

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 83*
Committee Substitute Favorable With Amendments 6/4/91
Committee Substitute #2 Favorable 6/5/91

Short Title: 1991 Appropriations & Budget Revenue Act.

(Public)

Sponsors:

Referred to:

February 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE BASE BUDGET AND EXPANSION BUDGET
3 APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE
4 DEPARTMENTS, INSTITUTIONS, AND AGENCIES; TO MAKE
5 APPROPRIATIONS FOR CAPITAL IMPROVEMENTS FOR STATE
6 DEPARTMENTS, INSTITUTIONS, AND AGENCIES; TO MAKE
7 APPROPRIATIONS FOR OTHER PURPOSES; AND TO PROVIDE REVENUES
8 FOR STATE AND LOCAL NEEDS.

9 The General Assembly of North Carolina enacts:

10
11 ---INTRODUCTION

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

18
19 Requested by: Representatives Nesbitt, Diamont

20 ---TITLE OF ACT

1 Sec. 2. This act shall be known as "The Appropriations and Budget Revenue
2 Act of 1991." This act contains the Current Operations Appropriations Bill, the Capital
3 Improvements Appropriations Bill, and the Budget Revenue Bill.
4

5 **TITLE I. - CURRENT OPERATIONS**
6

7 PART 1.—GENERAL FUND APPROPRIATIONS
8

9 —CURRENT OPERATIONS/GENERAL FUND

10 Sec. 3. Appropriations from the General Fund of the State for the
11 maintenance of the State departments, institutions, and agencies, and for other purposes
12 as enumerated are made for the biennium ending June 30, 1993, according to the
13 following schedule:
14

<u>Current Operations-General Fund</u>	<u>1991-92</u>	<u>1992-93</u>
17 General Assembly	\$ 18,058,584	\$ 21,046,954
19 Judicial Department	206,053,407	209,135,828
21 Department of the Governor		
22 01. Office of the Governor	5,487,406	5,502,312
23 02. Office of State Budget		
24 and Management	3,823,306	3,949,479
26 Lieutenant Governor's Office		545,159 546,884
28 Department of Secretary of State		4,356,396 4,051,550
30 Department of State Auditor		12,916,863 12,932,026
32 Department of State Treasurer		4,930,251 4,942,109
34 Department of Public Education	3,220,243,920	3,280,320,323
36 Department of Justice		49,750,476 49,098,004
38 Department of Administration		
39 01. Administration	48,048,745	50,804,162
40 02. State Controller	4,995,821	5,003,852
42 Department of Agriculture		39,078,314 38,895,711
44 Department of Labor		8,047,871 8,054,821

1			
2	Department of Insurance		12,178,029 12,148,724
3			
4	Department of Transportation		
5	01. Aeronautics	8,316,571 8,116,571	
6	02. Aid to Railroads	128,406 100,000	
7			
8	Total Department of		
9	Transportation		8,444,977 8,216,571
10			
11	Department of Environment, Health, and		
12	Natural Resources		171,915,042 173,523,494
13			
14	Office of Administrative Hearings		1,281,763 -
15			
16	Administrative Rules Review Commission		251,153 251,330
17			
18	Department of Human Resources		
19	01. Alcohol Drug Abuse Treatment Center -		
20	Black Mountain	3,850,898 3,863,726	
21	02. Alcohol Drug Abuse Treatment Center -		
22	Butner	3,249,490 3,265,434	
23	03. Alcohol Drug Abuse Treatment Center -		
24	Greenville	3,281,023 3,296,129	
25	04. N.C. Special Care Center	636,247 677,743	
26	05. Black Mountain Center	1,719,852 2,024,711	
27	06. DHR - Secretary	7,727,680 7,720,229	
28	07. Division of Aging	8,501,036 8,501,722	
29	08. Schools for the Deaf and		
30	Hard of Hearing	19,182,026 19,314,192	
31	09. Social Services	130,306,014 137,745,264	
32	10. Medical Assistance	522,732,982 602,390,661	
33	11. Social Services-State Aid to		
34	Non-State Agencies	5,440,669 5,440,669	
35	12. Division of Services for the		
36	Blind	12,004,464 12,023,790	
37	13. Division of Mental Health,		
38	Developmental Disabilities, and		
39	Substance Abuse Services	185,387,611 186,295,870	
40	14. Dorothea Dix Hospital	35,390,232 37,689,383	
41	15. Broughton Hospital	29,445,682 31,007,474	
42	16. Cherry Hospital	30,679,936 31,973,149	
43	17. John Umstead Hospital	30,733,855 34,128,381	
44	18. Western Carolina Center	1,659,809 1,898,909	

