites where female offenders will be committed.

(9) An explanation of the security components of the new facilities, including internal and perimeter security.

(10) Recommendations for new initiatives to provide community-based programs that will reduce youth development center populations.

The Department of Administration, State Construction Office, shall assist the Department of Juvenile Justice and Delinquency Prevention, as necessary, with the reports required by this section. The Department of Administration and the Department of Juvenile Justice and Delinquency Prevention shall not solicit bids for construction of new youth development centers until either February 1, 2005, or at least 30 days after submission of the plan, whichever is later.

SECTION 16.3.(b) The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall report upon the convening of the 2005 General Assembly on its recommendations for the new youth development centers. In making these recommendations, the Committee shall review the Department's final recommended plan and shall consider treatment and programs, security, and cost efficiency. The report shall specifically address the recommended total number of beds and centers, as well as the number of beds for each center, facility locations, staffing requirements, security needs, and programmatic needs.

YOUTH DEVELOPMENT CENTER STAFFING

SECTION 16.4.(a) With the approval of the Office of State Personnel and the Office of State Budget and Management, the Department of Juvenile Justice and Delinquency Prevention may:

(1) Reclassify existing departmental vacant positions to establish up to 18 new positions in new job classes listed in this subsection. The Department may use departmental salary reserves and salaries from vacant positions to establish these positions. These newly established positions shall be assigned to Stonewall Jackson and Samarkand Youth Development Centers. The positions shall be reclassified as 14 youth development center youth counselors, two youth counselor supervisors, and two licensed mental health clinicians.

(2) Use up to one hundred eighty-three thousand nine hundred ninety-two dollars ($183,992) of salary reserves to reclassify up to 68 existing positions to 58 youth counselors and 10 youth counselor supervisors.

These new positions will provide the starting point for the potential implementation of a statewide therapeutic staffing model.

SECTION 16.4.(b) Prior to establishing new positions or reclassifying positions listed in subsection (a) of this section, the Department of Juvenile Justice and Delinquency Prevention shall prepare a long-range plan for establishing a therapeutic staffing model to be used in all youth development centers. The plan shall include:

(1) A report on the proposed implementation of 18 new positions and reclassifications identified in subsection (a) of this section. The report shall provide information on (i) the vacant positions to be reallocated to establish new positions, (ii) the amount and source of funds used for these positions and reclassifications, (iii) how the 18 positions will be allocated between Stonewall Jackson and Samarkand and their specific duties, and (iv) how the 68 reclassified positions will be allocated among the existing youth development centers.

(2) An outline of the cost and benefits of the proposed model for juveniles in the custody of the Department and a summary of available research regarding the use of therapeutic staffing models in juvenile facilities.

(3) An action plan and time line for reclassifying current counselor technicians, behavioral specialists, cottage parents, or other current positions to youth counselor or youth counselor supervisor positions or to other job classes that are progressive steps towards youth counselor positions. The Department shall also estimate the number of current statewide positions likely to be reclassified to youth counselor positions, youth counselor supervisors, or other job classes based on the qualifications of the current staff.

(4) Job specifications, salary grades, and operating costs for each new job class.

(5) The recommended staffing for and qualifications of teachers and teacher assistants and the standards for evaluating teacher quality in youth development centers.

SECTION 16.4.(c) The Department of Juvenile Justice and Delinquency Prevention shall report by December 1, 2004, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the long-range plan required by this section and the budgetary costs for statewide implementation of the therapeutic staffing model.

JUVENILE RECIDIVISM

SECTION 16.5. Pursuant to G.S. 164-42.1 and G.S. 164-43, the North Carolina Sentencing and Policy Advisory Commission shall prepare biennial reports on juvenile recidivism in North Carolina. The Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention and the Fiscal Research Division of the Legislative Services Office of the General Assembly in developing a methodology for measuring juvenile recidivism in North Carolina. The Commission shall report the proposed methodology to the 2005 General Assembly by March 1, 2005. The Commission's report shall also include a timeline for completing the initial analysis and recidivism report and any proposed legislation regarding juvenile recidivism. The report shall also include recommendations for other outcome measures that are appropriate for evaluating juvenile program effectiveness.

ELECTRONIC MONITORING OF JUVENILES

SECTION 16.6. The Department of Juvenile Justice and Delinquency Prevention shall study the issue of electronic monitoring of juveniles in consultation with the Fiscal Research Division of the Legislative Services Office of the General Assembly and shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2005, on electronic monitoring programs and electronic house arrest programs for juvenile offenders. The report shall include all of the following:

(1) Information on current usage, including the number of juveniles in the various programs, by district, and the available capacity of the electronic programs in comparison to the current usage of the programs.

(2) The criminal histories of the juveniles in electronic monitoring or house arrest programs and how their criminal histories compare to those of juveniles committed to youth development centers.

(3) An analysis of the costs and benefits of passive and active global positioning systems for monitoring juvenile offenders.

(4) A comparison of the electronic monitoring programs for juvenile offenders used by other states.

(5) The Department's recommendations on ways to expand the use of all electronic monitoring programs, in particular as an alternative to committing juveniles to youth development centers.

ALTERNATIVES TO JUVENILE COMMITMENT/JUVENILE CRIME PREVENTION COUNCILS

SECTION 16.7. Of the funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention, the sum of five hundred thousand dollars ($500,000) shall be used for demonstration projects of the Juvenile Crime Prevention Councils to identify effective community programs for juvenile offenders who have been committed to, or who potentially may be committed to youth development centers. These projects should be community-based and shall serve only juvenile offenders residing in the specific geographical locations. The Department shall develop a competitive grant award process that gives consideration to (i) the commitment rates or how frequently the court orders commitment as a disposition, (ii) programs that target juveniles in rural areas, (iii) geographical representation, and (iv) collaboration among counties. The Department may award up to 10 grants to Juvenile Crime Prevention Councils and no individual grant may exceed one hundred thousand dollars ($100,000). On June 30, 2005, any funds allocated for demonstration projects pursuant to this Section that have not been awarded by the Department shall revert to the General Fund.

EDUCATION OF JUVENILES COMMITTED TO THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SECTION 16.8. The Department of Juvenile Justice and Delinquency Prevention, in consultation with the State Board of Education and the Community Colleges System Office, shall review and develop a report on the assessment of juveniles committed to the Department of Juvenile Justice and Delinquency Prevention and the curricula, education plans, and alternative education programs for those juveniles. The Department of Juvenile Justice and Delinquency Prevention, the State Board of Education, and the Community Colleges System Office shall submit the report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on or before March 1, 2005.

COMMUNITIES IN SCHOOLS REDUCTION

SECTION 16.9. The General Fund appropriation to the Department of Juvenile Justice and Delinquency Prevention for Communities in Schools of North Carolina, Inc., is reduced by the sum of seventy-five thousand dollars ($75,000) for the 2004-2005 fiscal year. This reduction in funding shall be accomplished by reducing expenditures at the State office and not through reductions in funding to local Communities in Schools programs.

PART XVII. DEPARTMENT OF CORRECTION

SHIFT PAY FOR SECURITY STAFF

SECTION 17.1. Section 16.3 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.3.** The Department of Correction may use funds available for the ~~2003-2004 fiscal year~~ 2003-2005 biennium for the payment to security staff of special supplemental weekend shift premium pay that exceeds standard weekend shift pay by up to ten percent (10%). The Department shall also continue to take steps to hold down the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour shifts whenever practical.

The Department of Correction shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by ~~April 1, 2004,~~ March 1, 2005, on its progress in converting prison work shifts from eight hours

to 12 hours. The report shall include information on savings generated to date and potential future savings, as well as any changes in employee morale and leave usage, as a result of converting to 12-hour shifts."

DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS

SECTION 17.2. Section 16.4(c) of S.L. 2003-284 reads as rewritten:

"**SECTION 16.4.(c)** The Department of Correction shall report on its progress in implementing the staffing recommendations of the National Institute of Corrections to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by ~~February 1, 2004.~~ February 1, 2005. The report shall include a status report on the implementation of a centralized postaudit control system and the automation of leave records. The report shall also provide an updated staffing relief formula and the methodology used to develop the updated formula."

INMATE COSTS/ INMATE CLOTHING AND LAUNDRY SERVICES

SECTION 17.3. Section 16.6(c) of S.L. 2003-284 reads as rewritten:

"**SECTION 16.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the ~~2003-2004 fiscal year~~ 2003-2005 biennium for the purchase of clothing and laundry services for inmates if expenditures are projected to exceed the Department's budget for clothing and laundry services. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount."

FEDERAL GRANT MATCHING FUNDS

SECTION 17.4. Section 16.10 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.10.(a)** Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of nine hundred thousand dollars ($900,000) in the 2003-2004 fiscal year and up to the sum of six hundred fifty thousand dollars ($650,000) in the 2004-2005 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

"**SECTION 16.10.(b)** Notwithstanding the provisions of subsection (a) of this section relating to prior reporting, the Department of Correction may use up to the sum of two hundred ninety thousand dollars ($290,000) in the 2004-2005 fiscal year from funds available to the Department to provide the State match needed in order to receive the following federal grants:

(1) Enhanced Offender Information for Law Enforcement, to provide new software to facilitate recovery of prison escapees;

(2) Job Start II, a statewide program to assist offenders with securing and retaining jobs; and

(3) Security Threat Group Management Unit, to establish nine time-limited positions and funding to respond to security threat groups (gangs) in prison and in communities. The nine positions are: one Correctional Program Director position, two Correctional Program Supervisor positions, one Staff Psychologist II position, two Correctional Behavior Specialist II positions, two Registered Nurse positions, and one Office Assistant III position.

The funds authorized for use in this subsection apply toward the six hundred fifty thousand dollar ($650,000) limitation established in subsection (a) of this section."

ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT

SECTION 17.5. Section 16.13 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.13.** The Department of Correction may continue to contract with Energy Committed To Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2003-2005 biennium. Energy Committed To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction. ~~Energy Committed To Offenders, Inc., shall also provide information on the rearrest rate and the return-to-prison rate for inmates participating in the program who are paroled or released from prison.~~"

INMATE CUSTODY AND CLASSIFICATION SYSTEM

SECTION 17.6.(a) The Department of Correction shall review the current inmate custody and classification system, with the assistance of consultants from the National Institute of Corrections. The review shall focus primarily on the custody classification instrument used to assess inmate custody and the policies and practice of overriding the assessed custody level. The review should focus particularly on determining whether the instrument is effective in predicting custody classification, analyzing the current override rate by custody level, and assessing any need for changes in the override policy. The Department should request assistance from the National Institute of Corrections in obtaining (i) a comparison between Department of Correction override rates and policies and those of other states; (ii) suggestions on an acceptable override rate for classification systems; and (iii) any recommendations the NIC may have on the Department's custody classification instrument and override policy.

SECTION 17.6.(b) The Department shall report its findings and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than April 15, 2005.

CONFIDENTIALITY OF IDENTITIES OF PERSONS INVOLVED WITH STATE EXECUTIONS

SECTION 17.6A. G.S. 15-190 reads as rewritten:

"**§ 15-190. Person or persons to be designated by warden to execute sentence; supervision of execution; who shall be present.**

Some guard or guards or other reliable person or persons to be named and designated by the warden from time to time shall cause the person, convict or felon against whom the death sentence has been so pronounced to be executed as provided by this Article and all amendments thereto. The execution shall be under the general supervision and control of the warden of the penitentiary, who shall from time to time, in writing, name and designate the guard or guards or other reliable person or persons who shall cause the person, convict or felon against whom the death sentence has been pronounced to be executed as provided by this Article and all amendments thereto. At such execution there shall be present the warden or deputy warden or some person designated by the warden in the warden's place, and the surgeon or physician of the penitentiary. Four respectable citizens, two members of the victim's family, the counsel and any relatives of such person, convict or felon and a minister or member of the clergy or religious leader of the person's choosing may be present if they so desire. <u>The identities, including the names, residential addresses, residential telephone numbers, and social security numbers, of witnesses or persons designated to carry out the execution shall be confidential and exempted from Chapter 132 of the General Statutes and are not subject to discovery or introduction as evidence in any proceeding. The Senior Resident Superior Court Judge for Wake County may order disclosure of names made confidential by this section after making findings that support a conclusion that disclosure is necessary to a proper administration of justice.</u>"

PROVIDE THAT COLUMBUS COUNTY PRISON SHALL BE CONSTRUCTED IN ACCORDANCE WITH SAME NORTH CAROLINA

STATE BUILDING CODE UNDER WHICH THE PRISONS IN SCOTLAND, ANSON, ALEXANDER, GREENE, AND BERTIE COUNTIES WERE CONSTRUCTED

SECTION 17.6B. The 1000-cell close security prototypical prison to be constructed in Columbus County shall be constructed in accordance with the North Carolina State Building Code, 1996 Edition through 1999 revisions, if construction starts before July 1, 2005. This section applies only if the construction documents have been reviewed and approved by the Department of Insurance, the State Construction Office, and the Department of Correction.

RESERVE FOR INCREASING PRISON BEDS AT PAMLICO CORRECTIONAL CENTER

SECTION 17.6C.(a) Of the funds appropriated in this act to the Department of Correction, the sum of two hundred sixteen thousand one hundred twenty-six dollars ($216,126) shall be placed in a reserve for increasing the inmate bed capacity at Pamlico Correctional Center. These funds may be used for kitchen equipment, inmate beds and lockers, and other miscellaneous equipment if it is determined that it is feasible to increase bed capacity at Pamlico by 336 beds by double-celling medium custody inmates.

SECTION 17.6C.(b) The Department of Correction shall work in conjunction with the Department of Environment and Natural Resources and the Bay River Metro Sewage Authority to determine whether there is adequate permitted sewage and wastewater capacity for adding 336 inmates and up to 50 staff at Pamlico. This work shall include negotiations for the use of current permitted capacity with the Authority and other involved parties if feasible. The Department of Correction, in conjunction with the Department of Environment and Natural Resources and the Authority, shall also identify any potential costs of using current permitted capacity or expanding capacity. The Department of Correction shall also work with the Department of Environment and Natural Resources, the Authority, and the Department of Commerce to identify alternative funding sources, if needed, for providing sewage capacity for the expansion of Pamlico Correctional Center.

SECTION 17.6C.(c) The Department of Correction may reclassify vacant positions and use salary funds from vacant positions and salary reserves to establish up to 50 new positions to provide security, programs, and other support functions if a suitable agreement is reached on providing sewage treatment and disposal to Pamlico Correctional Center that allows for increasing inmates by up to 336 and staff by up to 50.

SECTION 17.6C.(d) The Department of Correction, in conjunction with the Department of Environment and Natural Resources and the Department of Commerce, shall provide a progress report on their work by October 1, 2004, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. Prior to establishing positions or expending funds from the reserve established in subsection (a) of this section, the Department of Correction shall report to the Joint Legislative Commission on Governmental Operations, or to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety if the General Assembly is in session at the time, on the sewage treatment and disposal alternatives, the recommended alternative, funding needs and sources, and time line for implementation of increased bed capacity, including staffing and inmate occupancy.

REPORTS ON NONPROFIT PROGRAMS

SECTION 17.7. Section 16.17 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.17.(a)** Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property. Harriet's

House shall report by February 1 of each year 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 and~~ served, the number of clients who successfully complete the Harriet's House ~~program.~~ program, and the number of clients who have been rearrested within three years of successfully completing the program.

"**SECTION 16.17.(b)** Summit House shall report by February 1 of each year 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 had their probation revoked, ~~and~~ the number of clients who successfully complete the program while housed at Summit House, ~~Inc.~~ Inc., and the number of clients who have been rearrested within three years of successfully completing the program.

"**SECTION 16.17.(c)** Women at Risk shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, ~~and~~ the number of clients who have successfully completed the ~~program.~~ program, and the number of clients who have been rearrested within three years of successfully completing the program."

ELECTRONIC MONITORING REQUEST FOR PROPOSALS

SECTION 17.8. The Department of Correction shall issue a Request for Proposal for electronic monitoring equipment and monitoring services for the Division of Community Corrections' electronic house arrest and electronic monitoring programs. The RFP shall require separate bids: one for equipment, maintenance, and technical support, and one for the aforementioned items plus monitoring services. The Department shall design the RFP to use the most recent, cost-effective technology available; the Department shall not restrict vendors to the specifications of the equipment currently utilized by the Department.

The Department shall also issue a separate RFP for passive and active Global Positioning Systems for use as an intermediate sanction. The RFP shall require separate bids: one for equipment, maintenance, and technical support, and one for the aforementioned items plus monitoring services.

No less than 30 days prior to issuing these RFPs, the Department shall provide the Fiscal Research Division with copies of the draft RFPs. The RFPs shall be issued by December 31, 2004, for contract terms to begin July 1, 2005.

The Department of Correction shall report by March 1, 2005, to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the responses to the RFPs.

REPORT ON INMATES ELIGIBLE FOR PAROLE

SECTION 17.9. Section 16.20 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.20.** The Post-Release Supervision and Parole Commission shall report by January 15 and July 15 of each year to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on inmates eligible for parole. These reports shall include at least the following:

(1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates that were parole-eligible during the current fiscal year and the total number of those inmates that were paroled. The report should group these inmates by offense type, custody classification, and type of parole. The report should also include a more specific analysis of those

inmates who were parole-eligible and assigned to minimum custody classification but not released;

(2) The average time served, by offense class, of Fair Sentencing and Pre-Fair Sentencing inmates compared to inmates sentenced under Structured Sentencing; and

(3) The projected number of parole-eligible inmates to be paroled or released by the end of the 2003-2004 fiscal year and by the end of each of the next five fiscal years, beginning with the 2004-2005 fiscal year."

POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION

SECTION 17.10. Section 16.21 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.21.(a)** The Post-Release Supervision and Parole Commission shall report by October 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on a plan for restructuring the organization and operation of the Commission and implementing staff reductions to reflect both declines and changes in workload.

"**SECTION 16.21.(b)** The Post-Release Supervision and Parole Commission shall report by January 1, 2005, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the implementation of the plan for restructuring the organization and operation of the Commission and for implementing staff reductions to reflect both declines and changes in workload. The report shall include the number of parole reviews, paroles, and post-release supervision reviews conducted per analyst per year for the last five years and the percentage of each analyst's time that was devoted to post-release supervision cases during each of those five years.

"**SECTION 16.21.(c)** The Sentencing and Policy Advisory Commission, in consultation with the Post-Release Supervision and Parole Commission, the Department of Correction, and the Administrative Office of the Courts, shall review the post-release supervision sentencing system and alternatives for transferring the responsibility for administering post-release supervision to another division within the Department of Correction, to the Judicial Department, or to both. Based upon its study, the Sentencing and Policy Advisory Commission shall make written recommendations to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Commission on Governmental Operations no later than March 1, 2005."

CRIMINAL JUSTICE PARTNERSHIP PROGRAM

SECTION 17.11. Section 16.16 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.16.(a)** It is the intent of the General Assembly that State Criminal Justice Partnership Program funds not be used to fund case manager positions when those services can be reasonably provided by Division of Community Corrections personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the Department of Health and Human Services.

"**SECTION 16.16.(b)** Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

"**SECTION 16.16.(c)** The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the

Department of Correction determines that the county has a demonstrated need and a fully developed plan for each type of sanction.

"**SECTION 16.16.(d)** The Department of Correction shall report by February 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Committees, the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice Partnership Program. The report shall include the following information:

(1) The amount of funds carried over from the prior fiscal year;
(2) The dollar amount and purpose of grants awarded to counties as discretionary grants for the current fiscal year;
(3) Any counties the Department anticipates will submit requests for new implementation grants;
(4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;
(5) An analysis of offender participation data received, including data on each program's utilization and capacity; ~~and~~
(6) An analysis of comparable programs, prepared by the Research and Planning Division of the Department of Correction, and a summary of the reports prepared by county Criminal Justice Partnerships Advisory ~~Boards.~~Boards; and
(7) An evaluation of Criminal Justice Partnership programs based upon evaluation standards designed by the Division of Community Corrections in consultation with the Fiscal Research Division and the Department of Correction, Division of Research and Planning.

"**SECTION 16.16.(e)** Notwithstanding the provisions of G.S. 143B-273.15, funding to programs for the 2004-2005 fiscal year shall be established according to the amounts appropriated for the 2003-2004 fiscal year. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, in consultation with the Sentencing and Policy Advisory Commission and the Department of Correction, Division of Research and Planning, shall review the Criminal Justice Partnership Program funding formula and recommend any necessary changes in that formula to the 2005 General Assembly."

COLLECTION OF OFFENDER FEES

SECTION 17.12. Section 16.15 of S.L. 2003-284 reads as rewritten:

"**SECTION 16.15.(a)** The Department of Correction and the Judicial Department shall report by April 1, 2004, and March 1, 2005, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the success of their efforts to improve the collection rate of offender fees for probationers and for nonprobationers sentenced to community service and on any recommendations for statutory or procedural changes that will improve the collection of financial obligations from offenders.