1	19.	O'Berry Center	2,142,346	2,343,637	
2	20.	Murdoch Center	8,789,963	8,962,036	
3	21.	Caswell Center	5,797,091	7,746,005	
4	22.	Division of Facility Services	28,333,232	29,332,929	
5	23.	Division of Vocational			
6		Rehabilitation Services	21,764,338	21,764,916	
7	24.	Division of Youth Services	45,798,628	45,844,845	
8					
9		Total Department of			
10		Human Resources			1,144,555,104 1,245,251,804
11					
12		Department of Correction			474,540,082 490,019,388
13					
14		Department of Economic and Community			
15		Development			
16	01.	Economic and Community			
17		Development	24,613,189	24,626,628	
18	02.	Biotechnology	7,307,547	7,307,547	
19	03.	MCNC	15,675,140	15,150,000	
20	04.	Rural Economic Development			
21		Center	1,630,627	1,614,766	
22					
23		Department of Revenue			53,197,751 53,164,856
24					
25		Department of Cultural Resources			38,955,956 39,671,588
26					
27		Department of Crime Control			
28		and Public Safety			27,255,975 27,358,666
29					
30		University of North Carolina - Board			
31		of Governors			
32	01.	General Administration	14,794,357	16,875,887	
33	02.	University Institutional			
34		Program	6,388,426	6,488,426	
35	03.	Related Educational Programs	44,732,694	44,503,693	
36	04.	University of North Carolina			
37		at Chapel Hill			
38		a. Academic Affairs	132,634,294	139,319,026	
39		b. Health Affairs	99,957,942	104,859,175	
40		c. Area Health Education			
41		Centers	31,287,593	31,260,059	
42	05.	North Carolina State University			
43		at Raleigh			
44		a. Academic Affairs	169,787,112	172,933,442	

1	b. Agricultural Research		
2	Service	35,695,033	35,530,097
3	c. Agricultural Extension		
4	Service	27,818,665	27,686,447
5	06. University of North Carolina at		
6	Greensboro	54,411,564	54,659,118
7	07. University of North Carolina at		
8	Charlotte	55,124,066	55,228,519
9	08. University of North Carolina at		
10	Asheville	16,558,044	16,639,255
11	09. University of North Carolina at		
12	Wilmington	32,270,378	32,434,104
13	10. East Carolina University		
14	a. Academic Affairs	71,449,417	71,802,831
15	b. Division of Health Affairs	51,017,273	52,977,868
16	11. North Carolina Agricultural and		
17	Technical State University	35,602,821	35,872,214
18	12. Western Carolina University	34,438,068	34,528,654
19	13. Appalachian State University	52,494,997	52,683,026
20	14. Pembroke State University	15,573,099	15,569,618
21	15. Winston-Salem State University	15,714,775	15,814,179
22	16. Elizabeth City State		
23	University	14,554,788	14,537,230
24	17. Fayetteville State University	16,742,707	16,720,944
25	18. North Carolina Central		
26	University	26,427,038	26,531,044
27	19. North Carolina School of the		
28	Arts	8,280,060	8,287,663
29	20. North Carolina School of		
30	Science and Mathematics	7,080,682	7,026,074
31	21. UNC Hospitals at Chapel Hill	38,555,919	47,093,268
32			
33	Total University of North		
34	Carolina - Board of Governors	1,109,391,812	1,137,861,861
35			
36	Department of Community		
37	Colleges	334,055,464	361,599,391
38			
39	State Board of Elections		471,954 432,324
40			
41	Contingency and Emergency		1,125,000 1,125,000
42			
43	Reserve for Salary Adjustments		500,000 500,000
44			

1	Reserve for Lowest Paid Employees	750,000	750,000
2			
3	Reserve for Data Processing Equipment	5,000,000	5,000,000
4			
5	Reserve for State Employees Health		
6	Benefit Plan	79,700,000	95,000,000
7			
8	Debt Service	<u>76,028,270</u>	<u>73,049,578</u>
9			
10			
11	GRAND TOTAL CURRENT OPERATIONS –		
12	GENERAL FUND	\$7,215,161,354	\$7,467,907,531
13			
14			

PART 2.—CURRENT OPERATIONS/HIGHWAY FUND

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

		<u>1991-92</u>	<u>1992-93</u>
22	<u>Current Operations-Highway Fund</u>		
23			
24	Department of Transportation		
25	01. Administration	\$ 34,171,517	\$ 34,329,674
26	02. Division of Highways		
27	a. Administration and		
28	Operations	32,800,070	32,866,712
29	b. State Construction		
30	(01) Primary Construction	-	-
31	(02) Secondary		
32	Construction		66,121,926
33	(03) Urban Construction		10,805,664
34	(04) Access and Public		
35	Service Roads		2,000,000
36	(05) Special Appropriation		
37	for Highways		5,000
38	(06) Spot Safety		
39	Improvements		9,100,000
40	c. State Funds to Match Federal		
41	Highway Aid		
42	(01) Construction	65,992,066	65,992,066
43	(02) Planning Survey and Highway		
44	Planning Research		2,959,649

1	d.	State Maintenance		
2	(01)	Primary	85,882,433	85,882,433
3	(02)	Secondary	151,355,630	151,355,630
4	(03)	Urban	22,714,972	22,714,972
5	(04)	Contract Resurfacing	100,000,000	102,500,000
6	e.	Ferry Operations	16,547,896	16,547,896
7	03.	Division of Motor Vehicles	74,682,719	74,649,678
8	04.	Governor's Highway Safety Program	288,398	288,736
9	05.	State Aid to Municipalities		66,121,926 66,717,023
10	06.	State Aid for Public		
11		Transportation	5,038,766	5,046,001
12	07.	Salary Adjustments for Highway		
13		Fund Employees	200,000	200,000
14	08.	Reserve to Correct Occupational		
15		Safety and Health Conditions	425,000	425,000
16	09.	Reserve to Continue DOT		
17		Merit Salary Increases	4,510,383	4,510,383
18	10.	Debt Service	38,227,230	38,018,250
19	11.	Reserve for State Employee		
20		Health Benefit Plan	6,300,000	7,500,000
21				
22		Appropriations for Other State Agencies		
23	01.	Crime Control and Public		
24		Safety	84,297,637	86,652,285
25	02.	Other Agencies		
26	a.	Department of Agriculture	2,892,001	2,790,013
27	b.	Department of Revenue	1,921,279	1,923,941
28	c.	Department of Environment,		
29		Health, and Natural Resources:		
30		LUST Trust Fund	5,186,720	5,586,046
31		Chemical Test Program	378,286	378,286
32	d.	Department of Correction	4,614,056	4,614,056
33	e.	Department of Justice	240,250	240,250
34	f.	Department of Public		
35		Education	22,930,662	22,868,826
36				
37		GRAND TOTAL CURRENT OPERATIONS –		
38		HIGHWAY FUND		\$ 918,712,136 \$ 925,408,095
39				
40				
41		PART 3.—HIGHWAY TRUST FUND		
42				
43		Sec. 4.1.		
44		<u>1991-92</u> <u>1992-93</u>		

1			
2	01.	Intrastate System	\$ 201,279,015 \$ 203,941,317
3	02.	Secondary Roads Construction	46,099,293 46,878,630
4	03.	Urban Loops	81,313,427 82,389,951
5	04.	State Aid - Municipalities	21,099,293 21,378,630
6	05.	Program Administration	15,108,972 15,311,472
7	06.	Transfer to General Fund	<u>170,000,000</u> <u>170,000,000</u>
8			
9	GRAND TOTAL/HIGHWAY TRUST FUND		\$ 534,900,000 \$ 539,900,000