The report shall include a comparison of the ~~percentage of~~ total offender fees collected in the most recent year compared to prior ~~years, including the percentage of offenders who were ordered to pay fees and the percentage of offenders who actually paid those fees.~~ years. The report shall also ~~include the total offender fees collected, in dollars and as a percentage of the fees ordered, and the fees that could have been ordered based on the sentence and conditions imposed by the judge.~~ include, for each judicial district: the total offender fees collected, the total fines and restitution collected, the number of offenders ordered to supervised probation, the number of offenders ordered to unsupervised probation, the number and percentage of supervised probation cases in which no payment was made, the number and percentage of unsupervised

probation cases (any case in which an offender is not given an active or supervised probation sentence) in which no payment was made, and whether that judicial district enters offender information into the financial management system for all offenders required to pay fines, fees, or restitution, or whether that data is entered only when the offender makes a payment. If any of this information cannot be collected, the report shall include a description of the data collection issues and a plan for addressing those issues.

"**SECTION 16.15.(b)** The Judicial Department shall make use of the new deputy clerk positions funded in this act to ensure that offender accounts payable information is entered into the financial management system within a reasonable time after sentencing. As part of this undertaking, the Judicial Department shall review the use of its financial management system to determine whether there are methods of streamlining or expediting the entry of offender accounts payable information into that system."

PART XVIII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

VICTIMS COMPENSATION/MEDICAL TREATMENT

SECTION 18.1. G.S. 15B-2(1) reads as rewritten:

"(1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, ~~medically related~~ medically-related property, and other remedial treatment and care.

Allowable expense includes a total charge not in excess of three thousand five hundred dollars ($3,500) for expenses related to funeral, cremation, and burial, including transportation of a body, but excluding expenses for flowers, gravestone, and other items not directly related to the funeral service.

Allowable expense for medical care, counseling, rehabilitation, medically-related property, and other remedial treatment and care of a victim shall be limited to sixty-six and two-thirds percent (66 2/3%) of the amount usually charged by the provider for the treatment or care. By accepting the compensation paid as allowable expense pursuant to this subdivision, the provider agrees that the compensation is payment in full for the treatment or care and shall not charge or otherwise hold a claimant financially responsible for the cost of services in addition to the amount of allowable expense."

TRANSFER BOXING COMMISSION DUTIES TO THE ALCOHOL LAW ENFORCEMENT DIVISION

SECTION 18.2.(a). G.S. 143-650, G.S. 143-651(5), and G.S. 143-652 are repealed.

SECTION 18.2.(b). G.S. 143-651 is amended by adding a new subdivision to read:

"(7a) Division. – The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety."

SECTION 18.2.(c). The title of Article 68 of Chapter 143 of the General Statues is rewritten to read:

"Article 68.

"~~North Carolina State Boxing Commission.~~Regulation of Boxing."

SECTION 18.2.(d). Article 68 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"**§ 143-652.1. Regulation of Boxing.**

The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety shall regulate live boxing and kickboxing matches, whether professional, amateur, sanctioned amateur, or toughman events, in which admission is charged for

viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars ($25.00). The Division shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, sanctioned amateur, amateur, and toughman matches and exhibitions in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

(1) Requirements for issuance of licenses and permits required by this Article.
(2) Regulation of ticket sales.
(3) Physical requirements for contestants, including classification by weight and skill.
(4) Supervision of matches and exhibitions by licensed physicians and referees.
(5) Insurance and bonding requirements.
(6) Compensation of participants and licensees.
(7) Contracts and financial arrangements.
(8) Prohibition of dishonest, unethical, and injurious practices.
(9) Facilities.
(10) Approval of sanctioning amateur sports organizations.
(11) Procedures and requirements for compliance with the Professional Boxing Safety Act of 1996."

SECTION 18.2.(e). The word "Commission" shall be replaced with "Division" every place that word appears in Article 68 of Chapter 143 of the General Statutes.

SECTION 18.2.(f). G.S. 90-18.3 reads as rewritten:

"**§ 90-18.3. Physical examination by nurse practitioners and physician assistants.**

(a) Whenever a statute or State agency rule requires that a physical examination shall be conducted by a physician, the examination may be conducted and the form signed by a nurse practitioner or a physician's assistant, and a physician need not be present. Nothing in this section shall otherwise change the scope of practice of a nurse practitioner or a physician's assistant, as defined by G.S. 90-18.1 and G.S. 90-18.2, respectively.

(b) This section shall not apply to physical examinations conducted pursuant to G.S. 1A-1, Rule 35; G.S. 15B-12; ~~G.S. 90-14; or any rules adopted by the North Carolina Boxing Commission requiring physical examinations~~ G.S. 90-14 unless those statutes or rules are amended to make the provisions of this section applicable."

SECTION 18.2.(g). The Department of Crime Control and Public Safety shall use funds available from salary reserves to reclassify the two positions in the North Carolina State Boxing Commission and transfer them to the Alcohol Law Enforcement Division.

CLARIFY THE AUTHORITY OF THE STATE HIGHWAY PATROL TO OPERATE WEIGH STATIONS

SECTION 18.3.(a) The title to Article 3B of Chapter 20 of the General Statutes reads as rewritten:

"Article 3B.
Permanent ~~Weighing~~ Weigh Stations and Portable Scales."

SECTION 18.3.(b) G.S. 20-183.9 reads as rewritten:

"**§ 20-183.9. Establishment and maintenance of permanent ~~weighing~~ weigh stations.**

The Department of Crime Control and Public Safety is hereby authorized, empowered and directed to equip, operate, and maintain permanent ~~weighing~~ weigh stations equipped to weigh vehicles using the streets and highways of this State to determine whether such vehicles are being operated in accordance with legislative

enactments relating to weights of vehicles and their loads. The permanent ~~weighing~~ weigh stations shall be established at such locations on the streets and highways in this State as will enable them to be used most advantageously in determining the weight of vehicles and their loads."

SECTION 18.3.(c) G.S. 20-183.10 reads as rewritten:

"**§ 20-183.10. Operation of the permanent weigh stations by the Department of Crime Control and Public ~~Safety~~ Safety, Division of State Highway Patrol, uniformed ~~personnel with powers of peace officers.~~ personnel.**

The permanent ~~weighing~~ weigh stations to be established pursuant to the provisions of this Article shall be operated by the Department of Crime Control and Public ~~Safety~~ Safety, Division of State Highway Patrol, who shall assign a sufficient number of sworn and nonsworn personnel ~~and the personnel assigned~~ to the various ~~stations~~ weigh stations. Sworn personnel of the Division of State Highway Patrol shall supervise all nonsworn personnel assigned to weigh stations. The sworn and nonsworn personnel shall have authority to weigh vehicles and to assess civil penalties pursuant to Article 3, Part 9 of this Chapter and shall wear uniforms to be selected and furnished by the Department of Crime Control and Public ~~Safety.~~ Safety, Division of State Highway Patrol. The uniformed sworn and nonsworn personnel assigned to the various permanent weigh stations shall weigh vehicles and complete various reports as may be necessary for recording violations relating to the weight of vehicles and their loads. The uniformed officers assigned to the various permanent ~~weighing~~ weigh stations shall have the powers of peace officers for the purpose of enforcing the provisions of this Chapter and in making arrests, serving process, and appearing in court in all matters and things relating to the weight of vehicles and their loads."

SECTION 18.3.(d) G.S. 20-364 reads as rewritten:

"**§ 20-364. Route changes.**

Irrespective of the route shown on the permit, an alternate route will be followed:

(1) If directed by a peace officer.

(2) If directed by a uniformed officer assigned to a ~~weighing~~ weigh station to follow a route to a weighing device.

(3) If the specified route is officially detoured. Should a detour be encountered, the driver shall check with the office issuing permit on which he is traveling prior to proceeding."

REPORT ON VIPER SYSTEM

SECTION 18.4. The Criminal Justice Information Network (CJIN) Governing Board and the Department of Crime Control and Public Safety shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the Voice Interoperability Plan for Emergency Responders (VIPER) system. The report shall include a detailed project plan for the VIPER system, the projected costs to the State for the system, the revenue sources to fund the system, and the amount of total State funding, including Highway Fund support, recommended by the CJIN Board and the Department. The report shall also address the potential cost to, and any other impact on, county and local governments. The Department and the CJIN Board shall report pursuant to this section on or before December 1, 2004.

PART XIX. DEPARTMENT OF ADMINISTRATION

ALLOCATION OF THE PETROLEUM VIOLATION ESCROW FUNDS

SECTION 19.1.(a) There is appropriated from funds and interest thereon received from the case of United States v. Stripper Well that remain in the Special Reserve for Oil Overcharge Funds to the Department of Administration the sum of five million dollars ($5,000,000) for the 2004-2005 fiscal year to be allocated for projects that were approved by the State Energy Policy Council in April 2004.

SECTION 19.1.(b) There is appropriated from funds and interest thereon that remain in the Special Reserve for Oil Overcharge Funds to the Department of Health and Human Services the sum of one million dollars ($1,000,000) for the 2004-2005 fiscal year to be allocated for the Weatherization Assistance Program.

SECTION 19.1.(c) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocation 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.

STATE VETERANS CEMETERIES TO PROVIDE BURIAL SERVICES ON WEEKENDS

SECTION 19.2.(a) Article 8A of Chapter 65 of the General Statutes is amended by adding a new section to read:

"**§ 65-44. Days for burial.**

Notwithstanding any other provision of law, burial services shall be conducted at the Coastal Carolina State Veterans Cemetery and the Sandhills State Veterans Cemetery from Monday through Sunday, except when the day for services falls on a State holiday."

SECTION 19.2.(b) The Department of Administration may use funds credited to the Veterans Burial Fund for the 2004-2005 fiscal year to cover costs incurred as a result of burials on Saturday or Sunday.

STUDY OF STATE-FUNDED ADVERTISING

SECTION 19.3.(a) The Office of State Budget and Management, in collaboration with the Department of Administration, shall conduct a study of the State agencies' requirements for advertisements and public service announcements. The study shall include a review of the nature and cost of the advertisements and public service announcements. The study shall consider (i) the extent to which the North Carolina Agency for Public Telecommunication (APT) can efficiently and effectively provide the services related to the development and placement of these advertisements and public service announcements at a savings to the State, and (ii) whether the services should be provided by APT, decentralized, or outsourced.

SECTION 19.3.(b) The Office of State Budget and Management shall submit a report of its findings and recommendations to the Chairs of the Appropriations Subcommittees on General Government of the Senate and House of Representatives by December 1, 2004.

VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT FUND

SECTION 19.4. Section 18.5(c) of S.L. 2003-284 reads as rewritten:

"**SECTION 18.5.(c)** In accordance with G.S. 116B-7(b) as enacted by this act, ~~for the 2003-2004 and 2004-2005 fiscal years,~~ there is appropriated from the Escheat Fund to the Department of Administration the amount of three million ~~seven~~ nine hundred ~~twenty-eight~~three thousand three hundred twenty-four dollars ~~($3,728,324)~~ ($3,903,324) for ~~each year.~~the 2004-2005 fiscal year."

RELOCATION AND RENT EXPENSES ASSOCIATED WITH THE SALE OF POLK BUILDING

SECTION 19.5. Upon the sale of the James K. Polk Building in the City of Charlotte, the Director of the Budget may use any available funds to pay related moving and rent expenses for the 2004-2005 fiscal year, not to exceed eight hundred ninety thousand six hundred thirty-four dollars ($890,634). Up to one hundred sixty thousand one hundred one dollars ($160,101) shall be used to cover the expenses of relocating the offices of the University of North Carolina at Chapel Hill TEACH program, the Office

of Administrative Hearings, the Office of the State Auditor, and the Departments of Administration, Commerce, Correction, Crime Control and Public Safety, Health and Human Services, and Revenue, that are currently housed in the Polk Building. Up to seven hundred thirty thousand five hundred thirty-three dollars ($730,533) shall be used to cover the rent expense incurred by those State agencies for the 2004-2005 fiscal year as a result of the relocation.

CONTINUATION OF THE STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF ADMINISTRATION

SECTION 19.6. Section 18.2 of S.L. 2003-284 reads as rewritten:

"**STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF ADMINISTRATION**

SECTION 18.2. The Secretary of the Department of Administration, in collaboration with appropriate entities which concentrate on public policy and business management, shall ~~study~~ continue the study that was completed during the 2003-2004 fiscal year of the functions of the advocacy programs that are housed in the Department of Administration to determine the appropriate organizational placement of the programs within State government. The study shall include both the advocacy and service functions of the Division of Veterans Affairs, the Council for Women and the Domestic Violence Commission, the Commission of Indian Affairs, the Governor's Advocacy Council for Persons with Disabilities, the Human Relations Commission, and the Youth Advocacy and Involvement Office. The study shall also consider whether the functions of the programs could be more efficiently and effectively performed by an appropriate nonprofit organization. The Secretary shall report the findings and recommendations to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Senate and House of Representatives Appropriations Committees by May 1, ~~2004.~~2005."

DESIGN AND ADVANCE PLANNING FOR STATE VETERANS CEMETERY

SECTION 19.7. Of the funds appropriated in this act to the Department of Administration, the Department shall use up to three hundred thousand dollars ($300,000) for the 2004-2005 fiscal year to fund the design and advance planning cost for the expansion of the State veterans cemetery located in Jacksonville. Any reimbursement from the U.S. Department of Veterans Affairs for the amount expended on the design and advance planning of the cemetery expansion project shall be deposited into the General Fund.

TRANSFER LIGHT GROUND POCOSIN TO WILDLIFE RESOURCES COMMISSION

SECTION 19.8. The 1,094-acre Light Ground Pocosin property in Pamlico County is reallocated from the Department of Administration to the Wildlife Resources Commission. Notwithstanding any other provision of law, the Wildlife Resources Commission shall manage the property as gamelands for hunting, fishing, outdoor recreation, nature study, water quality, and conservation of natural resources.

IMPLEMENT BLOUNT STREET PROPERTY SALE

SECTION 19.9. Section 1.(d) of S.L. 2003-404 reads as rewritten:

"**SECTION 1.(d)** Funds to implement the sales process. – Of the funds available to the Department of Administration, the Department may use up to ~~three hundred thousand dollars ($300,000)~~ five hundred thousand dollars ($500,000) to implement the provisions of this act."

NORTH CAROLINA YOUTH ADVOCACY AND INVOLVEMENT FUND

SECTION 19.10. G.S. 143B-387.1 reads as rewritten:

"**§ 143B-387.1. North Carolina Youth ~~Legislative Assembly~~ Advocacy and Involvement Fund.**

The North Carolina Youth ~~Legislative Assembly~~Advocacy and Involvement Fund is created as a special and nonreverting fund. ~~North Carolina Youth Legislative Assembly~~Conference registration fees, gifts, donations, or contributions to or for the North Carolina Youth Legislative Assembly (YLA) and the North Carolina Students Against Destructive Decisions (SADD) programs shall be credited to the ~~North Carolina Youth Legislative Assembly~~ Fund.

The ~~fund~~ Fund shall be used solely to support planning and execution of the ~~North Carolina Youth Legislative Assembly.~~YLA and SADD programs. The Department shall maintain separate cost centers for each program."

PART XX. OFFICE OF THE STATE AUDITOR

AUDITOR TO REDUCE SPAN OF CONTROL

SECTION 20.1. The State Auditor shall reduce the span of control for the Office of the State Auditor by eliminating two senior management positions no later than January 1, 2005. In reducing the span of control, the State Auditor shall ensure that the Office has no more than two Deputy Auditor positions. Funds appropriated for the positions that are eliminated shall be used to create additional audit positions for the nongovernmental and investigative audit sections. The State Auditor shall report to the Chairs of the Appropriations Subcommittees on General Government of the Senate and House of Representatives by December 1, 2004.

PART XX-A. HOUSING FINANCE AGENCY

HOUSING FINANCE AGENCY SHALL CREATE THE NORTH CAROLINA HOME PROTECTION PILOT PROGRAM AND LOAN FUND IN ORDER ASSIST NORTH CAROLINA WORKERS WHO HAVE LOST JOBS AS A RESULT OF CHANGING ECONOMIC CONDITIONS IN NORTH CAROLINA WHEN THE WORKERS ARE IN NEED OF TEMPORARY ASSISTANCE TO AVOID LOSING THEIR HOMES TO FORECLOSURE

SECTION 20A.1.(a) The North Carolina Housing Finance Agency shall develop, implement, and administer a pilot program to assist North Carolina workers who have lost jobs as a result of changing economic conditions in North Carolina when the workers are in need of assistance to avoid losing their homes to foreclosure. The Agency shall do all of the following:

(1) Develop and administer the North Carolina Home Protection Pilot Program and Loan Fund to ensure that workers in the counties selected for the Pilot have assistance to avoid losing their homes to foreclosure. The Program shall include counties selected at the discretion of the Agency on the basis of increased rates of foreclosure, actual foreclosure filings, unemployment, the need of local counseling agencies for increased capacity to serve clients in need of assistance to avoid losing their homes to foreclosure, the availability of funds, and other factors the Agency determines to be relevant.

(2) Make loans secured by liens on residential real property located in North Carolina to property owners who are eligible for those loans.

(3) Develop and administer procedures by which property owners at risk of being foreclosed upon may qualify for assistance.

(4) Designate, approve, and fund nonprofit counseling agencies in counties participating in the Program to be available to assist the Agency in implementing the provisions of this section, and to provide services such as direct mortgagee negotiations on behalf of unemployed workers, and to process loan applications for the Agency.

(5) Develop and fund enhanced methods by which workers may be notified of foreclosure mitigation services, may easily contact local nonprofit counseling agencies, and may apply for loans from the Agency.

(6) No later than May 1, 2005, report to the General Assembly on the effectiveness of the Program in accomplishing its purposes, and provide any other information the Agency determines is pertinent or that the General Assembly requests.

SECTION 20A.1.(b) As used in this section, the following definitions apply:

(1) Agency. – The North Carolina Housing Finance Agency.

(2) Counseling agency. – A nonprofit counseling agency located in North Carolina that is approved by the North Carolina Housing Finance Agency.

(3) Mortgage. – An obligation evidenced by a security document and secured by a lien upon real property located within North Carolina, including a deed of trust and land sale agreement. Mortgage also means an obligation evidenced by a security lien on real property upon which an owner-occupied mobile home is located.

(4) Mortgagee. – The owner of a beneficial interest in a mortgage loan, the servicer for the owner of a beneficial interest in a mortgage loan, or the trustee for a securitized trust that holds title to a beneficial interest in a mortgage loan.

SECTION 20A.1.(c) The North Carolina Housing Finance Agency shall conduct a study and convene meetings of experts for the purpose of developing a report to the 2005 General Assembly. The report shall include recommendations regarding (i) the problem of increasing foreclosure filings statewide, (ii) improvements to the laws regarding foreclosure procedures and other laws that impact foreclosure filings, and (iii) the benefits and feasibility of creating a foreclosure avoidance loan fund. The Agency may use no more than twenty-five thousand dollars ($25,000) of the funds appropriated in this act to the Agency to implement this subsection. The Agency shall report its recommendations to the General Assembly on or before May 1, 2005.

SECTION 20A.1.(d) Notwithstanding Chapters 23, 24, and 45 of the General Statutes or any other provision of law, upon the proper filing of an application for loan assistance by a mortgagor under this section, a mortgagee shall not do the following:

(1) Accelerate the maturity of any mortgage obligation covered under this section.

(2) Commence or continue any legal action, including mortgage foreclosure pursuant to Chapter 45 of the General Statutes, to recover the mortgage obligation.

(3) Take possession of any security of the mortgagor for the mortgage obligation.

(4) Procure or receive a deed in lieu of foreclosure.

(5) Enter judgment by confession pursuant to a note accompanying a mortgage.

(6) Proceed to enforce the mortgage obligation pursuant to applicable rules of civil procedure for a period of 120 days following the date of the mortgagor's properly filed application.

The provisions of this section shall not apply if the mortgagee receives notice from the Agency that the mortgagor's application has been denied.

If a mortgagee acts as proscribed in subdivisions (1) through (6) of this subsection, a mortgagor shall be entitled to injunctive relief without the necessity of providing a bond. This relief shall be in addition to any defenses available under G.S. 45-21.16(d) and any other remedies at law or equity.

Upon the Agency's receipt of a properly filed mortgagor's application for loan assistance, the Agency shall mail notice of the application to the mortgagor's mortgagee within five business days of the Agency's receipt of the application. The Agency shall also mail notice of the acceptance or denial of the mortgagor's application to the mortgagee within five days of the Agency's determination. Notice shall be deemed sufficient if sent to the last known address of the mortgagee.

SECTION 20A.1.(e) Rule Making. – Solely with respect to the adoption of procedures for the pilot program by which property owners at risk of being foreclosed upon may qualify for assistance, the Agency is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of procedures, the Agency shall:

(1) Publish the proposed procedures in the North Carolina Register at least 30 days prior to the adoption of the final procedures.
(2) Accept oral and written comments on the proposed procedures.
(3) Hold at least one public hearing on the proposed procedures.