10
11
12 PART 4.—BLOCK GRANT APPROPRIATIONS

13
14 Requested by: Representatives Nye, Easterling, Ethridge, H. Hunter

15 —BLOCK GRANT PROVISIONS

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

18 TOTAL JOB TRAINING PARTNERSHIP ACT \$
19 35,316,871

20
21 COMMUNITY SERVICES BLOCK GRANT

22			
23	01.	Community Action Agencies	\$ 8,906,905
24			
25	02.	Limited Purpose Agencies	494,305
26			
27	03.	Department of Human Resources	
28		to administer and monitor	
29		the activities of the	
30		Community Services Block Grant	484,890

31
32 TOTAL COMMUNITY SERVICES BLOCK GRANT \$
33 9,886,100

34
35 COMMUNITY DEVELOPMENT BLOCK GRANT

36			
37	01.	State Administration	\$ 913,140
38			
39	02.	Urgent Needs/Contingency	1,987,193
40			
41	03.	Development Planning/Housing	1,987,193
42			
43	04.	Economic Development	7,948,772
44			

1	05.	Community Revitalization	27,820,702	
2				
3		TOTAL COMMUNITY DEVELOPMENT		
4		BLOCK GRANT		\$
5		40,657,000		
6				
7		PREVENTIVE HEALTH BLOCK GRANT		
8				
9	01.	Emergency Medical Services	\$ 451,915	
10				
11	02.	Basic Public Health Services	928,395	
12				
13	03.	Hypertension Programs	590,230	
14				
15	04.	Health Education/Risk Reduction Programs and		
16		Health Promotion/Local Health Departments	1,013,371	
17				
18	05.	Fluoridation of Water Supplies	158,134	
19				
20	06.	Rape Prevention and Rape		
21		Crisis Programs	91,269	
22				
23	07.	AIDS/HIV Education, Counseling,		
24		and Testing	290,577	
25				
26	08.	TB Control Program	61,787	
27				
28		TOTAL PREVENTIVE HEALTH BLOCK GRANT		\$
29		3,585,678		
30				
31		MATERNAL AND CHILD HEALTH SERVICES		
32				
33	01.	Healthy Mother/Healthy Children		
34		Block Grants to Local Health		
35		Departments	\$ 11,788,781	
36				
37	02.	High Risk Maternity Clinic Services,		
38		Perinatal Education, and Consultation		
39		to Local Health Departments		
40		and Other Health Care Providers	1,554,303	
41				
42	03.	Services to Disabled Children	5,367,054	
43				
44	04.	Reimbursements for Local Health		

1	Departments for Contracted		
2	Nutritional Services	120,530	
3			
4	TOTAL MATERNAL AND CHILD		
5	HEALTH SERVICES		\$
6	18,830,668		
7			
8	SOCIAL SERVICES BLOCK GRANT		
9			
10	01. County Departments of Social Services	\$ 42,846,858	
11			
12	02. Allocation for In-Home Services provided		
13	by County Departments of		
14	Social Services	1,184,524	
15			
16	03. Division of Mental Health, Developmental		
17	Disabilities, and Substance Abuse	5,514,782	
18			
19	04. Division of Services for the Blind	3,162,920	
20			
21	05. Division of Youth Services	1,037,868	
22			
23	06. Division of Facility Services	330,573	
24			
25	07. Division of Aging	333,656	
26			
27	08. Day Care Services	12,158,899	
28			
29	09. Volunteer Services	55,086	
30			
31	10. State Administration and State Level		
32	Contracts	3,392,468	
33			
34	11. Voluntary Sterilization Funds	98,710	
35			
36	12. Transfer to Maternal and Child		
37	Health Block Grant	1,670,089	
38			
39	13. Adult Day Care Services	652,889	
40			
41	14. County Departments of Social Services for		
42	Child Abuse/Prevention and		
43	Permanency Planning	394,841	
44			

1	15.	Allocation to Division of Maternal and		
2		Child Health for Grants-in-Aid to Prevention		
3		Programs	439,261	
4				
5	16.	Transfer to Preventive Health		
6		Block Grant for Emergency Medical Services		
7		and Basic Public Health Services	486,258	
8				
9	17.	Allocation to Preventive Health Block		
10		Grant for AIDS Education	290,577	
11				
12	18.	Allocation to Department of Administration		
13		for North Carolina Fund for Children	45,270	
14				
15	19.	Allocation to the Division of Economic		
16		Opportunity for Head Start,		
17		Elderly and Handicapped Services	197,421	
18				
19	TOTAL SOCIAL SERVICES BLOCK GRANT			\$
20	74,292,950			
21				
22	LOW INCOME ENERGY BLOCK GRANT			
23				
24	01.	Energy Assistance Programs	\$ 18,407,453	
25				
26	02.	Crisis Intervention	4,441,897	
27				
28	03.	Administration	1,981,400	
29				
30	04.	Weatherization Program	1,737,187	
31				
32	05.	Indian Affairs	27,222	
33				
34	06.	Transfer to Preventive Health Block Grant		
35		for Emergency Medical Services Program	209,116	
36				
37	07.	Transfer to Social Services		
38		Block Grant for Adult		
39		Day Care Services	417,648	
40				
41	08.	Transfer to Social Services Block		
42		Grant for State Administration		
43		& Contract Service	192,748	
44				

1	09.	Transfer to Maternal and Child Health	
2		Block Grant in the Division of	
3		Maternal and Child Health	
4		for Healthy Mothers and Children	1,696,362
5			
6	10.	Transfer to SSBG for allocation to the	
7		Department of Administration for	
8		the North Carolina Fund for Children	45,270
9			
10		TOTAL LOW INCOME ENERGY BLOCK GRANT	\$
11		29,156,303	
12			
13		ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH	
14		SERVICES BLOCK GRANT	
15			
16	01.	Allocate funds to the four regional	
17		offices on a per capita basis	
18		for mental health services	\$ 1,866,556
19			
20	02.	Programs for the Chronically	
21		Mentally Ill	3,336,748
22			
23	03.	Continuation of child mental health	
24		nonresidential services in	
25		accordance with the Child Mental	
26		Health Plan	315,013
27			
28	04.	Continuation of child mental health	
29		residential services including group	
30		homes, specialized foster care,	
31		therapeutic homes, professional	
32		parenting programs, and respite care,	
33		with an emphasis on children under	
34		the age of 12	359,703
35			
36	05.	Continuation and expansion of community-	
37		based alcohol and drug services	
38		including prevention, early inter-	
39		vention, treatment, rehabilitation,	
40		nonhospital medical detoxification,	
41		and training	6,121,682
42			
43	06.	Continuation and expansion of services	
44		to female substance abusers,	

1	including specialized services at		
2	the ADATCS	2,652,698	
3			
4	07. Continuation and expansion of services to		
5	IV drug abusers, including increased		
6	capacity for drug screens and IV		
7	services at the ADATCS	3,518,950	
8			
9	08. Services to adolescents, including		
10	continuation and expansion of services		
11	in accordance with the Youth Substance		
12	Abuse Plan	3,140,864	
13			
14	09. Funding to support the provision of		
15	Treatment Alternatives to Street		
16	Crimes (TASC) programs for adults		
17	and four demonstration projects with		
18	local jails	462,104	
19			
20	10. Continuing of funding for detoxification		
21	services in the Eastern Region	1,048,110	
22			
23	11. Administration	1,085,098	
24			
25	TOTAL ALCOHOL, DRUG ABUSE AND		
26	MENTAL HEALTH SERVICES		
27	BLOCK GRANT		\$
28	23,907,526		
29			
30	MENTAL HEALTH SERVICES FOR THE HOMELESS		
31	BLOCK GRANT		
32			
33	01. Specialized Community Services for the		
34	Chronically Mentally Ill	\$ 420,000	
35			
36	02. Community-Based Services for Chronically		
37	Mentally Ill Youth	97,656	
38			
39	03. Administration	13,344	
40			
41	TOTAL MENTAL HEALTH SERVICES FOR THE		
42	HOMELESS BLOCK GRANT		\$
43	531,000		
44			