PART XXI. DEPARTMENT OF INSURANCE

REMOVE SUNSET FOR FUNDING CERTAIN OPERATIONS OF THE DEPARTMENT OF INSURANCE THROUGH THE INSURANCE REGULATORY FUND

SECTION 21.1. Section 12 of S.L. 2002-144, as amended by Section 22.2 of S.L. 2003-284, reads as rewritten:

"**SECTION 12.** This act becomes effective July 1, 2002. ~~Sections 1 through 8 of this act expire June 30, 2004.~~"

HANDBOOKS ON BUILDING CODE NOT REQUIRED

SECTION 21.2. G.S. 143-138(d) reads as rewritten:

"(d) Amendments of the Code. – The Building Code Council may revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code.

~~Handbooks providing explanatory material on Code provisions shall be provided no later than January 1, 2000, and shall be updated with each revision of the Code or, in the discretion of the Council, more frequently. The Department may charge a reasonable fee for the handbooks.~~"

CONTINUING EDUCATION REQUIREMENTS FOR BAIL BONDSMEN

SECTION 21.3. G.S. 58-71-71(b) reads as rewritten:

"(b) Each year every licensee shall complete at least ~~six~~ three hours of continuing education in subjects related to the duties and responsibilities of a runner or bail bondsman before renewal of the license. This continuing education shall not include a written or oral examination. A person who receives his first license on or after January 1 of any year does not have to comply with this subsection until the period between his first and second license renewals."

PART XXII. INFORMATION TECHNOLOGY

MULTIYEAR MAINTENANCE CONTRACTS

SECTION 22.1. Section 21.2 of S.L. 2003-284 reads as rewritten:

"**SECTION 21.2.(a)** Notwithstanding the cash management provisions of G.S. 146-86.11, the State Controller may authorize the Office of Information Technology Services (ITS) to purchase not more than four infrastructure maintenance

agreements for periods not exceeding two years where the terms of those maintenance agreements require payment of the full purchase price at the beginning of the maintenance period. The State Controller shall not authorize the agreements authorized by this section unless all of the following conditions are met:

(1) The proposed infrastructure maintenance agreement is entered into after ~~June 30, 2003,~~June 30, 2004, and before July 1, ~~2004.~~2005.

(2) The State Controller receives conclusive evidence that the proposed infrastructure agreement would be more cost-effective than any similar agreement that complies with G.S. 146-86.11.

(3) The State Controller verifies that the savings resulting from the proposed infrastructure agreement will be passed on to ~~network~~ users in the form of lower rates for ITS services.

(4) The purchase of the proposed maintenance agreement complies in all other respects with applicable statutes and rules.

(5) ITS shall make adjustments of excess revenue, based on IRMC-approved rates, over allowable costs. ~~ITS shall refund the excess to ITS' State and local government customers in the same manner as is required by the federal government in the Office of Management and Budget Circular A-87.~~

"**SECTION 21.2.(b)** The State Controller shall provide full justification for any authorizations granted under this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly within 60 days after the authorization is granted."

PART XXII-A. OFFICE OF ADMINISTRATIVE HEARINGS

RULES REVIEW COMMISSION TRANSFERRED TO OFFICE OF ADMINISTRATIVE HEARINGS; AUTHORIZATION FOR RULES REVIEW COMMISSION TO OBTAIN OUTSIDE COUNSEL

SECTION 22A.1.(a) All personnel and equipment presently assigned to the Rules Review Commission for the purpose of carrying out Article 2A of Chapter 150B of the General Statutes, are transferred to the Office of Administrative Hearings by a Type I transfer as defined by G.S. 143A-6(a). The Chief Administrative Law Judge shall be responsible for the hiring of the Director and other staff of the Rules Review Commission.

SECTION 22A.1.(b) G.S. 143B-30.1 reads as rewritten:

"**§ 143B-30.1. Rules Review Commission created.**

(a) The Rules Review Commission is created. The Commission shall consist of 10 members to be appointed by the General Assembly, five upon the recommendation of the President Pro Tempore of the Senate, and five upon the recommendation of the Speaker of the House of Representatives. These appointments shall be made in accordance with G.S. 120-121, and vacancies in these appointments shall be filled in accordance with G.S. 120-122. Except as provided in subsection (b) of this section, all appointees shall serve two-year terms.

(b) In 1990, two of the appointments made by the General Assembly upon the recommendation of the President of the Senate shall expire June 30, 1991, and two shall expire June 30, 1992. In 1990, two of the appointments made by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall expire June 30, 1992, and two shall expire June 30, 1993. Subsequent terms shall be for two years.

(c) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, ineligibility, death, or disability of any member shall be for the balance of the unexpired term. The chairman shall be elected by the Commission, and he shall designate the times and places at which the Commission shall meet. The Commission shall meet at least once a month. A quorum of the Commission shall

consist of six members of the Commission. ~~The Commission is an independent agency under Article III, Section 11 of the Constitution~~. The Chief Administrative Law Judge, Office of Administrative Hearings, shall be responsible for the hiring and supervision of the Director and staff to the Commission.

(d) Members of the Commission who are not officers or employees of the State shall receive compensation of two hundred dollars ($200.00) for each day or part of a day of service plus reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence at the rate set out in G.S. 138-6.

(e) Any other provision of the General Statutes notwithstanding, the appointment of employees of the Commission shall be made by the ~~Commission.~~Chief Administrative Law Judge, Office of Administrative Hearings. Nothing in this Article shall be construed to exempt employees of the Commission from the State Personnel Act.

(f) The Commission shall prescribe procedures and forms to be used in submitting rules to the Commission for review. The Commission may have computer access to the North Carolina Administrative Code to enable the Commission and its staff to view and copy rules in the Code."

SECTION 22A.1.(c) The Rules Review Commission may hire outside counsel, the expenses to be paid from the Reserve Fund. Outside counsel for the Rules Review Commission shall be selected by the Chief Administrative Law Judge, Office of Administrative Hearings.

SECTION 22A.1.(d) Subsection (a) of this section becomes effective October 1, 2004. The remainder of this section becomes effective July 1, 2004.

PART XXIII. DEPARTMENT OF REVENUE

EXTEND DOR CALL CENTER FEE USE

SECTION 23.1. Section 22.6(a) of S.L. 2002-126, as amended by Section 23.1 of S.L. 2003-284, reads as rewritten:

"**SECTION 22.6.(a)** There is appropriated from the collection assistance fee account created in G.S. 105-243.1 to the Department of Revenue the sum of one million six hundred twenty-two thousand eight hundred ninety-six dollars ($1,622,896) for the 2003-2004 fiscal year and the sum of two million one hundred fifty-four thousand five hundred ninety-three dollars ($2,154,593) for the 2004-2005 fiscal year to pay for the costs of establishing and equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center. Of the funds appropriated in this subsection, the sum of three million dollars ($3,000,000) that was designated for the 2003-2005 biennium to pay for the costs of establishing and equipping a central taxpayer telecommunications service center does not revert at the end of the 2004-2005 fiscal year but remains available until June 30, 2006, for operating costs of the service center."

DEPARTMENT OF REVENUE DEBT FEE FOR TAXPAYER LOCATER SERVICES AND COLLECTION

SECTION 23.2.(a) G.S. 105-243.1(e) reads as rewritten:

"(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. ~~to pay contractors for collecting tax debts under subsection (b) of this section and to pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North~~

~~Carolina.~~ The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department may apply the fee proceeds for the following purposes:

(1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.

(2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.

(3) To pay for taxpayer locater services, not to exceed one hundred thousand dollars ($100,000) a year."

SECTION 23.2.(b) Funds are appropriated in this act from the collection assistance fee account created in G.S. 105-243.1 to the Department of Revenue for postage for correspondence directly and primarily relating to collecting overdue tax debts, for operating expenses for Project Collect Tax, and for expenses of the Examinations and Collections Division directly and primarily relating to collecting overdue tax debts as defined in G.S. 105-243.1. The Department of Revenue and the Office of State Budget and Management must account for all expenditures using accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts as defined in G.S. 105-243.1 from costs allocable to other purposes and must demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax debts.

The Department of Revenue must report to the 2005 General Assembly on its implementation of this section.

MODIFY DEPARTMENT OF REVENUE REPORTING TO THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS

SECTION 23.3.(a) Section 22.6(c) of S.L. 2002-126 reads as rewritten:

"**SECTION 22.6.(c)** Beginning January 1, 2003, and ending ~~on the second quarter~~six months following completion of the projects described in subsection (a) of this section, the Department of Revenue must report ~~quarterly~~ semiannually to the Joint Legislative Commission on Governmental Operations on the use of the funds and the progress of establishing the new center."

SECTION 23.3.(b) G.S. 105-256(e) is repealed.

SECTION 23.3.(c) G.S. 105-243.1(f) reads as rewritten:

"(f) Reports. – The Department must report semiannually to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to collect tax debts. ~~Reports must be submitted quarterly beginning November 1, 2001, through June 30, 2005, and semiannually thereafter.~~ Each report must include a breakdown of the amount and age of tax debts collected by collection agencies on contract, the amount and age of tax debts collected by the Department through warning letters, and the amount and age of tax debts otherwise collected by Department personnel. The report must itemize collections by type of tax. Each report must also include a long-term collection plan, a timeline for implementing each step of the plan, a summary of steps taken since the last report and their results, and any other data requested by the Commission or the Committee."

REVENUE LAW ENFORCEMENT OFFICERS

SECTION 23.4. G.S. 105-236.1(a) reads as rewritten:

"(a) General. – The Secretary may appoint employees of the Unauthorized Substances Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter.

The Secretary may appoint up to 11 employees of the Motor Fuels Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter

jurisdiction to enforce the taxes on motor fuels imposed by Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

The Secretary may appoint employees of the Criminal Investigations Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

(1) The felony and misdemeanor tax violations in G.S. 105-236.
(2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.
(3) The following criminal offenses when they involve a tax imposed under Chapter 105 of the General Statutes:
    a. G.S. 14-91 (Embezzlement of State Property).
    b. G.S. 14-92 (Embezzlement of Funds).
    c. G.S. 14-100 (Obtaining Property By False Pretenses).
    d. G.S. 14-119 (Forgery).
    e. G.S. 14-120 (Uttering Forged Paper).
    f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes)."

BUSINESS TAXATION STUDY

SECTION 23.5. The Department of Revenue may use up to two hundred fifty thousand dollars ($250,000) of funds available to it for the 2004-2005 fiscal year for information technology necessary to estimate the revenue impact of proposals to improve State business taxation. The Department shall create computer-modeling capability to predict the fiscal effect of proposed changes.

PART XXVI. STATE BOARD OF ELECTIONS

INCREASE HAVA MATCH FUNDS

SECTION 26.1. Section 25.1 of S.L. 2003-284 reads as rewritten:

"**SECTION 25.1.(a)** Of the funds appropriated to the State Board of Elections for the 2003-2004 fiscal year by Section 2.1 of this act:

(1) The sum of $1,791,936 is transferred to a Reserve Fund to meet the Maintenance of Effort requirements of section 254(a)(7) of the Help America Vote Act, Public Law 107-252.
(2) The sum of $1,665,650 currently appropriated to Fund 1100 Administration for the SEIMS RCC is transferred to a Reserve Fund for the State Board of Elections.
(3) The sum of $1,922,215 is transferred in the 2003-2004 fiscal year and the sum of $1,521,918 is transferred in the 2004-2005 fiscal year to the Election Fund established by S.L. 2003-12 to meet the five percent (5%) matching requirement of Title II Help America Vote Act, Public Law 107-252 for the 2003-2005 fiscal biennium. Of that amount, ~~$1,188,760~~ $1,232,508 shall be available for expenditure in the 2003-2004 fiscal year, and the remaining ~~$733,455~~ $2,211,625 shall be available for expenditure only during the 2004-2005 fiscal year. The money shall only be expended as federal funds are available to match, and if the amount available to the State is less than projected, the unexpended remainder of the $1,922,215 for the 2003-2004 fiscal year and $1,521,918 for the 2004-2005 fiscal year shall revert to the General Fund on the earlier of:
    a. June 30, 2006; or
    b. A determination by the Office of State Budget and Management that the unexpended remainder will not be needed.

"**SECTION 25.1.(b)** The 107th Congress established the Help America Vote Act (HAVA) as Public Law 107-252 establishing a program to assist in the administration of federal elections and provide assistance with the administration of certain federal

elections laws and programs; establish minimum election administration standards for states and units of local government with the responsibility for the administration of federal elections. In HAVA, Congress authorized appropriations for elections assistance in the form of a matching grant program (Title II of HAVA, Requirements Payments) for which states are required as one condition of the Election Assistance Requirements Payments to match federal allocations with a five percent (5%) match of State dollars. The federal government has additional requirements, including a required state plan and a stipulation for each participating state to implement the Maintenance of Effort (MOE) requirements of Title II, section 254(a)(7) of HAVA. The MOE requires that the state maintain the expenditures of the state for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the state for the fiscal year ending prior to November 2000. Congress authorized up to $1.4 billion for Requirements Payments, and $810 million for Title II requirements grants was funded for fiscal year 2003. ~~Title II requirements funding has not been passed by Congress for fiscal years 2004-2005 and 2005-2006 but is currently proposed at $500 million for each year.~~

Based upon the 2003 and 2004 approved funding, it is estimated that North Carolina will receive ~~$22.6 million~~ $23,431,708 of the Title II funding if North Carolina meets all the conditions of the Election Assistance program, including not only the five percent (5%) state match but also maintenance of its expenditure level on HAVA activities at the expense level the State Board of Elections had in State fiscal year 1999-2000. Actual expenditures for the State Elections Information Management System (SEIMS), which is a qualified HAVA activity, in 1999-2000 were three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents ($3,457,585.06). The authorized expenditures on SEIMS in 2002-2003 by the State Board of Elections is one million six hundred sixty-five thousand six hundred fifty dollars ($1,665,650). The difference in expenditure levels is one million seven hundred ninety-one thousand nine hundred thirty-five dollars and six cents ($1,791,935.06). To meet HAVA's Title II MOE requirement, North Carolina has to appropriate from its General Fund to a Reserve on a recurring basis (or for as long as Congress requires the MOE as a condition of states' being eligible to receive Requirements Payments), the amount of three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents ($3,457,585.06) annually.

For the State to meet its obligatory five percent (5%) match for HAVA's Title II Requirements Payments, North Carolina has to match ~~twenty-two million six hundred thousand dollars ($22,600,000)~~ twenty-three million four hundred thirty-one thousand seven hundred eight dollars ($23,431,708) estimated federal funds in 2003-2004; ~~thirteen million nine hundred forty-four thousand dollars ($13,944,000)~~ forty-two million forty-six thousand one hundred dollars ($42,046,100) estimated federal funds in 2004-2005. The State's match is ~~one million one hundred eighty-eight thousand seven hundred sixty dollars ($1,188,760) in 2003-2004 and seven hundred thirty-three thousand four hundred fifty-five dollars ($733,455) in 2004-2005.~~ one million two hundred thirty-two thousand five hundred eight dollars ($1,232,508) in 2003-2004 and two million two hundred eleven thousand six hundred twenty-five dollars ($2,211,625) in 2004-2005. The nonrecurring match total required for the 2003-2005 fiscal biennium from the General Fund is one million nine hundred twenty-two thousand two hundred fifteen dollars ($1,922,215)."

STATE BOARD OF ELECTIONS FUNDS TO FINANCE JUDICIAL CAMPAIGNS

SECTION 26.2.(a) Funds appropriated to the State Board of Elections for the 2003-2004 fiscal year that are unexpended and unencumbered as of June 30, 2004, shall not revert to the General Fund but shall remain available to the Board to finance judicial campaigns.

SECTION 26.2.(b) This section becomes effective June 30, 2004.

PART XXVII. OFFICE OF STATE BUDGET AND MANAGEMENT

NC HUMANITIES COUNCIL

SECTION 27.1. Section 26.1 of S.L. 2003-284 reads as rewritten:

"**NC HUMANITIES COUNCIL**

SECTION 26.1. The North Carolina Humanities Council shall:

(1) By January 15, ~~2004,~~2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year ~~2002-2003~~ 2003-2004 program activities, objectives, and accomplishments;

b. State fiscal year ~~2002-2003~~2003-2004 itemized expenditures and fund sources;

c. State fiscal year ~~2003-2004~~2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, ~~2003;~~2004; and

d. State fiscal year ~~2003-2004~~2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, ~~2003.~~2004.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement."

EXPLORIS MUSEUM

SECTION 27.2. As a condition of accepting any State funds, the Board of Directors of the Exploris Museum shall review management of the museum's resources and develop a plan that will result in the museum becoming financially self-sustaining.

MARINE CORPS MUSEUM OF THE CAROLINAS

SECTION 27.3. If any funds are allocated under this act to the Marine Corps Museum of the Carolinas, a nonprofit corporation, the funds shall be used only to assist with planning a museum to honor the men and women who have served in the United States Marine Corps in the Carolinas, and the funds shall be kept in a separate account by that corporation. No funds shall be allocated unless the Marine Corps Museum of the Carolinas, a nonprofit corporation, agrees that the provisions of Chapter 132 of the General Statutes (the Public Records Law) apply as to that separate fund. The Marine Corps Museum of the Carolinas shall report quarterly to the Office of State Budget and Management and to the Fiscal Research Division on expenditures from that separate fund, in addition to any other reporting required by law.

PART XXVIII. OFFICE OF THE STATE CONTROLLER

OVERPAYMENTS AUDIT

SECTION 28.1.(a) During the 2004-2005 fiscal year, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

SECTION 28.1.(b) For the 2004-2005 fiscal year, two hundred thousand dollars ($200,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

SECTION 28.1.(c) All funds available in the Special Reserve Account 24172 on July 1, 2004, are transferred to the General Fund on that date.

SECTION 28.1.(d) Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2005 Regular Session.

SECTION 28.1.(e) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account and the disbursement of that revenue.

STATE BUSINESS INFRASTRUCTURE PROJECT

SECTION 28.2.(a) The State Controller is authorized to utilize up to one million eight hundred thousand dollars ($1,800,000) from the Flexible Benefits Reserve to continue the State Business Infrastructure Project (SBIP) as outlined in the report provided to the 2004 Session of the General Assembly. These funds will address the Human Resources/Payroll component of this project and may be used to secure contractual services and project management to accomplish the following:

(1) Identify, review, and document current Human Resources/Payroll business processes and workflows of the State and recommend new reengineered business processes where applicable.

(2) Document new system requirements and specifications including process, function, data, security, and other technical requirements.

(3) Prepare a Request for Proposal (RFP) for software licenses, design, and implementation of a new integrated Human Resources/Payroll system.

Prior to taking action beyond this scope, the completed RFP shall be submitted to the 2005 Session of the General Assembly for funding.

SECTION 28.2.(b) This section does not apply to institutions of The University of North Carolina or the North Carolina Community College System.

SECTION 28.2.(c) This section does not apply if Senate Bill 991, 2003 Regular Session, becomes law.

EMPLOYMENT REPORTING: FEDERAL COMPLIANCE

SECTION 28.3.(a) The Office of the State Controller may use up to three hundred thousand dollars ($300,000) in budget code 24172, OSC Recovery Fund, for the 2004-2005 fiscal year to acquire compliance software to be used by all State agencies to ensure compliance with all federal laws for the employment of, and reporting of payments to, aliens, as that term is defined in federal law. The Office of the State Controller shall transfer up to one hundred thousand dollars ($100,000) in budget code 24172, OSC Recovery Fund, for the 2004-2005 fiscal year to the Office of State Personnel for model training and for a contract position to ensure compliance with such federal laws. Funds are hereby appropriated from the OCS Recovery Fund for the 2004-2005 fiscal year to implement this section.

SECTION 28.3.(b) The Board of Governors of The University of North Carolina and the North Carolina Community College System shall use funds within their budgets to ensure compliance with all federal laws for the employment of, and reporting of payments to, aliens, as that term is defined in federal law.

PART XXIX. DEPARTMENT OF THE STATE TREASURER

REESTABLISH STATE INVESTMENT OFFICER POSITION

SECTION 29.1. The position of State Investment Officer shall be reestablished in the Investment Division of the Department of State Treasurer. The State Treasurer shall fix the compensation of the State Investment Officer in an amount up to one hundred fifty thousand dollars ($150,000) per year. The State Treasurer may award the State Investment Officer an annual performance-based incentive bonus, not to exceed thirty percent (30%) of salary, based upon the officer's achievement of specific

goals and objectives set by the Treasurer. The State Treasurer shall report the incentive bonus paid to the Chief Investment Officer to the Joint Legislative Commission on Governmental Operations by October 1 of each year.

PART XXX. DEPARTMENT OF TRANSPORTATION

SMALL CONSTRUCTION AND CONTINGENCY FUNDS

SECTION 30.1.(a) Of the funds appropriated in this act to the Department of Transportation:

(1) Twenty-one million dollars ($21,000,000) shall be allocated in fiscal year 2004-2005 for small construction projects recommended by the member of the Board of Transportation representing the division in which the project is to be constructed in consultation with the division engineer and approved by the Board of Transportation. These funds shall be allocated equally among the 14 highway divisions for small construction projects.