1 COMMUNITY YOUTH ACTIVITY PROGRAM BLOCK GRANT

2

3 01. Development of Community-Based Substance
 4 Abuse Prevention Programs
 5 for Youth \$ 92,091

6

7 TOTAL COMMUNITY YOUTH ACTIVITY PROGRAM
 8 BLOCK GRANT \$
 9 92,091

10

11 CHILD CARE AND DEVELOPMENT BLOCK GRANT

12

13 01. Child Day Care Services 14,752,146

14

15 02. Head Start Wrap-Around 3,337,000

16

17 03. Revolving Loans/Grants 500,000

18

19 04. County Day Care Coordinators 467,167

20

21 05. Staff/Child Ratio Reduction 208,300

22

23 06. Study of Day Care Salaries 100,000

24

25 07. Child Care Worker Credentials 100,000

26

27 08. Resource and Referral Programs 650,000

28

29 09. Facility Services Administration 202,054

30

31 TOTAL CHILD CARE AND DEVELOPMENT
 32 BLOCK GRANT \$
 33 20,316,667

34

35 (b) Decreases in Federal Fund Availability

36 If federal funds are reduced below the amounts specified above after the
 37 effective date of this act, then every program, in each of the federal block grants listed
 38 above, shall be reduced by the same percentage as the reduction in federal funds.

39 (c) Increases in Federal Fund Availability

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

- 42 (1) For the Community Development Block Grant or for the Preventive
 43 Health Block Grant – each program category under the Community
 44 Development Block Grant or the Preventive Health Block Grant, as

1 applicable, shall be increased by the same percentage as the increase in
2 federal funds.

3 (2) For the Maternal and Child Health Services Block Grant – these
4 additional funds shall be allocated to local health departments to assist
5 in the reduction of infant mortality.

6 (3) For other block grants – these additional funds may be budgeted by the
7 appropriate department, with the approval of the Office of State
8 Budget and Management, provided the resultant increases are in
9 accordance with federal block grant requirements and are within the
10 scope of the block grant plan approved by the General Assembly. All
11 these budgeted increases shall be reported to the Joint Legislative
12 Commission on Governmental Operations and to the Director of the
13 Fiscal Research Division.

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

15 (d) Education Setaside of JTPA Funds

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

21

22

23 PART 5.—GENERAL PROVISIONS

24

25 Requested by: Representatives Nesbitt, Diamont

26 —SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL
27 RECEIPTS/AUTHORIZATION FOR EXPENDITURES

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

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

43

44 Requested by: Representatives Nesbitt, Diamont

1 ---INSURANCE AND FIDELITY BONDS

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

6
7 Requested by: Representatives Nesbitt, Diamont

8 ---CONTINGENCY AND EMERGENCY FUND ALLOCATION

9 Sec. 8. Of the funds appropriated in this Title to the Contingency and
10 Emergency Fund, \$900,000 for the 1991-92 fiscal year and \$900,000 for the 1992-93
11 fiscal year shall be designated for emergency allocations, which are for the purposes
12 outlined in G.S. 143-23(a1). \$225,000 for the 1991-92 fiscal year and \$225,000 for the
13 1992-93 fiscal year shall be designated for other allocations from the Contingency and
14 Emergency Fund.