(2) Fifteen million dollars ($15,000,000) in fiscal year 2004-2005 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

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 Transportation Oversight Committee and the Fiscal Research Division.

SECTION 30.1.(b) Section 29.2 of S.L. 2003-284 is repealed.

CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 30.2.(a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2005-2006	$1,416.3 million
For Fiscal Year 2006-2007	$1,452.3 million
For Fiscal Year 2007-2008	$1,512.4 million
For Fiscal Year 2008-2009	$1,571.4 million

SECTION 30.2.(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2005-2006	$1,074.9 million
For Fiscal Year 2006-2007	$1,115.4 million
For Fiscal Year 2007-2008	$1,168.9 million
For Fiscal Year 2008-2009	$1,220.2 million

SECTION 30.2.(c) Section 29.1 of S.L. 2003-284 is repealed.

ENSURE CASH-FLOW FUND AVAILABILITY

SECTION 30.3.(a) G.S. 136-176(a1) reads as rewritten:

"(a1) The Department shall use two hundred twenty million dollars ($220,000,000) in fiscal year 2001-2002, two hundred twelve million dollars ($212,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars ($255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:

(1) For primary route pavement preservation. – One hundred seventy million dollars ($170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars ($150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for:
   a. Highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation; or
   b. Highway improvements that further economic development in the State and that are individually approved by the Board of Transportation.

(2) For preliminary engineering costs not included in the current year Transportation Improvement Program. – Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.

(3) For computerized traffic signal systems and signal optimization projects. – Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.

(4) For public transportation twenty million dollars ($20,000,000) in fiscal year 2001-2002, twenty-five million dollars ($25,000,000) in fiscal year 2002-2003, and seventy-five million dollars ($75,000,000) in fiscal year 2003-2004.

(5) For small urban construction projects. – Seven million dollars ($7,000,000) in fiscal year 2002-2003.

Funds authorized for use by the Department pursuant to this subsection shall remain available to the Department until expended."

SECTION 30.3.(b) G.S. 136-176(a3) reads as rewritten:

"(a3) The Department may obligate three hundred million dollars ($300,000,000) in fiscal year 2003-2004 and four hundred million dollars ($400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

(1) Six hundred thirty million dollars ($630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.

(2) Seventy million dollars ($70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds.

Funds authorized for obligation and use by the Department pursuant to this subsection shall remain available to the Department until expended."

VISITOR CENTER FUNDS

SECTION 30.3A. G.S. 20-79.7(c)(2) reads as rewritten:

"(c) Use of Funds in Special Registration Plate Account. –

…

(2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of ~~five hundred twenty-five thousand dollars ($525,000)~~ nine hundred thousand dollars ($900,000) to provide operating assistance for the Visitor Centers:
a. on U.S. Highway 17 in Camden County, ~~($75,000);~~($100,000);
b. on U.S. Highway 17 in Brunswick County, ~~($75,000);~~($100,000);
c. on U.S. Highway 441 in Macon County, ~~($75,000);~~($100,000);
d. in the Town of Boone, Watauga County, ~~($75,000);~~($100,000);
e. on U.S. Highway 29 in Caswell County, ~~($75,000);~~($100,000);
f. on U.S. Highway 70 in Carteret County, ~~($75,000);~~ ($100,000); ~~and~~
g. on U.S. Highway 64 in Tyrrell County, ~~($75,000).~~($100,000);
h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, ($100,000); and
i. on U.S. Highway 221 in McDowell County, ($100,000)."

ANNUAL OVERWIDTH VEHICLE MOVEMENT PERMITS AND ESCORT DRIVER TRAINING FOR AGRICULTURAL VEHICLES

SECTION 30.3E.(a) G.S. 20-119 is amended by adding a new subsection to read:

"(g) The Department of Transportation shall issue annual overwidth permits for vehicles carrying agricultural equipment or machinery from the dealer to the farm or from the farm to the dealer that do not exceed 14 feet in width. These permits shall be valid for unlimited movement without escorts on all State highways where the overwidth vehicles do not exceed posted bridge and load limits."

SECTION 30.3E.(b) G.S. 20-119(f) reads as rewritten:

"(f) The Department of Transportation shall issue rules to establish an escort driver training and certification program for escort vehicles accompanying oversize/overweight loads. Any driver operating a vehicle escorting an oversize/overweight load shall meet any training requirements and obtain certification under the rules issued pursuant to this subsection. These rules may provide for reciprocity with other states having similar escort certification programs. Certification credentials for the driver of an escort vehicle shall be carried in the vehicle and be readily available for inspection by law enforcement personnel. The escort and training certification requirements of this subsection shall not apply to the transportation of agricultural machinery until October 1, 2004. The Department of Transportation shall develop and implement an in-house training program for agricultural machinery escorts by September 1, 2004."

CURRITUCK COUNTY AIRPORT LAND CONVEYANCE

SECTION 30.3F. The State of North Carolina shall convey to Currituck County, for consideration of one dollar ($1.00), title to the land on which the Currituck County Airport is situated.

AIRPORT GRANTS FOR IMMINENT SAFETY THREATS

SECTION 30.3G. Of the funds appropriated to the Department of Transportation for Airport Grants, the Department shall give priority in making grants to facilities facing imminent safety threats.

DEPARTMENT OF TRANSPORTATION SHALL PAVE AREAS IN NORTH CAROLINA INDIAN CULTURAL CENTER

SECTION 30.5. The Department of Transportation shall pave the appropriate areas inside the North Carolina Indian Cultural Center.

PASSENGER VEHICLES TOWING OTHER VEHICLES TO KEEP RIGHT

SECTION 30.6.(a) Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-147.1. Passenger vehicle towing other vehicles to keep right.**

Whenever a noncommercial passenger vehicle as defined in G.S. 20-4.01(27)g. is towing another vehicle as defined in G.S. 20-4.01(49), the driver of the towing vehicle shall at all times cause that vehicle to travel on the right half of the highway, or if the highway is divided into two or more lanes in the right-most lane of travel, unless that lane is obstructed or impassable. These towing vehicles shall also comply with all signage for vehicles of three or more axles erected pursuant to G.S. 20-146(d)(3)."

SECTION 30.6.(b) This Section becomes effective December 1, 2004, and applies to offenses committed on or after that date.

WESTERN NORTH CAROLINA PASSENGER RAIL SERVICE PROPERTY ACQUISITION

SECTION 30.8. The Rail Division may use up to one million sixty-six thousand dollars ($1,066,000) of the funds placed in the Western North Carolina Reserve created by Section 25.13 of S.L. 2000-67 for property acquisition and infrastructure improvements in the Biltmore Village area of Asheville to develop a terminus for western North Carolina passenger rail service.

FUNDS FROM DEPARTMENT OF REVENUE'S FUEL TAX ACTION PLAN

SECTION 30.9. Any funds received by the Department of Transportation as a result of the Department of Revenue's Fuel Tax Action Plan in an amount greater than the costs of administering the program during the 2004-2005 fiscal year shall be distributed equally among the 14 Highway Divisions. One-half of the funds distributed to each Highway Division shall be used for contract resurfacing and the remaining one-half of the funds distributed to each Highway Division shall be used for highway maintenance.

The Department of Revenue shall submit periodic reports to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations on the implementation of the Department's Fuel Tax Action Plan. The initial report shall describe the plan, the steps the Department intends to take to implement the plan, the timetable for implementation of the steps, and the amount of revenue the Department expects to generate. Subsequent reports shall describe the Department's progress in implementing the plan, the number of newly authorized positions that have been filled, and the amount and source of revenue generated from implementation. The Department shall submit the initial report August 1, 2004. Subsequent reports shall be submitted every three months starting November 1, 2004, until the end of the plan. The Department shall not distribute revenue generated by the Fuel Tax Action Plan until the revenue has been included in a report submitted under this section.

LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUNDS SOLVENCY

SECTION 30.10.(a) Notwithstanding G.S. 105-449.125, the Secretary of Revenue shall allocate the amount of revenue collected under Article 36C of Chapter 105 from an excise tax of one and one-tenth cent (1.1¢) a gallon to the following funds and accounts in the fraction indicated:

Fund or Account	Amount
Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund	Five sevenths

Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund	One seventh
Water and Air Quality Account	One seventh.

The Secretary of Revenue shall allocate seventy-five percent (75%) of the remaining excise tax revenue collected under Article 36C of Chapter 105 to the Highway Fund and shall allocate twenty-five percent (25%) to the Highway Trust Fund.

The Secretary of Revenue shall charge a proportionate share of a refund allowed under this Article to each fund or account to which revenue collected under this Article is credited. The Secretary of Revenue shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis except that the Secretary of Revenue shall credit nineteen million dollars ($19,000,000) to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund, the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund, and the Water and Air Quality Account in September 2004 in the fractional amounts required by this section. The Secretary of Revenue shall credit the difference between nineteen million dollars ($19,000,000) and the amount calculated for September as allocated to those Funds to the Highway Fund and the Highway Trust Fund, in the amounts allocated to the Highway Fund and the Highway Trust Fund under this section, over the remaining months of fiscal year 2004-2005 such that the fractional distributions required by this section are met for the fiscal year.

SECTION 30.10.(b) There is appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of fifty-two thousand dollars ($52,000) for the 2004-2005 fiscal year to establish and support an Accounting Tech IV position to expedite the processing of claims under G.S. 143-215.94E. There is appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources up to seventy-six thousand dollars ($76,000) for the 2004-2005 fiscal year as needed to cover the cost of any legislative salary increase for personnel who administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes. It is the intent of the General Assembly that funds appropriated under this section are recurring funds and that these funds are in addition to funds appropriated under subsection 11.4(b) of S. L. 2003-284.

SECTION 30.10.(c) Subsection 11.4(e) of S.L. 2003-284 reads as rewritten:

"**SECTION 11.4.(e)** It is the intent of the General Assembly that the funds under subsection ~~(c)~~(d) of this section are recurring funds."

SECTION 30.10.(d) G.S. 143-215.94E(e2) reads as rewritten:

"(e2) (1) The ~~Commission~~ Department may require an owner, operator, or landowner to obtain approval from the Department before proceeding with any task that will result in a cost that is eligible to be paid or reimbursed under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1). The ~~Commission~~ Department shall specify ~~by rule~~ those tasks for which preapproval is required. The Department shall deny any request for payment or reimbursement of the cost of any task for which preapproval is required if the owner, operator, or landowner failed to obtain preapproval of the task. The Department shall pay or reimburse the cost of a task ~~for which preapproval is not required~~ only if the cost is eligible to be paid under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1) and if the Department determines that the cost is reasonable and necessary. The Commission ~~shall~~ may adopt rules governing reimbursement of ~~necessary and~~ reasonable and necessary ~~costs.~~costs and, consistent with any rules adopted by the Commission, the Department shall develop, implement, and periodically revise a schedule of costs that the Department determines to be reasonable and necessary costs for specific tasks.

Statements that specify tasks for which preapproval is required and schedules of reasonable and necessary costs for specific tasks are statements within the meaning of G.S. 150B-2(8a)g. In all cases, the Department shall require an owner, operator, or landowner to submit documentation sufficient to establish that a cost is eligible to be paid or reimbursed under this Part before the Department pays or reimburses the cost.

(2) Except as provided in subdivisions (3) and (4) of this subsection, the Department shall not preapprove any task the cost of which is to be paid or reimbursed from the Commercial Fund unless the Department determines, based on the scope of the work to be performed and the schedule of reasonable and necessary costs, that sufficient funds will be available in the Commercial Fund to pay a claim for payment or reimbursement of the cost of that task within 90 days after the Department determines that the owner, operator, or landowner has submitted a claim with documentation sufficient to establish that the owner, operator, or landowner is eligible to have the claim paid under this Part. Except as provided in subdivisions (3) and (4) of this subsection, the Department shall not preapprove any task the cost of which is to be paid or reimbursed from the Noncommercial Fund unless the Department determines, based on the scope of the work to be performed and the schedule of reasonable and necessary costs, that sufficient funds will be available in the Noncommercial Fund to pay a claim for payment or reimbursement of the cost of that task within 90 days after the Department determines that the owner, operator, or landowner has submitted a claim with documentation sufficient to establish that the owner, operator, or landowner is eligible to have the claim paid under this Part. This subsection shall not be construed to establish a cause of action against the Commission or the Department for any failure to pay or reimburse any cost within any specific period of time. This subsection shall not be construed to establish a defense to any action to enforce the requirements of either G.S. 143-215.84 or subsection (a) of this section. This subsection shall not be construed to invalidate any rule of the Commission related to preapproval of tasks that will result in a cost that is eligible to be paid or reimbursed under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1), provided, however, that the Department may specify additional tasks for which preapproval is required as provided in this subsection.

(3) The Department may preapprove a task the cost of which is to be paid or reimbursed from the Commercial Fund or the Noncommercial Fund when sufficient funds will not be available to pay a claim for payment or reimbursement of the cost of that task within the 90-day period described in subdivision (2) of this subsection if the owner, operator, or landowner specifically requests that the task be preapproved and agrees that the claim for payment or reimbursement of the cost will not be paid until after the Department has paid all claims for payment or reimbursement of costs for tasks that the Department has preapproved pursuant to subdivision (2) of this subsection.

(4) The Department may preapprove a task the cost of which is to be paid or reimbursed from the Commercial Fund or the Noncommercial Fund when sufficient funds will not be available to pay a claim for payment or reimbursement of the cost of that task within the 90-day period described in subdivision (2) of this subsection if the discharge or release creates an emergency situation. An emergency situation exists when a discharge or release of petroleum results in an imminent threat

to human health or the environment. A claim for payment or reimbursement of costs for tasks that are preapproved under this subdivision shall be paid or reimbursed on the same basis as tasks that are preapproved under subdivision (2) of this subsection."

SECTION 30.10.(e) Section 10 of S.L. 2003-352 reads as rewritten:

"**SECTION 10.** The definitions set out in G.S. 143-212 and G.S. 143-215.94A apply to this section. The rights and obligations of an owner, an operator, or a landowner to whom either G.S. 143-215.94E(b1) ~~applies~~ or G.S. 143-215.94E(c1) apply who is eligible to have costs paid or reimbursed under G.S. 143-215.94B or G.S. 143-215.94D shall be governed by G.S. 143-215.94E as modified by this section. The Department shall establish the degree of risk to human health and the environment posed by a discharge or release of petroleum from a commercial underground storage tank and shall determine a schedule for further assessment and cleanup that is based on the degree of risk to human health and the environment posed by the discharge or ~~release.~~ release and that gives priority to the assessment and cleanup of discharges and releases that pose the greatest risk. If any of the costs of assessment and cleanup of the discharge or release from a commercial underground storage tank are eligible to be paid from the Commercial Fund, the Department shall also consider the availability of funds in the Commercial Fund and the order in which the discharge or release was reported in determining the schedule. The Department shall establish the degree of risk to human health and the environment posed by a discharge or release of petroleum from a noncommercial underground storage tank and shall determine a schedule for further assessment and cleanup that is based on the degree of risk to human health and the environment posed by the discharge or release and that gives priority to the assessment and cleanup of discharges and releases that pose the greatest risk. If any of the costs of assessment or cleanup of the discharge or release from a noncommercial underground storage tank are eligible to be paid from the Noncommercial Fund, the Department shall also consider the availability of funds in the Noncommercial Fund and the order in which the discharge or release was reported in determining the schedule. The Department may revise the ~~schedule that applies~~ schedules that apply to the assessment and cleanup of any discharge or release at any time based on its reassessment of any of the foregoing factors. The lack of availability of funds in the Commercial Fund or the Noncommercial Fund shall not relieve an owner or operator of responsibility to immediately undertake to collect and remove the discharge or release or to conduct any assessment or cleanup ordered by the Department or be a defense against any violations and penalties issued to the owner or operator for failure to conduct required assessment or cleanup. If the owner or operator takes initial steps to collect and remove the discharge or release as required by the Department and completes initial assessment required to determine degree of risk, the owner or operator shall not be subject to any violation or penalty for any failure to proceed with further assessment or cleanup under G.S. 143-215.84 or G.S. 143-215.94E before the owner or operator is authorized to proceed with further assessment or cleanup pursuant to the schedule set by the Department. Once the Department has determined a schedule for the assessment and cleanup of a discharge or release from a commercial underground storage tank or a noncommercial underground storage tank, an owner, operator, or other person responsible for the assessment and cleanup is not eligible to have the costs of the assessment or cleanup paid or reimbursed from the Commercial Fund or the Noncommercial Fund until such time as further assessment or cleanup is authorized by the Department pursuant to the schedule. An owner, operator, or other person may undertake further assessment or cleanup before receiving authorization from the Department. An owner, operator, or other person who undertakes further assessment or cleanup before receiving authorization from the Department shall be reimbursed only after the Department has paid or reimbursed the costs for all assessments and cleanups that the Department has authorized."

SECTION 30.10.(f) The Environmental Review Commission and the Joint Legislative Transportation Oversight Committee shall jointly study the desirability and feasibility of altering or eliminating the role of the State of North Carolina and the Department of Environment and Natural Resources in the implementation of Part 2A of Article 21A of Chapter 143 of the General Statutes. In conducting this study, the Commission shall consider:

(1) The requirements of applicable federal law.

(2) What role the State should play in assisting owners and operators of underground storage tanks in meeting applicable financial responsibility requirements and the availability and adequacy of private insurance for that purpose.

(3) The adequacy of current and projected revenue available to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund under existing law to achieve the purposes for which those funds were established.

(4) The desirability and feasibility of privatizing the administration of Part 2A of Article 21A of Chapter 143 of the General Statutes by transferring control and direction of the Commercial Fund and the Noncommercial Fund to a private entity or, in the alternative, of abolishing or narrowing the purposes for which those funds are used.

(5) What role the State should play in the cleanup of discharges and releases from petroleum underground storage tanks when no owner or operator can be identified or located or when the owner or operator fails to proceed with assessment or cleanup due to insolvency, inadequate resources, or other reasons.

(6) The extent to which current regulatory oversight and inspection of underground storage tanks, including enforcement, under Part 2B of Article 21A of Chapter 143 of the General Statutes is adequate and effective in preventing discharges and releases of petroleum from underground storage tanks.

(7) The impact of privatization and of any other options identified during the course of the study on the solvency of the Commercial Fund and the Noncommercial Fund.

(8) The impact of privatization and of any other options identified during the course of the study, including abolishing the Commercial Fund or the Noncommercial Fund or narrowing the purposes for which those funds are used, on the cleanup of discharges and releases of petroleum to standards established by federal or State law, the long-term public health and safety, and protection of the environment.

SECTION 30.10.(g) The Environmental Review Commission and the Joint Legislative Transportation Oversight Committee shall report their findings and recommendations as to the matters to be studied pursuant to subsection (f) of this section, including any legislative proposals, to the 2005 General Assembly no later than 31 January 2005.

SECTION 30.10.(h) Subsection (a) of this section becomes effective 1 July 2004 and expires on 30 June 2005. Subsection (b) of this section becomes effective 1 July 2004. Subsection (c) of this section is effective retroactively to 1 July 2003. Subsections (d) and (e) of this section become effective 1 October 2004. Subsections (f) through (h) of this section are effective when this act becomes law.

STATE DREDGE STUDY BY JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE

SECTION 30.12. The Joint Legislative Transportation Oversight Committee shall study the feasibility and cost of constructing and establishing a dredge to be used

to clear channels that are within the State and that are not maintained by the Corps of Engineers and to be used for beach renourishment. The Joint Legislative Transportation Oversight Committee may hire an outside consultant in conducting this study.

JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY TRANSPORTATION RELATED DRUG AND ALCOHOL TESTS

SECTION 30.13. The Joint Legislative Transportation Oversight Committee shall study the advisability of instituting a requirement for public transit operators and other employers to report to the Division of Motor Vehicles the name of an employee taking a transportation-related drug test or alcohol test and the results when the employee failed the test. The Committee shall also study the advisability of instituting a requirement for the Division to provide the information it collects on those individuals to other employers required by federal law to test transportation-related employees.

DEPARTMENT OF TRANSPORTATION PROJECT DELIVERY STUDY IMPLEMENTATION

SECTION 30.14. The Department of Transportation shall review and implement the applicable provisions of the Joint Legislative Transportation Oversight Committee Highway Construction Project Delivery Study, dated June 2004. The Department shall report quarterly to the Joint Legislative Transportation Oversight Committee, beginning October 15, 2004, and continuing until October 15, 2006, on the progress of its implementation of the recommendations of the report.

POTTERY HIGHWAY SIGNS

SECTION 30.15. The Department of Transportation may not prohibit off-premises signs located on private property for potteries on the Pottery Highway (N.C. 705) in Moore and Randolph Counties.

NO MEDIAN ON PART OF U.S. HIGHWAY 64 IN RANDOLPH COUNTY

SECTION 30.16. The Board of Transportation shall not approve contracts for the construction of a median, and the Department of Transportation shall not build a median on U.S. Highway 64 between Third Street in Asheboro and the intersection of U.S. Highway 64 and N.C. 42.