15

16 Requested by: Representatives Nesbitt, Diamont

17 ---BUDGETING OF PILOT PROGRAMS

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

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

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

26

27 Requested by: Representatives Nesbitt, Diamont

28 ---AUTHORIZED TRANSFERS

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

36

37 Requested by: Representatives Nesbitt, Diamont

38 ---EXPENDITURES OF FUNDS IN RESERVES LIMITED

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

41

42 Requested by: Representatives Ethridge, H. Hunter

43 ---NONPROFITS MAY RELINQUISH FUNDS

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

1 **"§ 143-6.1. Information from private organizations receiving State funds.**

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

6 Each private person, corporation, organization, and institution which uses or
7 expends State funds in the amount of twenty-five thousand dollars (\$25,000) or more
8 annually, except when the funds are compensation for goods or services, shall file
9 annually with the State Auditor and with the Joint Legislative Commission on
10 Governmental Operations a financial statement in such form and on such schedule as
11 shall be prescribed by the State Auditor, and shall furnish to the State Auditor for audit
12 all books, records and other information as shall be necessary for the State Auditor to
13 account fully for the use and expenditure of State funds. Each such private person,
14 corporation, organization, and institution shall furnish such additional financial or
15 budgetary information as shall be requested by the State Auditor or by the Joint
16 ~~Committee~~ Legislative Commission on Governmental Operations. The State shall not
17 disburse State funds appropriated by the General Assembly or collected by the State for
18 use by any private person, corporation, organization, or institution unless that person,
19 corporation, organization, or institution has provided all the reports and financial
20 information required by this section. All financial statements furnished to the State
21 Auditor or to the Joint Legislative Commission on Governmental Operations pursuant
22 to this section, and any audits or other reports prepared by the State Auditor, shall be
23 public records.

24 The receipt, use or expenditure of State funds by a private person, corporation,
25 organization, and institution shall not, in and of itself, make or constitute such person,
26 corporation, organization, or institution a State agency."
27

28 Requested by: Representatives Ethridge, H. Hunter

29 ~~—~~STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY

30 Sec. 13. Each private, nonprofit entity eligible to receive State funds, either
31 by General Assembly appropriation, or by grant, loan, or other allocation from a State
32 agency, before funds may be disbursed to the entity, shall file with the disbursing
33 agency a notarized copy of that entity's policy addressing conflicts of interest that may
34 arise involving the entity's management employees and the members of its board of
35 directors or other governing body. The policy shall address situations where any of
36 these individuals may directly or indirectly benefit, except as the entity's employees or
37 members of the board or other governing body, from the entity's disbursing of State
38 funds, and shall include actions to be taken by the entity or the individual, or both, to
39 avoid conflicts of interest and the appearance of impropriety.
40

41 Requested by: Representative Dockham

42 ~~—~~DEPARTMENTAL REDUCTIONS/COUNTIES HARMLESS

43 Sec. 14. The Departments of Environment, Health, and Natural Resources,
44 Economic and Community Development, Labor, and Agriculture shall not reduce

1 continuing operations disbursements to local governments for the 1991-92 fiscal year
2 and the 1992-93 fiscal year below the disbursement level for the 1990-91 fiscal year
3 solely for the purpose of effectuating reductions to those Departments required by this
4 act.

5
6 Requested by: Representatives Warner, Anderson

7 —STATE PURCHASES OF SUPPLIES, MATERIALS, EQUIPMENT

8 Sec. 14.1. (a) Notwithstanding the provisions of Article 3 of Chapter 143 of the
9 General Statutes, each governmental entity required by statute to use the services of the
10 Department of Administration in the purchase of supplies, materials, and equipment
11 may make direct purchases of supplies, materials, and equipment during the 1991-93
12 biennium without complying with Article 3 of Chapter 143 of the General Statutes
13 (Purchases and Contracts) provided that (1) all purchases shall be made pursuant to an
14 open competitive bidding process substantially similar to that provided for in that
15 Article, (2) no purchases may be made under the authority of this section except at a
16 price which is less than that for the same item or items under any State contract in effect
17 at the time of the purchase, and (3) all purchases shall be made under the authority of
18 this section without regard to race, creed, gender, or national origin.

19 (b) Each governmental entity required by statute to use the services of the
20 Department of Administration in the purchase of supplies, materials, and equipment that
21 makes direct purchases pursuant to subsection (a) of this section shall report to the Joint
22 Legislative Commission on Governmental Operations and the Fiscal Research Division
23 regarding these purchases by December 31, 1991, for the 1991-92 fiscal year and by
24 May 1, 1992, for the 1992-93 fiscal year.