TOWN OF CORNELIUS MEDIAN CUTS

SECTION 30.17. The Department of Transportation shall construct six median cuts on Catawba Avenue in the Town of Cornelius at locations to be designated by the Town.

STATE INFRASTRUCTURE BANK

SECTION 30.18. In making loans from the State Infrastructure Bank with funds appropriated in this act, the Department of Transportation shall collect repayments by reducing funds allocated to the borrowers under G.S. 136-41.1.

URBAN LOOPS

SECTION 30.19. G.S. 136-180(a) reads as rewritten:

"(a) Funds allocated from the Trust Fund for urban loops may be used only for the following urban loops:

Loop	Description	Affected Counties
Asheville Western Loop	Multilane facility on new location from I-26 west of Asheville to US-19/23 north of Asheville for the purpose	Buncombe

	of connecting these roads. The funds may be used to improve existing corridors.	
Charlotte Outer Loop	Multilane facility ~~on new location~~ encircling City of Charlotte including 6-laning of the portion from Johnston Road/US 521 south to I-77 south of Charlotte-including widening, resurface, and interchange	Mecklenburg
Durham Northern Loop	The projects listed below are eligible for funding under this section as part of the Durham Northern Loop. The priorities for planning and constructing these projects will be established by mutual agreement of the Metropolitan Planning Organization (MPO) and the Department of Transportation through the federally mandated Transportation Improvement Program development process. The cross sections for these projects will be established by mutual agreement of the MPO and the Department of Transportation through the State and federal environmental review process. (1) East end connector, from N.C. 147 to U.S. 70 East. (2) U.S. 70, from Lynn Rd. to the Northern Durham Parkway. (3) I-85, from U.S. 70 to Red Mill Rd. (4) Northern Durham Parkway, Section B, from Old Oxford Rd. to I-85. (5) Northern Durham Parkway, Section A, from I-85 to I-540. (6) Northern Durham Parkway, Section C, from Old Oxford Rd. to Roxboro Rd. (7) Roxboro Rd. from Duke St. to Goodwin Rd.	Durham, Wake
Fayetteville Western Outer Loop	Multilane facility on new location from US 401 north of Fayetteville to I-95 south of Hope Mills	Cumberland
Gastonia Loop	Multilane facility, known as the Garden Parkway, on a new location beginning at I-485, extending west across	Gaston, Mecklenburg

	southern Gaston County to I-85, and continuing north to US 321	
Greensboro Loop	Multilane facility on new location encircling City of Greensboro including interchanges with Cone Boulevard Extension and Lewis-Fleming Road Extension	Guilford
Greenville Loop	Multilane extension of the Greenville Loop from US 264 west of Greenville to NC-11 south of Winterville	Pitt
Raleigh Outer Loop	Multilane facility on new location ~~from NC 55 southwest of Cary northerly to US 64 in eastern Wake County~~ encircling City of Raleigh	~~Wake~~Wake, Durham, Johnston
Wilmington Bypass	Multilane facility on new location from US-17 northeast of Wilmington to US 421 in southern Wilmington, continuing from US 421 in southern Wilmington northeast along Independence Blvd., and extending to Martin Luther King, Jr. Parkway, and including the Blue Clay Road interchange	New Hanover
Winston-Salem Northbelt	Multilane facility on new location from I-40 west of Winston-Salem northerly to US 311/Future I-74 in eastern Forsyth County"	Forsyth

STORMWATER PILOT PROJECT

SECTION 30.20. Of funds available to the Department of Transportation, up to fifteen million dollars ($15,000,000) shall be used during the 2004-2005 fiscal year for a stormwater pilot project to clean up State-maintained ocean outfalls and associated outlets through new and innovative technologies and filtering mechanisms.

INTRASTATE IMPROVEMENT PROJECTS

SECTION 30.21.(a) G.S. 136-175 reads as rewritten:

"**§ 136-175. Definitions.**

The following definitions apply in this Article:

(1) Intrastate System. The network of major, multilane arterial highways composed of those ~~projects~~ routes, segments, or corridors listed in G.S. ~~136-179,~~ 136-178, ~~I-240, I-277, US-29 from I-85 to the Virginia line,~~ and any other route added by the Department of Transportation under G.S. 136-178.

(2) Transportation Improvement Program. The schedule of major transportation improvement projects required by G.S. 143B-350(f)(4).

(3) Trust Fund. The North Carolina Highway Trust Fund."

SECTION 30.21.(b) 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 four percent (4%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section for the 2003-2004 fiscal year and three and eight-tenths percent (3.8%) thereafter, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. 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 on segments or corridors of the Intrastate System as described in G.S. ~~136-179~~ 136-178 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.

(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.

(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 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

SECTION 30.21.(c) G.S. 136-178 reads as rewritten:

"**§ 136-178. Purpose and description of Intrastate System.**

(a) The Intrastate System is established to provide high-speed, safe travel service throughout the State. It connects major population centers both inside and outside the State and provides safe, convenient, through-travel for motorists. It is designed to support statewide growth and development objectives and to connect to major highways of adjoining states. All segments of the routes in the Intrastate System shall have at least four travel lanes ~~and, when~~ except those for which projected traffic volumes and environmental considerations dictate fewer lanes. When warranted, segments of the Intrastate System shall have vertical separation or interchanges at crossings, more than four travel lanes, or bypasses. Access to a route in the Intrastate System is determined by travel service and economic considerations.

Funds allocated from the Trust Fund for the Intrastate System are primarily intended to be used to complete the projects listed in G.S. 136-179. If Intrastate Trust Funds assigned to a distribution region through the provisions of G.S. 136-17.2A cannot be

used for projects listed in G.S. 136-179, then they may be used for projects on the following route segments or corridors:

I-26 from Tennessee to South Carolina.

I-40 from Tennessee to US 17 in New Hanover County.

I-73 from South Carolina to Virginia.

I-74 from South Carolina to Virginia.

I-77 from South Carolina to Virginia.

I-85 from South Carolina to Virginia.

I-95 from South Carolina to Virginia.

I-240 in Buncombe County.

I-277 in Mecklenburg County.

I-440 in Wake County.

US 1 from South Carolina to I-85 in Vance County.

US 13 from US 17 in Bertie County to Virginia.

US 17 from South Carolina to Virginia.

US 19/19E from I-26 in Madison County to NC 194 in Avery County.

US 23/441 from Georgia to US 74 in Jackson County.

US 29 from I-40 in Guilford County to Virginia.

US 52 from I-74 in Surry County to I-85 in Davidson County.

US 64 from US 52 in Davidson County to US 158 in Dare County.

US 70 from I-40 in Wake County to NC 24 in Carteret County.

US 74 from Tennessee to US 17 in Brunswick County, including Independence Boulevard from I-277 to I-485 in Mecklenburg County.

US 158 from US 52 in Forsyth County to I-85 in Granville County, and from I-85 in Warren County to US 64 in Dare County.

US 221 from South Carolina to NC 105 in Avery County.

US 264 from US 64 in Wake County to US 17 in Beaufort County.

US 321 from South Carolina to Tennessee.

US 421 from US 321 west of Boone in Watauga County to I-40 in Forsyth County, and from I-85 in Guilford County to NC 87 in Lee County.

NC 24 from I-77 in Mecklenburg County to US 70 in Carteret County.

NC 87 from US 421 in Lee County to US 74/76 in Columbus County.

NC 105 from US 221 in Avery County to US 321 in Watauga County.

NC 168 from US 158 in Currituck County to Virginia.

NC 194 from US 19E to US 221 in Avery County.

New route from US 158 to NC 12, including a new toll bridge over the Currituck Sound in Currituck County.

Interstate routes or corridors designated by Congress or officially accepted onto the Interstate System by the United States Department of Transportation.

Any portion of an urban loop project, as described in G.S. 136-180, that has been certified by the Department as complete and is no longer eligible for funding from the urban loop allocation specified in G.S. 136-176(b)(2).

The Department of Transportation may add a route to the Intrastate System if the route is a multilane route and has been designed and built to meet the construction criteria of the Intrastate System projects. No funds may be expended from the Trust Fund on routes added by the Department.

(b) Before encumbering or spending any funds on projects added to the Intrastate System by this section, in addition to those projects required to receive first priority pursuant to G.S. 136-179, the Department shall submit a report to the legislators representing the counties in which the priority projects that have not been completed are located on the current status of the project, the projected date for completion of the project, and the reasons for the delay in completing the project."

SECTION 30.21.(d) G.S. 136-179 reads as rewritten:

"**§ 136-179. Projects of Intrastate System funded from Trust Fund.**

~~Funds allocated from the Trust Fund for the Intrastate System may be used only for~~ In the allocation of funds as specified in G.S. 136-176(b)(1), first priority shall be given to the following projects ~~of~~ on the Intrastate System:

Route	Improvements	Affected Counties
I-40	Widening	Buncombe, Haywood, Guilford, Wake, Durham
I-77	Widening	Mecklenburg
I-85	Widening	Durham, Orange, Alamance, Guilford, Cabarrus, Mecklenburg, Gaston
I-95	Widening	Halifax
US-1	Complete 4-laning from Henderson to South Carolina Line (including 6-laning of Raleigh Beltline)	Vance, Franklin, Wake, Chatham, Lee, Moore, Richmond
US-13	Complete 4-laning from Virginia Line to US-17	Gates, Hertford, Bertie
US-17	Complete 4-laning from Virginia Line to South Carolina Line (including Washington, New Bern, and Jacksonville Bypasses)	Camden, Pasquotank, Perquimans, Chowan, Bertie, Martin, Beaufort, Craven, Jones, Onslow, Pender, New Hanover, Brunswick
US-19/US-19E	Complete 4-laning from US-23 to NC 194 in Ingalls	Madison, Yancey, Mitchell, Avery
US-19	Complete 4-laning	Cherokee, Macon, Swain
US-23	Complete 4-laning and upgrading existing 4-lanes from Tennessee Line to I-240	Madison, Buncombe
US-23-441	Complete 4-laning from US-19/US-74 to Georgia Line	Macon
US-52	Complete 4-laning from I-77 to Lexington (including new I-77 Connector)	Surry, Davidson
US-64	Complete 4-laning from Raleigh to Coast (including freeway construction from I-95 to US-17)	Edgecombe, Pitt, Martin, Washington, Tyrrell, Dare
US-64	Complete 4-laning from Lexington to Raleigh	Davidson, Randolph, Chatham, Wake
US-70	Complete 4-laning from Raleigh to Morehead City (including Clayton, Goldsboro, Kinston, Smithfield-Selma, and Havelock Bypasses predominately freeways	Wake, Johnston, Wayne, Lenoir, Craven

	on predominately new locations)	
US-74	Complete 4-laning from Charlotte to US-17 (including multilaning of Independence Blvd. in Charlotte, and Bypasses of Monroe, Rockingham, and Hamlet)	Mecklenburg, Union, Richmond, Robeson, Columbus
US-74	Complete 4-laning from I-26 to I-85 (including Shelby Bypass)	Polk, ~~Rutherford~~ Rutherford, Cleveland
US-158	Complete 4-laning from Winston-Salem to Whalebone	Forsyth, Guilford, Rockingham, Caswell, Person, Granville, Vance, Warren, Halifax, Northampton, Gates, Hertford, Pasquotank, Camden, Currituck, Dare
	New toll bridge over Currituck Sound	Currituck
US-221	Complete 4-laning from Linville to South Carolina	Avery, McDowell, Rutherford
US-220	Complete 4-laning from I-40 to US-1	Guilford, Randolph, Montgomery, Richmond
US-220/NC-68	Complete 4-laning from Virginia Line to I-40	Rockingham, Guilford
US-264	Complete 4-laning from US-64 to Washington (including Wilson and Greenville Bypasses) (including freeway construction from I-95 to Greenville)	Wilson, Greene, Pitt
US-321	Complete 4-laning from ~~Boone~~ Tennessee Line to South Carolina Line	Avery, Caldwell, Catawba, Lincoln, ~~Gaston~~Gaston, Watauga
US-421	Complete 4-laning from ~~Tennessee Line~~ US 321 west of Boone to I-40	Watauga, Wilkes, Yadkin
US-421	Complete 4-laning from Greensboro to Sanford (including Bypass of Sanford)	Chatham, Lee
NC-24	Complete 4-laning from Charlotte to Morehead City	Mecklenburg, Cabarrus, Stanly, Montgomery, Moore, Harnett, Cumberland, Sampson, Duplin, Onslow, Carteret
NC-87	Complete 4-laning from Sanford to US-74	Lee, Harnett, Cumberland, Bladen,

		Columbus
NC-105	Complete 4-laning from Boone to Linville	Watauga, Avery
NC-168	Complete multilaning from Virginia Line to US-158	Currituck
NC-194	Complete 4-laning from US-19E to US-221	Avery"

SECTION 30.21.(e) G.S. 136-182 reads as rewritten:

"**§ 136-182. Supplement for secondary road construction.**

Funds are allocated from the Trust Fund to increase allocations for secondary road construction made under G.S. 136-44.2A so that all State-maintained unpaved secondary roads with a traffic vehicular equivalent of at least 50 vehicles a day can be paved by the 2009-2010 fiscal year. ~~This supplement shall be discontinued when the Department of Transportation certifies that, with funds available from sources other than the Trust Fund, all State-maintained unpaved secondary roads, regardless of their traffic vehicular equivalent, can be paved during the following six years.~~ If all the State-maintained roads in a county have been paved under G.S. 136-44.7, except those that have unavailable rights-of-way or for which environmental permits cannot be approved to allow for paving, then the funds may be used for safety improvements on the paved or unpaved secondary roads in that county. ~~If the supplement is discontinued before the Trust Fund terminates, the funds that would otherwise be allocated under this section shall be added to the allocation from the Trust Fund for projects of the Intrastate System.~~"

SECTION 30.21.(f) G.S. 136-185 reads as rewritten:

"**§ 136-185. Maintenance reserve created in certain circumstances.**

If the Highway Trust Fund has not terminated but all contracts for the projects of the Intrastate System described in G.S. 136-179 have been let and the amount collected and allocated for the Intrastate System is enough to pay the contracts and retire any bonds issued under the State Highway Bond Act of 1996 for projects of the Intrastate System, all subsequent allocations of revenue for the Intrastate System shall be credited to a reserve account within the Trust Fund. Revenue in this reserve may be used only to maintain the projects of the Intrastate System.

If the Highway Trust Fund has not terminated but all contracts for the urban loops described in G.S. 136-180 have been let and the amount collected and allocated for the urban loops is enough to pay the contracts and retire any bonds issued under the State Highway Bond Act of 1996 for the urban loops, then all urban loops shall be considered a part of the Intrastate System, and all subsequent allocations of revenue for the urban loops shall be credited to ~~a reserve~~ the Intrastate account within the Trust Fund. ~~Revenue in this reserve may be used only to maintain the urban loops.~~"

GTP FUND REPAYMENT AND RESTRICTIONS

SECTION 30.22.(a) From funds borrowed from the Escheat Fund pursuant to G.S. 63A-4(a)(22) and G.S. 147-69.2(b)(11), the North Carolina Global TransPark Authority shall make a payment of two million five hundred thousand dollars ($2,500,000) to the Escheat Fund as soon as feasible after the effective date of this section and shall not expend or obligate any other funds that were borrowed from the Escheat Fund except after consultation with the Joint Legislative Commission on Governmental Operations on its intent to expend or obligate the funds.

SECTION 30.22.(b) G.S. 147-69.2(b)(11) reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

…

(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars ($25,000,000), that have a final maturity not later than ~~September 1, 2004.~~ July 1, 2005. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss."

SECTION 30.22.(c) All interest on funds borrowed from the Escheat Fund pursuant to G.S. 63A-4(a)(22) and G.S. 147-69.2(b)(11) and on account with the State Treasurer for the benefit of the North Carolina Global TransPark Authority may only be used to repay the loan.

PART XXXI. SALARIES AND EMPLOYEE BENEFITS

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 31.1.(a) Section 30.1(a) of S.L. 2003-284 reads as rewritten:

"**SECTION 30.1.(a)** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the salary of the Governor shall remain the amount set by G.S. 147-11(a)."

SECTION 31.1.(b) Effective July 1, 2004, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred eighteen thousand four hundred thirty dollars ($118,430)~~ one hundred twenty-one thousand three hundred ninety-one dollars ($121,391) annually, payable monthly."

SECTION 31.1.(c) Section 30.1(b) of S.L. 2003-284 reads as rewritten:

"**SECTION 30.1.(b)** Effective ~~July 1, 2003,~~ July 1, 2004, the annual salaries for the members of the Council of State, payable monthly, for the ~~2003-2004 and~~ 2004-2005 fiscal ~~years~~ year are:

Council of State	**Annual Salary**
Lieutenant Governor	$~~104,523~~107,136
Attorney General	~~104,523~~107,136
Secretary of State	~~104,523~~107,136
State Treasurer	~~104,523~~107,136
State Auditor	~~104,523~~107,136
Superintendent of Public Instruction	~~104,523~~107,136
Agriculture Commissioner	~~104,523~~107,136
Insurance Commissioner	~~104,523~~107,136
Labor Commissioner	~~104,523~~107,136"

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

SECTION 31.2. Section 30.2 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.2.** In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the ~~2003-2004 and~~ 2004-2005 fiscal ~~years~~ year are:

Nonelected Department Heads	**Annual Salary**
Secretary of Administration	$~~102,119~~104,672
Secretary of Correction	~~102,119~~104,672
Secretary of Crime Control and Public Safety	~~102,119~~104,672
Secretary of Cultural Resources	~~102,119~~104,672
Secretary of Commerce	~~102,119~~104,672
Secretary of Environment and Natural Resources	~~102,119~~104,672

Secretary of Health and Human Services	~~102,119~~104,672
Secretary of Juvenile Justice and Delinquency Prevention	~~102,119~~104,672
Secretary of Revenue	~~102,119~~104,672
Secretary of Transportation	~~102,119~~104,672"

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 31.3. Section 30.3 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.3.** The annual salaries, payable monthly, for the ~~2003-2004 and~~ 2004-2005 fiscal ~~years~~ year for the following executive branch officials are:

Executive Branch Officials	**Annual Salary**
Chairman, Alcoholic Beverage Control Commission	~~$92,946~~ $95,270
State Controller	~~130,078~~ 133,330
Commissioner of Motor Vehicles	~~92,946~~ 95,270
Commissioner of Banks	~~104,523~~ 107,136
Chairman, Employment Security Commission	~~129,913~~ 133,161
State Personnel Director	~~102,119~~ 104,672
Chairman, Parole Commission	~~84,871~~ 86,993
Members of the Parole Commission	~~78,356~~ 80,315
Chairman, Utilities Commission	~~116,405~~ 119,315
Members of the Utilities Commission	~~104,523~~ 107,136
Executive Director, Agency for Public Telecommunications	~~78,356~~ 80,315
Director, Museum of Art	~~95,240~~ 97,621
Executive Director, North Carolina Agricultural Finance Authority	~~90,470~~ 92,732
State Chief Information Officer	~~130,000~~ 133,250"

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 31.4. Section 30.4 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.4.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the ~~2003-2004 and~~ 2004-2005 fiscal ~~years~~ year are:

Judicial Branch Officials	**Annual Salary**
Chief Justice, Supreme Court	~~$118,430~~ $121,391
Associate Justice, Supreme Court	~~115,336~~ 118,219
Chief Judge, Court of Appeals	~~112,452~~ 115,263
Judge, Court of Appeals	~~110,530~~ 113,293
Judge, Senior Regular Resident Superior Court	~~107,527~~ 110,215
Judge, Superior Court	~~104,523~~ 107,136
Chief Judge, District Court	~~94,912~~ 97,285
Judge, District Court	~~91,909~~ 94,207
Administrative Officer of the Courts	~~107,527~~ 110,215
Assistant Administrative Officer of the Courts	~~98,216~~ 100,671

"**SECTION 30.4.(b)** The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average annual salaries of assistant district attorneys or assistant public defenders in that district do not exceed ~~sixty thousand one hundred ninety-one dollars ($60,191),~~ sixty-one thousand six hundred ninety-six dollars ($61,696), and the minimum annual salary of any assistant district attorney or assistant public defender is at least ~~thirty-one thousand thirty-five dollars ($31,035),~~ thirty-two thousand thirty-five dollars ($32,035), effective ~~July 1, 2003.~~July 1, 2004.

"**SECTION 30.4.(c)** Permanent, full-time employees of the Judicial Department, whose salaries are not itemized in this Part, shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part. Effective July 1, 2004, the annual salaries of permanent, full-time employees of the Judicial Department whose salaries

are not itemized in this Part shall be increased by the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%).

"**SECTION 30.4.(d)** The annual salaries in effect for fiscal year 2004-2005 for all permanent part-time employees of the Judicial Department shall be increased on or after July 1, 2004, by pro rata amounts of one thousand dollars ($1,000) or by two and one-half percent (2.5%), whichever is greater."

CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 31.5.(a) Section 30.5 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.5.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the compensation of clerks of superior court shall remain as set forth in G.S. 7A-101(a)."

SECTION 31.5.(b) Effective July 1, 2004, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	~~$69,911~~$71,659
100,000 to 149,999	~~78,452~~ 80,413
150,000 to 249,999	~~86,994~~ 89,169
250,000 and above	~~95,537.~~ 97,925.

The salary schedule in this subsection is intended to represent the following approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES

SECTION 31.6.(a) Section 30.6 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.6.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the compensation of assistant and deputy clerks of superior court shall remain as set forth in G.S. 7A-102(c1), except that there shall be awarded to each clerk not receiving a statutory step increase a compensation bonus for the 2003-2004 fiscal year as authorized in this Part."

SECTION 31.6.(b) Effective July 1, 2004, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	~~$26,515~~ $27,515
Maximum	~~46,464~~ 47,626

Deputy Clerks	Annual Salary
Minimum	~~$22,565~~ $23,565
Maximum	~~35,934~~ 36,934."

MAGISTRATES' SALARY INCREASES

SECTION 31.7.(a) Section 30.7 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.7.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the compensation of magistrates shall remain as set forth in G.S. 7A-171.1, except that there shall be awarded to each magistrate not receiving a statutory step increase a compensation bonus for the 2003-2004 fiscal year as authorized in this Part."

SECTION 31.7.(b) Effective July 1, 2004, G.S. 7A-171.1 reads as rewritten:

"**§ 7A-171.1. Duty hours, salary, and travel expenses within county.**

(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	~~$26,889~~ $27,889
Step 1	~~29,525~~ 30,525
Step 2	~~32,393~~ 33,393
Step 3	~~35,523~~ 36,523
Step 4	~~38,952~~ 39,952
Step 5	~~42,721~~ 43,789
Step 6	~~46,864~~ 48,036

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, ~~an individual who, when initially appointed as a full-time magistrate,~~ a magistrate who is licensed to practice law in North ~~Carolina,~~ Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. ~~This magistrate's salary shall increase to the next step every four years on the anniversary of~~

~~the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.~~

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	~~$21,325~~ $22,325
1 or more but less than 3 years of service	~~22,389~~ 23,389
3 or more but less than 5 years of service	~~24,530.~~ 25,530.

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

(2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

GENERAL ASSEMBLY PRINCIPAL CLERKS

SECTION 31.8.(a) Section 30.8 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.8.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the compensation of General Assembly principal clerks shall remain as set forth in G.S. 120-37, except that there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part."

SECTION 31.8.(b) Effective July 1, 2004, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~eighty-eight thousand three hundred six dollars ($88,306)~~ ninety thousand five hundred fourteen dollars ($90,514) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

SERGEANT-AT-ARMS AND READING CLERKS

SECTION 31.9.(a) Section 30.9 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.9.** For the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, the compensation of General Assembly sergeant-at-arms and reading clerks shall remain as set forth in G.S. 120-37."

SECTION 31.9.(b) Effective July 1, 2004, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred ninety-two dollars ($292.00)~~ three hundred eleven dollars ($311.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

LEGISLATIVE EMPLOYEES

SECTION 31.10. Effective July 1, 2004, the Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2003-2004 by the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%). Nothing in this act limits any of the provisions of G.S. 120-32.

COMMUNITY COLLEGE PERSONNEL

SECTION 31.11. The Director of the Budget shall transfer to the North Carolina Community College System Office from the Reserve for Compensation Increases created in this act for fiscal year 2004-2005 funds necessary to provide an annual salary increase of the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%), including funds for the employer's retirement and social security contributions, commencing July 1, 2004, for all permanent full-time community college institutional personnel supported by State funds.

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION

SECTION 31.12.(a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal year 2004-2005, to provide an

annual salary increase of the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%), including funds for the employer's retirement and social security contributions, commencing July 1, 2004, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). The percentage annual salary increase of two and one-half percent (2.5%) authorized by this section shall be made on an aggregated average basis, and these funds shall be allocated to individuals according to the rules adopted by the Board of Governors or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may not be used for any purpose other than for salary increases and employer contributions as provided by this section.

For any EPA employee whose salary is subject to the aggregate average percentage increase of two and one-half percent (2.5%) under this section because a one thousand dollar ($1,000) increase would be less than the two and one-half percent (2.5%) annual salary increase for that employee, the Board of Governors and the Board of Trustees of the North Carolina School of Science and Mathematics are strongly encouraged to give each affected employee a minimum of a one thousand dollar ($1,000) annual salary increase.

SECTION 31.12.(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal year 2004-2005, to provide an average annual salary increase of two and one-half percent (2.5%), including funds for the employer's retirement and social security contributions, commencing July 1, 2003, for all teaching employees of the North Carolina School of Science and Mathematics supported by State funds and whose salaries are exempt from the State Personnel Act (EPA).

SECTION 31.12.(c) Section 30.12(b) of S.L. 2003-284 reads as rewritten:

"**SECTION 30.12.(b)** The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal ~~years~~ year 2003-2004 ~~and 2004-2005,~~ to provide an average annual salary increase of one and eighty-one hundredths percent (1.81%), including funds for the employer's retirement and social security contributions, commencing July 1, 2003, for all teaching employees of the North Carolina School of Science and Mathematics supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section."

MOST STATE EMPLOYEES

SECTION 31.13. Section 30.13 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.13.(a)** The salaries in effect June 30, 2003, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall remain in effect for the 2003-2004 ~~and 2004-2005 fiscal years,~~ fiscal year, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part. Effective July 1, 2004, the annual salaries of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund, shall be increased by the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%), unless otherwise provided by this act.

"**SECTION 30.13.(b)** Except as otherwise provided in this act, the compensation of permanent full-time State officials and persons in exempt positions that are

recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall remain in effect, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part. Effective July 1, 2004, the annual compensation of permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by the greater of one thousand dollars ($1,000) or two and one-half percent (2.5%), unless otherwise provided by this act.

"**SECTION 30.13.(c)** ~~The~~ For the 2003-2004 fiscal year, the salaries of all permanent part-time State employees shall remain in effect, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part. The salaries in effect for fiscal year 2004-2005 for all permanent part-time State employees shall be increased on or after July 1, 2004, by pro rata amounts of one thousand dollars ($1,000) or two and one-half percent (2.5%), whichever is greater.

"**SECTION 30.13.(d)** The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds for salaries in accordance with subsection (a), (b), or (c) of this section including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

"**SECTION 30.13.(e)** Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the greater of the one thousand dollar ($1,000) or two and one-half percent (2.5%) increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2004."

ALL STATE-SUPPORTED PERSONNEL

SECTION 31.14. Section 30.14 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.14.(a)** Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall remain in effect and be paid from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

"**SECTION 30.14.(a1)** Effective July 1, 2004, salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

"**SECTION 30.14.(b)** The salaries authorized under this act do not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

"**SECTION 30.14.(c)** The compensation bonuses do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to October 1, 2003. The salary increases provided by this Part are to be effective July 1, 2004, and do not apply to persons separated from State service due to resignation, dismissal, reduction-in-force, death, or retirement, whose last workday is prior to July 1, 2004. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

"**SECTION 30.14.(d)** The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2003-2004 and fiscal year 2004-2005 all funds necessary for the compensation increases provided by this act, including funds for the employer's retirement and social security contributions.

"**SECTION 30.14.(e)** Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

"**SECTION 30.14.(f)** Permanent full-time employees who work a nine-, ten-, or eleven-month work year schedule shall receive the one thousand dollars ($1,000) or two and one-half percent (2.5%) annual increase provided by this act, whichever is greater."

HOUSING FINANCE DIRECTOR

SECTION 31.15.(a) G.S. 122A-4(f) reads as rewritten:

"(f) The Governor shall designate from among the members of the Board a chairman and a vice-chairman. The terms of the chairman and vice-chairman shall extend to the earlier of either two years or the date of expiration of their then current terms as members of the Board of Directors of the Agency. The Agency shall exercise all of its prescribed statutory powers independently of any principal State Department except as described in this Chapter. The Executive Director of the Agency shall be appointed by the Board of Directors, subject to approval by the Governor. All staff and employees of the Agency shall be appointed by the Executive Director, subject to approval by the Board of Directors; shall be eligible for participation in the State Employees' Retirement System; and shall be exempt from the provisions of the State Personnel Act. All employees other than the Executive Director shall be compensated in accordance with the salary schedules adopted pursuant to the State Personnel Act. The salary of the Executive Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act.~~ Board of Directors. The salary of the Executive Director and all staff and employees of the Agency shall not be subject to any limitations imposed pursuant to any salary schedule adopted pursuant to the terms of the State Personnel Act. The Board of Directors shall, subject to the approval of the Governor, elect and prescribe the duties of any other officers it finds necessary or advisable, and the ~~General Assembly~~ Board of Directors shall fix the compensation of these ~~officers in the Current Operations Appropriations Act.~~ officers. The books and records of the Agency shall be maintained by the Agency and shall be subject to periodic review and audit by the State.

No part of the revenues or assets of the Agency shall inure to the benefit of or be distributable to its members or officers or other private persons. The members of the Agency shall receive no compensation for their services but shall be entitled to receive, from funds of the Agency, for attendance at meetings of the Agency or any committee thereof and for other services for the Agency reimbursement for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.

The Executive Director shall administer, manage and direct the affairs and business of the Agency, subject to the policies, control and direction of the members of the Agency Board of Directors. The Secretary of the Agency shall keep a record of the proceedings of the Agency and shall be custodian of all books, documents and papers filed with the Agency, the minute book or journal of the Agency and its official seal. The Secretary may have copies made of all minutes and other records and documents of the Agency and may give certificates under the official seal of the Agency to the effect that such copies are true copies, and all persons dealing with the Agency may rely upon such certificates. Seven members of the Board of Directors of the Agency shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the Board of Directors duly called and held shall be necessary for any action taken by the Board of Directors of the Agency, except adjournment; provided, however, that the Board of Directors may appoint an executive committee to act in behalf of said Board during the period between regular meetings of said Board, and said committee shall have full power to act upon the vote of a majority of its members. No vacancy in the membership of the Agency shall impair the rights of a quorum to exercise all the rights and to perform all the duties of the Agency."

SECTION 31.15.(b) The salary of the Executive Director of the North Carolina Housing Finance Agency, as fixed by the General Assembly in Section 30.3 of S.L. 2003-284, shall remain in effect until the Board of Directors fixes the Director's compensation as authorized by this act.

SALARY ADJUSTMENT FUND

SECTION 31.16.(a) Up to five million dollars ($5,000,000) in any remaining appropriations in the Reserve for Compensation Increases authorized for employee salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund. Funds transferred to the Salary Adjustment Fund under this act shall be used to fund agency requests for the following purposes:

(1) Salary range revisions to provide competitive salary rates for affected job classifications in response to changes in labor market salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

(2) Reallocation of positions to higher-level job classifications to compensate employees for more difficult duties at competitive salary rates as documented through data collection and analysis according to accepted human resource professional practices and standards.

Priority funding shall be given to those salary range revisions and reallocations already approved. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations prior to the allocation of any salary adjustment funds for any State agency.

SECTION 31.16.(b) The Judicial Department is eligible for the funding authorized in subsection (a) of this section.

TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION SALARY INCREASES

SECTION 31.16A. For the 2004-2005 fiscal year, the Secretary of Revenue shall transfer at the end of each quarter from the State sales and use tax net collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost of any legislative salary increase for employees of the Wildlife Resources Commission.

REPORT ON PROPOSED UNIFIED LEAVE POLICY

SECTION 31.16C.(a) The State Personnel Commission and the Board of Governors of The University of North Carolina shall report to the Senate and the House of Representatives Appropriations Committees by February 15, 2005, on their joint recommendation to implement a unified leave policy for all State employees subject to Article 2 of Chapter 126 of the General Statutes, or alternatively, for employees of The University of North Carolina who are subject to that Article. The report at a minimum shall address all of the following items with respect to implementing a proposed unified leave policy:

(1) The rationale for adopting a unified leave policy separate and apart from the current traditional leave policies for State employees in agencies, departments, and universities.

(2) The potential financial impact on the Teachers' and State Employees' Retirement System with respect to the amount of unused leave an employee may count as credit toward retirement years of service.

(3) The portability of employee leave balances when moving from the current traditional leave systems to a unified leave system and from a unified leave system to the current traditional leave system in other State agencies and departments.

(4) The potential implementation and future continuation costs for a unified leave system.

(5) A comparison of leave benefits between a unified leave program and the current traditional leave programs and policies.

(6) A detailed plan as to the implementation of recommended leave policy changes and how career employees' leave will be converted under the new plan.

(7) Any other relevant information and statutory changes that are needed.

SECTION 31.16C.(b) No unified leave policy may be implemented without an act of the General Assembly expressly authorizing its implementation. This subsection does not apply to the University of North Carolina Health Care System, which shall continue to be governed by G.S. 116-37.

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 31.16D. Section 30.16(c) of S.L. 2003-284 reads as rewritten:

"**SECTION 30.16.(c)** Effective July 1, 2004, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2004-2005 fiscal year are (i) ~~five and seventy-seven hundredths percent (5.77%)~~ five and eight hundred fifteen thousandths percent (5.815%) – Teachers and State Employees; (ii) ~~ten and seventy-seven hundredths percent (10.77%)~~ ten and eight hundred fifteen thousandths percent (10.815%) – State Law Enforcement Officers; (iii) ~~ten and fifty-six hundredths percent (10.56%)~~ ten and four hundred eight-five thousandths percent (10.485%) – University Employees' Optional Retirement System; (iv) ~~ten and fifty-six hundredths percent (10.56%)~~ ten and four hundred eight-five thousandths percent (10.485%) – Community College Optional Retirement Program; (v) ~~fifteen and twelve hundredths percent (15.12%)~~ fifteen and seventy-nine hundredths percent (15.79%) – Consolidated Judicial Retirement System; and (vi) three and twenty hundredths percent (3.20%) – Legislative Retirement System. Each of the foregoing contribution rates includes three and twenty hundredths percent (3.20%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, the Community College Optional Retirement Program, and the University Employees' Optional Retirement Program includes ~~fifty-two hundredths percent (0.52%)~~ four hundred forty-five thousandths percent (0.445%) for the Disability Income Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income."

RETIREMENT SYSTEM COLAS

SECTION 31.17.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(mmm) From and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2003, shall be increased by one and seven-tenths percent (1.7%) of the allowance payable on June 1, 2004, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2003, but before June 30, 2004, shall be increased by a prorated amount of one and seven-tenths percent (1.7%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2003, and June 30, 2004."

SECTION 31.17.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(y) From and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2003, shall be increased by one and seven-tenths percent (1.7%) of the allowance payable on June 1, 2004, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2003, but before June 30, 2004, shall be increased by a prorated amount of one and seven-tenths percent (1.7%) of the allowance payable as determined by the Board of

Trustees based upon the number of months that a retirement allowance was paid between July 1, 2003, and June 30, 2004."

SECTION 31.17.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(s) From and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2004, shall be increased by one and seven-tenths percent (1.7%) of the allowance payable on June 1, 2004, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2004, but before June 30, 2004, shall be increased by a prorated amount of one and seven-tenths percent (1.7%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2004, and June 30, 2004."

INCREASE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

SECTION 31.18. G.S. 58-86-55 reads as rewritten:

"**§ 58-86-55. Monthly pensions upon retirement.**

Any member who has served 20 years as an "eligible fireman" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred fifty-eight dollars ($158.00)~~ one hundred sixty-one dollars ($161.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2003,~~ July 1, 2004, receive a pension of ~~one hundred fifty-eight dollars ($158.00)~~ one hundred sixty-one dollars ($161.00) per month.

Members shall pay ten dollars ($10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred fifty-eight dollars ($158.00)~~ one hundred sixty-one dollars ($161.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars ($10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed

because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a fireman or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars ($10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

RETIRED TEACHERS RETURNING TO CLASSROOM WITHOUT LOSS OF RETIREMENT BENEFITS/OPTION EXTENDED

SECTION 31.18A.(a) Subsection (d) of Section 28.24 of S.L. 1998-212, as rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

"(d) This section becomes effective January 1, 1999, and expires June 30, ~~2004.~~ 2005."

SECTION 31.18A.(b) The introductory language of Section 67 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

"**SECTION 67.** Effective January 1, 1999, through June 30, ~~2004,~~ 2005, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:".

SECTION 31.18A.(c) Subsection (b) of Section 67.1 of S.L. 1998-217, as rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

"(b) This section becomes effective January 1, 1999, and expires June 30, ~~2004.~~2005."

SECTION 31.18A.(d) Subsection (c) of Section 32.25 of S.L. 2001-424, as rewritten by Section 28.10 of S.L. 2002-126, reads as rewritten:

"**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June 30, ~~2004.~~ 2005."

SECTION 31.18A.(e) The Retirement Systems Division shall conduct an analysis of the postretirement reemployment issue, including a survey of peer State systems, cost analyses, review of relevant impacting federal regulations, and the administrative impact of various postretirement reemployment policies. The Retirement Systems Division shall develop findings and recommendations for the adoption of an efficient and fiscally sound policy on postretirement reemployment and shall report those findings and recommendations, as well as the analysis that produced them, to the General Assembly by February 1, 2005.

SECTION 31.18A.(f) In order to facilitate the success of its request for a private letter ruling from the Internal Revenue Service, as mandated by Section 28.13(d) of S.L. 2002-126, the Retirement Systems Division may modify the scope of its inquiry to the extent that a substantive ruling may be obtained and used by the General Assembly to adopt an efficient and fiscally sound policy on postretirement reemployment.

SECTION 31.18A.(g) Notwithstanding any other provision of law, effective July 1, 2004, each local school administrative unit shall pay to the Teachers' and State Employees' Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy hundredths percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt from the earnings cap, are being paid. Each local school administrative unit shall report monthly to the Retirement Systems Division on payments made pursuant to this subsection.

Notwithstanding any other provision of law, effective July 1, 2004, any portion of the payment made by a local school administrative unit to a reemployed

teacher who is exempt from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution rate, that exceeds the State-supported salary level for that position shall be paid from local funds.

SECTION 31.18A.(h) This section becomes effective June 30, 2004.

STUDY MANDATORY RETIREMENT FOR JUDGES

SECTION 31.18B. The Administrative Office of the Courts shall study the mandatory retirement age for judges and recommend whether the current policy should be changed. The study should evaluate increasing or eliminating the mandatory retirement age, allowing judges who reach the mandatory age to finish out their elected or appointed terms, and any other options. The Administrative Office of the Courts shall report its findings and recommendations to the General Assembly by February 1, 2005.

CLARIFY THAT PROBATION AND PAROLE OFFICERS ARE COVERED BY THE LAW-ENFORCEMENT OFFICER'S, FIREMEN'S, RESCUE SQUAD WORKERS' AND CIVIL AIR PATROL MEMBERS' DEATH BENEFITS ACT

SECTION 31.18C.(a) G.S. 143-166.2(d) reads as rewritten:

"(d) The term "law-enforcement officer," "officer," or "fireman" shall mean all law-enforcement officers employed full time by the State of North Carolina or any county or municipality thereof and all full-time custodial employees and probation and parole officers of the North Carolina Department of Correction and all full-time institutional and detention employees of the Department of Juvenile Justice and Delinquency Prevention. The term "firemen" shall mean both "eligible fireman"; or "fireman" as defined in G.S. 58-86-25 and all full-time, permanent part-time and temporary employees of the North Carolina Division of Forest Resources, Department of Environment and Natural Resources, during the time they are actively engaged in fire-fighting activities; and shall mean all full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in fire-fighting activities, during the time they are training fire fighters or rescue squad workers, and during the time they are engaged in activities as members of the State Emergency Response Team, when the Team has been activated. The term "rescue squad worker" shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, this person must belong to an organized rescue squad which is eligible for membership in the North Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue Squads, Inc., must file a roster of those members meeting the above requirements with the State Treasurer on or about January 1 of each year, and this roster must be certified to by the secretary of said association. In addition, the term "rescue squad worker" shall mean a member of an ambulance service certified by the Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about January 1 of each year. The term "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-491(a). The term "fireman" shall also mean county fire marshals when engaged in the performance of their county duties. The term "rescue squad worker" shall also mean county emergency services coordinators when engaged in the performance of their county duties."

SECTION 31.18C.(b) This section is effective when it becomes law and applies to persons killed in the line of duty on or after that date.

RETIREE HEALTH BENEFIT FUND

SECTION 31.20.(a) G.S. 135-7 reads as rewritten:

"**§ 135-7. Management of funds.**

(a) Vested in Board of Trustees. – The Board of Trustees shall be the trustee of the several funds created by this Chapter as provided in this section and in G.S. 135-8.

(b) Regular Interest Allowance. – The Board of Trustees annually shall allow regular interest on the mean amount for the preceding year in each of the funds with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds, and shall be annually credited thereto by the Board of Trustees from interest and other earnings on the moneys of the Retirement System. Any additional amount required to meet the interest on the funds of the Retirement System shall be paid from the pension accumulation fund, and any excess of earnings over such amount required shall be paid to the pension accumulation fund. Regular interest shall mean such per centum rate to be compounded annually as shall be determined by the Board of Trustees on the basis of the interest earnings of the System for the preceding year and of the probable earnings to be made, in the judgment of the Board, during the immediate future, such rate to be limited to a minimum of three per centum (3%) and a maximum of four per centum (4%), with the latter rate applicable during the first year of operation of the Retirement System.

(c) Custodian of Funds; Disbursements; Bond of Director. – The State Treasurer shall be the custodian of the several funds and shall invest their assets in accordance with the provisions of G.S. 147-69.2 and 147-69.3.

(d) Deposits to Meet Disbursements. – For the purpose of meeting disbursements for pensions, annuities and other payments there may be kept available cash, not exceeding ten per centum (10%) of the total amount in the several funds of the Retirement System, on deposit with the State Treasurer of North Carolina.

(e) Personal Profit or Acting as Surety Prohibited. – Except as otherwise herein provided, no trustee and no employee of the Board of Trustees shall have any direct interest in the gains or profits of any investment made by the Board of Trustees, nor as such receive any pay or emolument for his service. No trustee or employee of the Board shall, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the Board of Trustees; nor shall any trustee or employee of the Board of Trustees become an endorser or surety or in any manner an obligor for moneys loaned or borrowed from the Board of Trustees.

(f) Retiree Health Benefit Fund. – The Retiree Health Benefit Fund is established as a fund in which accumulated contributions from employers and any earnings on those contributions shall be used to provide health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter. The Retiree Health Benefit Fund shall be administered in accordance with the provisions of subsection (a) of this section. Employer contributions to the Fund are irrevocable. The assets of the Fund are dedicated to providing health benefits to retired and disabled employees and their applicable beneficiaries as provided by this Chapter and are not subject to the claims of creditors of the employers making contributions to the Fund."

SECTION 31.20.(b) The assets contained in the Department of State Treasurer's Retirees Clearing Account (Code 19342) and the Department of State Treasurer's Reserve for Retirement Health Premiums (Code 19942) at the end of June 30, 2004, shall be deposited into the Retiree Health Benefit Fund created by this section on July 1, 2004.

EMPLOYEES OF NORTH CAROLINA SYMPHONY SOCIETY, INC., UNDER STATE HEALTH PLAN

SECTION 31.21.(a) G.S. 135-40.1(6) reads as rewritten:

"(6) Employing Unit. – A North Carolina School System; Community College; State Department, Agency or Institution; Administrative

Office of the Courts; or Association or Examining Board whose employees are eligible for membership in a State-Supported Retirement System. An employing unit also shall mean a charter school in accordance with Part 6A of Chapter 115C of the General Statutes whose board of directors elects to become a participating employer in the Plan under G.S. 135-40.3A. Bona fide fire departments, rescue or emergency medical service squads, and national guard units are deemed to be employing units for the purpose of providing benefits under this Article. The North Carolina Symphony Society, Inc., is deemed to be an employing unit for the purpose of providing benefits under this Article."

SECTION 31.21.(b) G.S. 135-40.2(a2) reads as rewritten:

"(a2) The following persons are eligible for coverage under the Plan on a partially contributory basis, subject to the provisions of G.S. 130-40.3.

(1) A school employee in a job-sharing position as defined in ~~G.S. 115C-302.2(b) shall be eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-40.3.~~G.S. 115C-302.2(b). If these employees elect to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's total noncontributory premiums. Individual employees shall pay the balance of the total noncontributory premiums not paid by the employing unit.

(2) Employees of the North Carolina Symphony Society, Inc., their eligible spouses, and eligible dependent children."

SECTION 31.21.(c) G.S. 135-39.6A(d) reads as rewritten:

"(d) In setting premiums for firemen, rescue squad workers, and members of the national guard, and their eligible dependents, the Executive Administrator and Board of Trustees shall establish rates separate from those affecting ~~other members of~~ active and retired teachers, State employees, and their dependents enrolled in the Plan. In setting premiums for employees of the North Carolina Symphony Society, Inc., and their eligible dependents, the Executive Administrator and Board of Trustees shall establish rates separate from those affecting active teachers and State employees and their dependents enrolled in the Plan. These separate premium rates shall include rate factors for incurred but unreported claim costs, for the effects of adverse selection from voluntary participation in the Plan, and for any other actuarially determined measures needed to protect the financial integrity of the Plan for the benefit of its served employees, retired employees, and their eligible dependents."

SECTION 31.21.(d) This section becomes effective July 1, 2004.

TRICARE SUPPLEMENTAL HEALTH INSURANCE

SECTION 31.24.(a) In lieu of the maximum annual employer contributions to the Teachers' and State Employees' Comprehensive Major Medical Plan authorized in Section 30.16(e) of S.L. 2003-284, employers, including the State Retirement Systems, may make contributions, payable monthly, each monthly payment not to exceed sixty-three dollars and fifty cents ($63.50), on behalf of each covered employee or retired employee to sponsors of TRICARE Supplemental Health Insurance programs for employees or retired employees who elect to be covered by the TRICARE Military Health System's standard benefit option and who elect not to be covered by the Teachers' and State Employees' Comprehensive Major Medical Plan.

SECTION 31.24.(b) This section becomes effective January 1, 2005.

STATE HEALTH PLAN: LIABILITY OF THIRD PARTIES; RIGHT OF SUBROGATION; RIGHT OF FIRST RECOVERY

SECTION 31.25. Part 3 of Article 3 of Chapter 135 of the General Statutes is amended by adding the following new section to read:

"**§ 135-40.13A. Liability of third person; right of subrogation; right of first recovery.**

Whenever the Plan pays benefits for hospital, surgical, medical, or prescription drug expenses, with respect to any Plan member, the Plan shall be subrogated, to the extent of any payments under the Plan, to all of the Plan member's rights of recovery against liable third parties, regardless of the entity or individual from whom recovery may be due. The Plan member shall do nothing to prejudice these rights. The Plan has the right to first recovery on any amounts so recovered, whether by the Plan or the Plan member, and whether recovered by litigation, arbitration, mediation, settlement, or otherwise. If the Plan is precluded from exercising its right of subrogation, it may exercise its rights of recovery to the extent allowed by law. If the Plan recovers damages from a third party in excess of the claims paid, any excess will be paid to the member, less a proportionate share of the costs of collection. In the event a Plan member recovers any amounts from a third party to which the Plan is entitled under this section, the Plan may recover the amounts directly from the Plan member. The Plan has a lien, for the value of claims paid related to the liability of the third party, on any damages subsequently recovered against the liable third party. If the Plan member fails to pursue the remedy against a liable third party, the Plan is subrogated to the rights of the Plan member and is entitled to enforce liability in the Plan's own name or in the name of the Plan member for the amount paid by the Plan."

LOCAL GOVERNMENTS PROVIDED OPTIONAL COVERAGE UNDER TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN

SECTION 31.26.(a) G.S. 135-40 is amended by adding the following new subsection to read:

"(a2) The State of North Carolina deems it to be in the public interest for employees of an employer, as defined for local government employers by G.S. 128-21(11), to be given the opportunity to participate in the benefits provided by the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan. Participation shall be voluntary for local government employers."

SECTION 31.26.(b) G.S. 135-40.1(6) reads as rewritten:

"(6) Employing Unit. – A North Carolina School System; Community College; State Department, Agency or Institution; Administrative Office of the Courts; or Association or Examining Board whose employees are eligible for membership in a State-Supported Retirement System. An employing unit also shall mean a charter school in accordance with Part 6A of Chapter 115C of the General Statutes whose board of directors elects to become a participating employer in the Plan under G.S. 135-40.3A. Bona fide fire departments, rescue or emergency medical service squads, and national guard units are deemed to be employing units for the purpose of providing benefits under this Article. An employing unit shall also mean an employer, as defined for local government employers by G.S. 128-21(11), that elects to provide benefits for its employees and retired employees and that meets all of the following conditions:

a. The local government employer, by resolution legally adopted by the employer and approved by the Executive Administrator and Board of Trustees, elects to have its employees become eligible to participate in the Plan, and to make the contributions as required by the Executive Administrator and Board of Trustees.

b. The local government employer enrolls all of its eligible employees, retired employees, and, as applicable, their eligible family members in the Plan. Eligible employees, retired

employees, and, as applicable, their eligible family members, shall participate in disease management, case management, and all other mandatory and voluntary cost containment measures implemented by the Executive Administrator and Board of Trustees.

c. If the local government employer elects to cover its retired employees under the Plan, then:

1. The agreement of the local government employer to make contributions on account of all of its retired employees shall be irrevocable, and should a local government employer for any reason become financially unable to make the contributions payable on account of its retired employees, then the employer shall be deemed to be in temporary default. Temporary default shall not relieve the employer from any liability for its contributions payable on account of its retired employees; and

2. The local government employer shall make a contribution to the Local Government Employees' Retirement System equal to the contribution required of all other employing units to the State Retirement Systems for covering their retired employees. If the local government employer does not participate in the Local Government Employees' Retirement System and has another formally established retirement plan, the local government employer shall remit to the Teachers' and State Employees' Comprehensive Major Medical Plan the amount of premium required by the Executive Administrator and Board of Trustees for coverage of retirees and their eligible family members."

SECTION 31.26.(c) G.S. 135-40.1(3) reads as rewritten:

"(3) Dependent Child. – A natural, legally adopted, or foster child of the employee and/or spouse, unmarried, up to the first of the month following his or her 19th birthday, whether or not the child is living with the employee, as long as the employee is legally responsible for such child's maintenance and support. Dependent child shall also include any child under age 19 who has reached his or her 18th birthday, provided the employee was legally responsible for such child's maintenance and support on his or her 18th birthday.

A foster child is covered (i) if living in a regular parent-child relationship with the expectation that the employee will continue to rear the child into adulthood, (ii) if at the time of enrollment, or at the time a foster child relationship is established, whichever occurs first, the employee applies for coverage for such child and submits evidence of a bona fide foster child relationship, identifying the foster child by name and setting forth all relevant aspects of the relationship, (iii) if the Claims Processor accepts the foster child as a participant through a separate written document identifying the foster child by name and specifically recognizing the foster child relationship, and (iv) if at the time a claim is incurred, the foster child relationship, as identified by the employee, continues to exist. Children placed in a home by a welfare agency which obtains control of, and provides for maintenance of, the child(ren), are not eligible participants.

Coverage may be extended beyond the 19th birthday under the following conditions:

a. If the dependent is a full-time student, between the ages of 19 and 26, who is pursuing a course of study that represents at least the normal workload of a full-time student at a school or college accredited by the state of jurisdiction.

b. The dependent is physically or mentally incapacitated to the extent that he or she is incapable of earning a living and (i) such handicap developed or began to develop before the dependent's 19th birthday, or (ii) such handicap developed or began to develop before the dependent's 26th birthday if the dependent was covered by the Plan in accordance with G.S. 135-40.1(3)a.

Dependent children of firemen, rescue squad workers, and members of the national guard are subject to the same terms and conditions as are other dependent children covered by this subdivision.

Except as otherwise provided in G.S. 135-40.1(6)b., dependent children of employees of employers, as defined for local government employers in G.S. 128-21(11), are subject to the same terms and conditions as are other dependent children covered by this subdivision."

SECTION 31.26.(d) G.S. 135-40.1(7) reads as rewritten:

"(7) Enrollment. – New employees must enroll themselves and their dependents within 30 days from the date of employment or from first becoming eligible on a noncontributory basis. Coverage may become effective on the first day of the month following date of entry on payroll or on the first day of the following month. New employees not enrolling themselves and their dependents within 30 days, or not adding dependents when first eligible as provided herein may enroll on the first day of any month but will be subject to a 12-month waiting period for preexisting health conditions, except for employees who elect to change their coverage in accordance with rules established by the Executive Administrator and Board of Trustees for optional prepaid hospital and medical benefit plans. Children born to covered employees having coverage type (2), or (3), as outlined in G.S. 135-40.3(d) shall be automatically covered at the time of birth without any waiting period for preexisting health conditions. Children born to covered employees having coverage type (1) shall be automatically covered at birth without any waiting period for preexisting health conditions so long as the Claims Processor receives notification within 30 days of the date of birth that the employee desires to change from coverage (1) to coverage type (2), or (3), provided that the employee pays any additional premium required by the coverage type selected retroactive to the first day of the month in which the child was born.

Newly acquired dependents (spouse/child) enrolled within 30 days of becoming an eligible dependent will not be subject to the 12-month waiting period for preexisting conditions. A dependent can become qualified due to marriage, adoption, entering a foster child relationship, due to the divorce of a dependent child or the death of the spouse of a dependent child, and at the beginning of each legislative session (applies only to enrolled legislators). Effective date for newly acquired dependents if application was made within the 30 days can be the first day of the following month. Effective date for an adopted child can be date of adoption, or date of placement in the adoptive parent's home, or the first of the month following the date of adoption or placement. Firemen, rescue squad workers, and members of the

national guard, and their eligible dependents are subject to the same terms and conditions as are new employees and their dependents covered by this subdivision. Enrollments in these circumstances must occur within 30 days of eligibility to enroll. Except as otherwise provided in G.S. 135-40.1(6)b., employees of employers, as defined for local government employers in G.S. 128-21(11), and their eligible dependents are subject to the same terms and conditions as are new employees and their dependents covered by this subdivision. Enrollments in these circumstances must occur within 30 days of eligibility to enroll."

SECTION 31.26.(e) G.S. 135-40.1(17) reads as rewritten:

"(17) Retired Employee (Retiree). – Retired teachers, State employees, and members of the General Assembly who are receiving monthly retirement benefits from any retirement system supported in whole or in part by contributions of the State of North Carolina, so long as the retiree is enrolled. On and after January 1, 1988, a retiring employee or retiree must have completed at least five years of contributory retirement service with an employing unit prior to retirement from any State-supported retirement system in order to be eligible for group benefits under this Part as a retired employee or retiree. Retired employee also means the retired or disabled employees of an employer, as defined for local government employers in G.S. 128-21(11), that receive a monthly benefit from the Local Government Employees' Retirement System or any other formal retirement plan established by their employer."

SECTION 31.26.(f) G.S. 135-40.3 is amended by adding the following new subsection to read:

"(g) Except as otherwise provided in G.S. 135-40.1(6)b., employees of employers, as defined for local government employers in G.S. 128-21(11), are subject to the same terms and conditions of this section as are employees. Except as otherwise provided in G.S. 135-40.1(6)b., eligible dependents of employees of local government employers are subject to the same terms and conditions of this section as are dependents of employees."

SECTION 31.26.(g) G.S. 135-40.2(a) is amended by adding the following new subdivision to read:

"(9) Employees and applicable retired employees of an employer, as defined for local government employers by G.S. 128-21(11), their eligible spouses and eligible dependent children as determined by their employer."

SECTION 31.26.(h) G.S. 135-40.2(b) is amended by adding the following new subdivision to read:

"(14) Employees and applicable retired employees of an employer, as defined for local government employers by G.S. 128-21(11), their eligible spouses and eligible dependent children as determined by their employer."

SECTION 31.26.(i) G.S. 135-40.2(a2) reads as rewritten:

"(a2) The following persons are eligible for coverage under the Plan on a partially contributory basis, subject to the provisions of G.S. 130-40.3:

(1) A school employee in a job-sharing position as defined in ~~G.S. 115C-302.2(b) shall be eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-40.3.~~G.S. 115C-302.2(b). If these employees elect to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's total noncontributory premiums. Individual

employees shall pay the balance of the total noncontributory premiums not paid by the employing unit.

(2) Employees and applicable retired employees of an employer, as defined for local government employers by G.S. 128-21(11), their eligible spouses and eligible dependent children as determined by their employer."

SECTION 31.26.(j) This section applies to Bladen, Cherokee, Rutherford, Washington, and Wilkes Counties only.

SECTION 31.26.(k) This section becomes effective July 1, 2004, and expires June 30, 2006.

STATE HEALTH PLAN EXECUTIVE ADMINISTRATOR AND DEPUTY EXECUTIVE ADMINISTRATOR EXEMPT FROM STATE PERSONNEL ACT

SECTION 31.27.(a) G.S. 135-39.4A reads as rewritten:

"**§ 135-39.4A. Executive Administrator.**

(a) The Plan shall have an Executive ~~Administrator.~~Administrator and a Deputy Executive Administrator. The Executive Administrator and the Deputy Executive Administrator positions are exempt from the provisions of Chapter 126 of the General Statutes as provided in G.S. 126-5(c1).

(b) The Executive Administrator shall be appointed by the Commissioner of Insurance. The term of employment and salary of the Executive Administrator shall be set by the Commissioner of Insurance upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits.

The Executive Administrator may be removed from office by the Commissioner of Insurance, upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits, and any vacancy in the office of Executive Administrator may be filled by the Commissioner of Insurance with the term of employment and salary set upon the advice of an executive committee of the Committee on Employee Hospital and Medical Benefits.

(c) to (e) Repealed by Session Laws 1987, c. 857, s. 5.

(f) The Executive Administrator shall appoint the Deputy Executive Administrator and may employ such clerical and professional staff, and such other assistance as may be necessary to assist the Executive Administrator and the Board of Trustees in carrying out their duties and responsibilities under this Article. The Executive Administrator may also negotiate, renegotiate and execute contracts with third parties in the performance of his duties and responsibilities under this Article; provided any contract negotiations, renegotiations and execution with a Claims Processor or with an optional prepaid hospital and medical benefit plan or with a preferred provider of institutional or professional hospital and medical care or with a pharmacy benefit manager shall be done only after consultation with the Committee on Employee Hospital and Medical Benefits.

(g) The Executive Administrator shall be responsible for:

(1) Cost management programs;
(2) Education and illness prevention programs;
(3) Training programs for Health Benefit Representatives;
(4) Membership functions;
(5) Long-range planning;
(6) Provider and participant relations; and
(7) Communications.

Managed care practices used by the Executive Administrator in cost management programs are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223, 58-3-235, 58-3-240, 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.

(h) The Executive Administrator shall make reports and recommendations on the Plan to the President of the Senate, the Speaker of the House of Representatives and the Committee on Employee Hospital and Medical Benefits."

SECTION 31.27.(b) G.S. 126-5(c1) is amended by adding the following new subdivision to read:

"(23) The Executive Administrator and the Deputy Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan."

RESIDENTIAL TREATMENT CENTERS/STATE HEALTH PLAN COVERAGE

SECTION 31.28. G.S. 135-40.7B(b) reads as rewritten:

"(b) Notwithstanding any other provision of this Part, the following necessary services for the care and treatment of chemical dependency and mental illness shall be covered under this section: allowable institutional and professional charges for inpatient care, outpatient care, intensive outpatient program services, partial hospitalization treatment, and residential care and treatment:

(1) For mental illness treatment:
   a. Licensed psychiatric hospitals;
   b. Licensed psychiatric beds in licensed general hospitals;
   c. Licensed residential treatment ~~facilities;~~ facilities that have 24-hour on-site care provided by a registered nurse and that hold current accreditation by a national accrediting body approved by the Plan's mental health case manager;
   d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
   e. Licensed intensive outpatient treatment programs; and
   f. Licensed partial hospitalization programs.

(2) For chemical dependency treatment:
   a. Licensed chemical dependency units in licensed psychiatric hospitals;
   b. Licensed chemical dependency hospitals;
   c. Licensed chemical dependency treatment facilities;
   d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
   e. Licensed intensive outpatient treatment programs;
   f. Licensed partial hospitalization programs; and
   g. Medical detoxification facilities or units."

PART XXXII. CAPITAL APPROPRIATIONS

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 32.1. There is appropriated from the General Fund for the 2004-2005 fiscal year the following amount for capital improvements:

Capital Improvements -General Fund	**2004-2005**
Department of Commerce – State Ports Authority	
Wilmington Port Replace Crane Rail	2,000,000
Radio Island Development and Improvements	2,000,000
Department of Environment and Natural Resources	
Water Resources Development Projects	26,492,000
North Carolina Museum of Art	

Expansion Planning Funds	2,200,000
University of North Carolina System	
Center for Design Innovation	2,000,000
Winston-Salem State University – Dept Life Sciences	2,000,000
UNC-Greensboro and NC A&T Millennium Campus	4,000,000
NC Motor Sports Testing and Research Complex	2,000,000
UNC-Wilmington – School of Nursing	500,000
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	**43,192,000**

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 32.2.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

	Name of Project	**2004-2005**
(1)	Wilmington Harbor Deepening	$9,300,000
(2)	Morehead City Harbor Maintenance	1,000,000
(3)	Manteo (Shallowbag) Bay Channel Maintenance	2,000,000
(4)	B. Everett Jordan Water Supply Storage	100,000
(5)	John H. Kerr Reservoir Operations Evaluation	600,000
(6)	Beaufort Harbor Maintenance Dredging (Carteret County)	80,000
(7)	Bogue Banks Shore Protection Study (Carteret County)	129,000
(8)	Surf City/North Topsail Beach Protection Study	350,000
(9)	West Onslow Beach (Topsail)	117,000
(10)	Swan Quarter (Hyde County) Flood Control Dikes	100,000
(11)	Hurricane Isabel Emergency Stream Cleanup – NE NC	2,000,000
(12)	Cape Fear River Basin Water Management Study	161,000
(13)	State Local Projects	2,839,000
(14)	Lower Lockwoods Folly Dredging	336,000
(15)	Currituck Sound Water Management Study	210,000
(16)	Aquatic Weed Control, Lake Gaston and Statewide	275,000
(17)	Deep Creek (Yadkin County) Water Management	2,000,000
(18)	Neuse River Basin Feasibility Study	400,000
(19)	Neuse Water and Sewer Project	3,500,000
(20)	Environmental Restoration Projects	700,000
(21)	Projected Feasibility Studies	200,000
(22)	Planning Assistance to Communities	95,000
TOTAL		**$26,492,000**

SECTION 32.2.(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 funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2004-2005 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.
(2) Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2004-2005.
(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 2005-2006 fiscal year.

SECTION 32.2.(c) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The semiannual 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.

SECTION 32.2.(d) Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach renourishment projects for the 2004-2005 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from General Fund appropriations to match the federal funds. Notwithstanding G.S. 143-16.3, if, after complying with subsections (a) and (b) of this section, the Department has funds available, then the Department may allocate funds for the following projects or any other projects: Silver Lake Harbor (Ocracoke, Hyde County), Far Creek Channel Maintenance (Engelhard, Hyde County), and Walters Slough Maintenance Dredging.

REPAIR AND RENOVATION RESERVE ALLOCATION

SECTION 32.3. Of the funds in the Reserve for Repairs and Renovations for the 2004-2005 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

UNIVERSITY OF NORTH CAROLINA AT WILMINGTON SCHOOL OF NURSING FACILITY PLANNING

SECTION 32.5. Of the funds appropriated in this act to the Board of Governors of The University of North Carolina the sum of five hundred thousand dollars ($500,000) for the 2004-2005 fiscal year shall be used for the planning and design of a facility for the University of North Carolina at Wilmington School of Nursing. These funds shall be used for advanced planning services through schematic design, siting and permitting, planning for infrastructure expansion to support building needs, and development of a detailed cost estimate to support the request for completion of design and construction funds.

PART XXXII-B. SALES TAX REFUNDS AND EXEMPTIONS

SALES TAX REFUNDS AND EXEMPTIONS

SECTION 32B.1. G.S. 105-164.14(j) reads as rewritten:

"(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an annual refund of sales and use taxes as provided in this subsection.

(1) Refund. – The owner of an eligible facility is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the eligible facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. – A facility is eligible under this subsection if it meets both of the following conditions:

a. It is primarily engaged in one of the industries listed in this subsection.

b. The Secretary of Commerce has certified that the owner of the facility will invest at least ~~one hundred million dollars ($100,000,000)~~the required amount of private funds to ~~acquire, construct, and equip~~construct the facility in this State. For the purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in an enterprise tier one, two, or three area as defined in G.S. 105-129.3, the required amount is fifty million dollars ($50,000,000). For all other facilities, the required amount is one hundred million dollars ($100,000,000).

(3) Industries. – This subsection applies to the following industries:

a. Aircraft manufacturing. Aircraft manufacturing means manufacturing or assembling complete aircraft.

~~a.~~b. Bioprocessing. Bioprocessing means biomanufacturing or processing that includes the culture of cells to make commercial products, the purification of biomolecules from cells, or the use of these molecules in manufacturing.

d. Computer manufacturing. Computer manufacturing means manufacturing or assembling electronic computers, such as personal computers, workstations, laptops, and computer servers. The term includes the assembly or integration of processors, coprocessors, memory, storage, and input/output devices into a user-programmable final product. The term does not include manufacturing or assembling computer peripheral equipment, such as storage devices, printers, monitors, input/output devices, and terminals.

g. Motor vehicle manufacturing. Motor vehicle manufacturing means any of the following:

1. Manufacturing complete automobiles and light-duty motor vehicles.

2. Manufacturing heavy-duty truck chassis and assembling complete heavy-duty trucks, buses, heavy-duty motor

homes, and other special purpose heavy-duty motor vehicles for highway use.

3. Manufacturing complete military armored vehicles, nonarmored military universal carriers, combat tanks, and specialized components for combat tanks.

~~b.~~j. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines. Pharmaceutical and medicine manufacturing means any of the following:

1. Manufacturing biological and medicinal products. For the purpose of this sub-subdivision, a biological product is a preparation that is synthesized from living organisms or their products and used medically as a diagnostic, preventive, or therapeutic agent. For the purpose of this sub-subdivision, bacteria, viruses, and their parts are considered living organisms.
2. Processing botanical drugs and herbs by grading, grinding, and milling.
3. Isolating active medicinal principals from botanical drugs and herbs.
4. Manufacturing pharmaceutical products intended for internal and external consumption in forms such as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions.

m. Semiconductor manufacturing. Semiconductor manufacturing means development and production of semiconductor material, devices, or components.

(4) Forfeiture. – If the owner of an eligible facility does not make the required minimum investment within five years after the first refund under this subsection with respect to the facility, the facility loses its eligibility and the owner forfeits all refunds already received under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

SECTION 32B.2. G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at ~~retail,~~ retail and the use, ~~storage~~ storage, or consumption in this State of the following tangible personal property and services ~~is~~ are specifically exempted from the tax imposed by this Article:

…

(1) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, and seeds sold to a farmer for agricultural purposes.

…

(45a) Sales to an interstate air business of tangible personal property that becomes a component part of or is dispensed as a lubricant into commercial aircraft during its maintenance, repair, or overhaul. For the purpose of this subdivision, commercial aircraft includes only aircraft that has a certified maximum take-off weight of more than 12,500 pounds and is regularly used to carry for compensation passengers, commercial freight, or individually addressed letters and packages.

…

(49a) Delivery charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

…

(53) Sales to a professional land surveyor of tangible personal property on which custom aerial survey data is stored in digital form or is depicted in graphic form. Data is custom if it was created to the specifications of the professional land surveyor purchasing the property. A professional land surveyor is a person licensed as a surveyor under Chapter 89C of the General Statutes."

SECTION 32B.3. G.S. 105-164.3 is amended by adding two new subdivisions to read:

"(14c) Interstate air business. – An interstate air courier, an interstate freight air carrier, or an interstate passenger air carrier.

…

(15b) Interstate freight air carrier. – A person whose primary business is scheduled freight air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce."

SECTION 32B.4. G.S. 105-164.13(39) is reenacted and rewritten to read:

"(39) Sales of paper, ink, and other tangible personal property to commercial printers and commercial publishers for use as ingredients or component parts of free distribution periodicals and sales by printers of free distribution periodicals to the publishers of these periodicals. As used in this subdivision, the term 'free distribution periodical' means a publication that is published on a periodic basis monthly or more frequently, is provided without charge to the recipient, and is distributed in any manner other than by mail."

SECTION 32B.5. The amendment to G.S. 105-164.14(j)(2) made by this part is effective on and after January 1, 2004, and applies to sales made on or after that date. Sections 32B.2 and 32B.3 of this part become effective October 1, 2004, and apply to sales made on or after that date. Section 32B.4 of this part becomes effective July 1, 2005, and applies to sales made on or after that date. The remainder of this part becomes effective July 1, 2004, and applies to sales made on or after that date. The amendments to G.S. 105-164.14(j)(3) made by this part are repealed effective for sales made on or after July 1, 2009.

PART XXXII-C. QUALIFIED BUSINESS INVESTMENT CREDIT

QUALIFIED BUSINESS INVESTMENT CREDIT

SECTION 32C.1. G.S. 105-163.012(b) reads as rewritten:

"(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for investments made in a calendar year may not exceed ~~six million dollars ($6,000,000).~~ seven million dollars ($7,000,000). The Secretary of Revenue shall calculate the total amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c). If the total amount of tax credits claimed for investments made in a calendar year exceeds ~~six million dollars ($6,000,000),~~this maximum amount, the Secretary shall allow a portion of the credits claimed by allocating ~~a total of six million dollars ($6,000,000)~~ the maximum amount in tax credits in proportion to the size of the credit claimed by each taxpayer."

SECTION 32C.2. G.S. 105-163.015 reads as rewritten:

"**§ 105-163.015. Sunset.**

This Part is repealed effective for investments made on or after January 1, ~~2007.~~ 2008."

SECTION 32C.3. This part becomes effective for investments made on or after January 1, 2004.

PART XXXII-D. RESEARCH AND DEVELOPMENT TAX CREDIT

RESEARCH AND DEVELOPMENT TAX CREDIT

SECTION 32D.1. G.S. 105-129.10 is amended by adding a new subsection to read:

"(d) The credits allowed in this section and the credit allowed in Article 3F of this Chapter are exclusive. A taxpayer may elect to take only one of the three credits with respect to its research activities in a taxable year."

SECTION 32D.2. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3F.
"Research and Development.

"**§ 105-129.50. Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

(1) through (3): Reserved.

(4) North Carolina university research expenses. – Any amount the taxpayer paid or incurred to a research university for qualified research performed in this State or basic research performed in this State.

(5) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(6) Qualified North Carolina research expenses. – Qualified research expenses, other than North Carolina university research expenses, for research performed in this State.

(7) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(8) Related person. – Defined in G.S. 105-163.010.

(9) Research university. – An institution of higher education that meets one or both of the following conditions:

a. It is classified as one of the following in the most recent edition of 'A Classification of Institutions of Higher Education', the official report of The Carnegie Foundation for the Advancement of Teaching:

1. Doctoral/Research Universities, Extensive or Intensive.
2. Masters Colleges and Universities, I or II.
3. Baccalaureate Colleges, Liberal Arts or General.

b. It is a constituent institution of The University of North Carolina.

(10) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars ($1,000,000).

"**§ 105-129.51. Administration; sunset.**

(a) A taxpayer is eligible for the credit allowed in this Article if it satisfies the requirements of G.S. 105-129.4(b), (b2), (b3), and (b4) relating to wage standard, health insurance, environmental impact, and safety and health programs, respectively.

(b) This Article is repealed for taxable years beginning on or after January 1, 2009.

(c) The credit allowed in this Article and the credits allowed in G.S. 105-129.10 are exclusive. A taxpayer may elect to take only one of the three credits with respect to its research activities in a taxable year. It may elect a different credit for different expenses in a subsequent taxable year.

"**§ 105-129.52. Tax election; cap.**

(a) Tax Election. – The credit allowed in this Article is allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the credit is first claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax.

(b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of the amount of tax against which it is claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit allowed in this Article may be carried forward for the succeeding 15 years.

"**§ 105-129.53. Substantiation.**

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"**§ 105-129.54. Reports.**

The Department of Revenue must report to the Revenue Laws Study Committee and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding December 31:

(1) The number of taxpayers that claimed a credit allowed in this Article, itemized by the categories of small business, low-tier, other, and university research.

(2) The amount of each credit claimed in each category.

(3) The total cost to the General Fund of the credits claimed.

"**§ 105-129.55. Credit for North Carolina research and development.**

(a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the expenses, determined as provided in this subsection. Only one credit is allowed under this subsection with respect to the same expenses. If more than one subdivision of this subsection applies to the same expenses, then the credit is equal to the higher percentage, not both percentages combined. If part of the taxpayer's qualified North Carolina research expenses qualifies under subdivision (2) of this subsection and the remainder qualifies under subdivision (3) of this subsection, the applicable percentages apply separately to each part of the expenses.

(1) Small business. – If the taxpayer was a small business as of the last day of the taxable year, the applicable percentage is three percent (3%).

(2) Low-tier research. – For expenses with respect to research performed in an enterprise tier one, two, or three area, the applicable percentage is three percent (3%).

(3) Other research. – For expenses not covered under subdivision (1) or (2) of this subsection, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

Expenses Over	Up To	Rate
-0-	$50 million	1%
$50 million	$200 million	2%
$200 million	–	3%

(b) North Carolina University Research Expenses. – A taxpayer that has North Carolina university research expenses for the taxable year is allowed a credit equal to fifteen percent (15%) of the expenses."

SECTION 32D.3. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

…

(30) To publish the information required under G.S. 105-129.54 and to prove that a business does not meet the definition of 'small business' under Article 3F of this Chapter because the annual receipts of the business, combined with the annual receipts of all related persons, exceeds the applicable amount."

SECTION 32D.4. G.S. 105-129.10 and G.S. 105-129.51(c) are repealed.

SECTION 32D.5. Section 32D.4 of this Part becomes effective for taxable years beginning on or after January 1, 2006. The remainder of this Part becomes effective for business activities occurring on or after May 1, 2005.

PART XXXII-F. INSURABLE INTEREST OF CHARITABLE ORGANIZATIONS

INSURABLE INTEREST OF CHARITABLE ORGANIZATIONS

SECTION 32F.1. G.S. 58-58-86 reads as rewritten:

"**§ 58-58-86. Insurable interest of charitable organizations.**

(a) If an organization described in section 501(c)(3) of the Internal Revenue ~~Code~~ Code, or an entity, purchases or receives by assignment, before, on, or after the effective date of this section, life insurance on an insured who consents in writing to the purchase or assignment, the organization or entity is deemed to have an insurable interest in the insured person's life.

(b) For the purposes of this section, an "entity" is any trust, business trust, partnership, corporation, limited liability company, or similar entity approved in writing by the insured as the beneficiary in, and owner of, a life insurance policy and annuity contract on the life of the insured subject to each of the following requirements:

(1) The entity is formed for the purpose, in part, of generating funds for the benefit of one or more charitable organizations described in section 501(c)(3) of the Internal Revenue Code that are, prior to the time of the purchase, designated in writing by the consenting insured.

(2) The payments to the entity under the annuity contracts must be reasonably anticipated to fund the premiums on the life insurance policies for the second and succeeding years.

(3) Either (i) each benefited charitable organization described in section 501(c)(3) of the Internal Revenue Code that is designated in writing by the consenting insured provides an affidavit to the entity stating that the organization has been in existence for at least three years and has assets of at least five million dollars ($5,000,000) or (ii) the consenting insured provides an affidavit to the entity stating that the insured is an accredited investor as defined in Rule 501 of Regulation D under the Securities Act of 1933, as amended.

(4) The consenting insured provides an affidavit to the entity stating that neither the consenting insured, any relative, as that term is defined in G.S. 39-23.1(11), of the consenting insured, nor any entity controlled by the consenting insured or any relative of the consenting insured other than a charitable organization described in section 501(c)(3) of

the Internal Revenue Code, received any monetary remuneration or other consideration whatsoever in connection with the consenting insured's consent to purchase the combination of a life insurance policy and annuity contract.

(5) Prior to the ownership or purchase of the combination of a life insurance policy and annuity contract on the consenting insured, each consenting insured and benefited organization described in section 501(c)(3) of the Internal Revenue Code is provided a written description of the minimum percentage or amount of the life insurance proceeds that is reasonably anticipated to be paid to the benefited charitable organization."

SECTION 32F.2. This part is effective when it becomes law and expires October 1, 2007.

PART XXXII-G. JOB DEVELOPMENT INVESTMENT GRANT PROGRAM

JOB DEVELOPMENT INVESTMENT GRANT PROGRAM

SECTION 32G.1.(a) G.S. 143B-437.62 reads as rewritten:

"**§ 143B-437.62. ~~Authority.~~Expiration.**

The authority of the Committee to enter into new agreements ~~begins January 1, 2003, and~~ expires January 1, ~~2005.~~2006."

SECTION 32G.1.(b) G.S. 143B-437.52(b) reads as rewritten:

"(b) Cap. – The maximum number of agreements the Committee may enter into each calendar year is ~~15.~~25."

SECTION 32G.1.(c) G.S. 143B-437.52(c) reads as rewritten:

"(c) Ceiling. – The maximum amount of total annual liability for grants for agreements entered into in any single calendar year may not exceed ~~ten million dollars ($10,000,000).~~fifteen million dollars ($15,000,000). No agreement may be entered into that, when considered together with other existing agreements entered into during that calendar year, could cause the State's potential total annual liability for grants entered into in that calendar year to exceed this amount."

SECTION 32G.1.(d) G.S. 143B-437.58(a) reads as rewritten:

"(a) No later than ~~February~~ March 1 of each year, for the preceding grant year, every business that is awarded a grant under this Part shall submit to the Committee ~~a copy of its State and federal tax returns showing business and nonbusiness income and~~ a report showing withholdings as a condition of its continuation in the grant program. In addition, the business shall submit to the Committee an annual payroll report showing the eligible positions that are created during the base years and the new eligible positions created during each subsequent year of the grant. Upon request of the Committee, the business shall also submit a copy of its State and federal tax returns. Payroll and tax information submitted under this subsection is tax information subject to G.S. 105-259. When making a submission under this section, the business must pay the Committee a fee of one thousand five hundred dollars ($1,500). The fee is due at the time the submission is made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited."

SECTION 32G.1.(e) G.S. 143B-437.52(d) reads as rewritten:

"(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate that the increase or maintenance of employment is measured at the level of a division or another operating unit of a business, rather than at the business level, if both of the following conditions are met:

(1) The Committee makes an explicit finding that the designation is necessary to secure the project in this State.

(2) The designation contains terms to ensure that the business does not create eligible positions by transferring or shifting to the project existing positions from another project of the business or a related ~~entity~~ member of the business."

SECTION 32G.1.(f) G.S. 143B-437.57 is amended by adding a new subsection to read:

"(c) Agreement Binding. – A community economic development agreement is a binding obligation of the State and is not subject to State funds being appropriated by the General Assembly."

SECTION 32G.1.(g) G.S. 143B-437.57(a) is amended by adding a new subdivision to read:

"(a) Terms. – Each community economic development agreement shall include at least the following:

…

(25) A provision encouraging the business to contract with small businesses headquartered in the State for goods and services."

SECTION 32G.1.(h) It is the intent of the General Assembly that the benefits of a robust and growing economy be shared by all citizens of the State regardless of their geographic location or whether they live in urban, suburban, or rural areas. In striving for balanced economic development throughout the State, the General Assembly has designed a system to identify areas of the State that are most in need of additional economic development and has designed economic development programs to provide for relatively stronger incentives in those areas. In keeping with this policy of balanced economic development, the General Assembly strongly encourages the Department of Commerce and the Economic Investment Committee to give priority consideration under the Job Development Investment Grant program to projects that are located or will locate in less economically developed areas.

SECTION 32G.1.(i) The Chairs of the Finance Committees of the House of Representatives and the Senate shall conduct a comprehensive, systematic study of the Job Development Investment Grant program. The General Assembly shall use funds available to conduct this study and may hire a consultant to conduct the study. The study shall be completed and submitted to the full 2005 General Assembly no later than April 1, 2005. The study shall include an examination of the following:

(1) The costs of the program on an aggregate basis, an enterprise tier area basis, and a project basis. This study shall include an examination of the amount spent per job on an aggregate basis, an enterprise tier area basis, and a project basis.

(2) The costs of the program in relation to other State economic development incentive programs.

(3) The costs of the program in relation to economic development programs located in nearby states and other states with which the State frequently competes for jobs.

(4) The extent to which the program has been utilized in geographically diverse parts of the State and the extent to which the program has been utilized in urban, suburban, and rural settings.

(5) Any other matter the General Assembly finds relevant to a study of the program.

SECTION 32G.1.(j) Subsections (d) and (f) of this section are effective on and after October 31, 2002. Subsection (c) of this section becomes effective January 1, 2004, and applies to agreements entered into on or after that date. Subsection (g) of this section is effective when it becomes law and applies to agreements entered into on or after that date. The remainder of this section is effective when it becomes law.

PART XXXIII. MISCELLANEOUS PROVISIONS

EXECUTIVE BUDGET ACT APPLIES

SECTION 33.1. 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.

COMMITTEE REPORT

SECTION 33.2.(a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated July 17, 2004, which was distributed in the House of Representatives and the 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 and as such shall be printed as a part of the Session Laws.

SECTION 33.2.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2004-2005 fiscal year is a line-item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the requested adjustments to the budgets submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission in accordance with the steps that follow, and the line-item detail in the budget enacted by the General Assembly may be derived accordingly:

(1) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets.

(2) Transfers of funds supporting programs were made in accordance with the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets.

SECTION 33.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

MOST TEXT APPLIES ONLY TO 2004-2005

SECTION 33.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2004-2005 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2004-2005 fiscal year.

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

SECTION 33.3A.(a) Except where expressly repealed or amended by this act, the provisions of S.L. 2003-283 and S.L. 2003-284 remain in effect.

SECTION 33.3A.(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2004-2005 fiscal year in S.L. 2003-283 and S.L. 2003-284 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

EFFECT OF HEADINGS

SECTION 33.4. 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, except for effective dates referring to a Part.

SEVERABILITY CLAUSE

SECTION 33.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 33.6. Except as otherwise provided, this act becomes effective July 1, 2004.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:09 p.m. this 20th day of July, 2004