25

26 PART 6.—STATE BOARD OF ELECTIONS

27

28 Requested by: Representatives Bowman, N.J. Crawford

29 —CHANGE THE DATE OF THE PRESIDENTIAL PRIMARY TO THE DATE OF
30 THE REGULAR STATEWIDE PRIMARY, AND ELIMINATE REIMBURSEMENT
31 TO THE COUNTIES OF THE EXPENSE OF HOLDING A SEPARATE PRIMARY

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

33 **"§ 163-213.2. Primary to be held; date; qualifications and registration of voters.**

34 On the ~~second Tuesday in March, 1988,~~ Tuesday after the first Monday in May,
35 1992, and every four years thereafter, the voters of this State shall be given an
36 opportunity to express their preference for the person to be the presidential candidate of
37 their political party.

38 Any person otherwise qualified who will become qualified by age to vote in the
39 general election held in the same year of the presidential preference primary shall be
40 entitled to register and vote in the presidential preference primary. Such persons may
41 register not earlier than 60 days nor later than the 21st day prior to the said primary. In
42 addition, persons who will become qualified by age to register and vote in the general
43 election for which the primary is held, who do not register during the special period may

1 register to vote after such period as if they were qualified on the basis of age, but until
2 they are qualified by age to vote, they may vote only in primary elections."

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

4 **"§ 163-213.3. Conduct of election.**

5 The presidential preference primary election shall be conducted and canvassed by
6 the same authority and in the manner provided by law for the conduct and canvassing of
7 the primary election for the office of Governor and all other offices enumerated in G.S.
8 163-187 and under the same provisions stipulated in G.S. ~~163-188, 163-188.~~ except that
9 ~~the earliest date by which absentee ballots shall be available shall be 35 days prior to the~~
10 ~~date of the primary.~~ The State Board of Elections shall have authority to promulgate
11 reasonable rules and regulations, not inconsistent with provisions contained herein,
12 pursuant to the administration of this Article."

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

14 **"§ 163-213.4. Nomination by State Board of Elections.**

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

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

27
28
29 **PART 7.—OFFICE OF STATE AUDITOR**

30
31 Requested by: Representatives Bowman, N.J. Crawford

32 —DEPARTMENT OF REVENUE PERFORMANCE AUDIT

33 Sec. 16. The State Auditor shall conduct an operations performance audit of
34 the Department of Revenue with particular attention to auditing the efficiency of
35 information systems and the effectiveness of tax collection systems. The State Auditor
36 shall report the results of the audit to the General Assembly on or before May 1, 1992.

37
38
39 **PART 8.—DEPARTMENT OF ADMINISTRATION**

40
41 Requested by: Representatives Bowman, N.J. Crawford

42 —BOARD OF SCIENCE AND TECHNOLOGY LIMITATION

1 Sec. 17. All funds appropriated in the 1991-92 fiscal year and the 1992-93
2 fiscal year for research grants for the Board of Science and Technology shall be used
3 only for research grants and shall not be transferred to any other objects of expenditure.
4

5 Requested by: Representatives Bowman, N.J. Crawford

6 —OFFICE OF STATE PERSONNEL DECENTRALIZATION

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

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

17 (b) The Office of State Personnel shall present its plan for decentralization of
18 the classification and salary administration functions to the State Personnel Study
19 Commission or its successor. The State Personnel Study Commission shall consider
20 those statutory changes as may facilitate decentralization and report its
21 recommendations to the General Assembly by April 1, 1992.
22

23 Requested by: Representatives Bowman, N.J. Crawford

24 —COUNCIL OF GOVERNMENT FUNDS

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

30 (b) The funds shall be allocated as follows: A share of the maximum \$48,015
31 each fiscal year shall be allocated to each county and smaller city based on the most
32 recent annual estimate of the Office of State Budget and Management of the population
33 of that county (less the population of any larger city within that county) or smaller city,
34 divided by the sum of the total population of the region (less the population of larger
35 cities within that region) and the total population of the region living in smaller cities.
36 Those funds shall be paid to the regional council of government for the region in which
37 that city or county is located upon receipt by the Department of Administration of a
38 resolution of the governing board of the county or city requesting release of the funds.
39 If any city or county does not so request payment of funds by June 30 of a State fiscal
40 year, that share of the allocation for that fiscal year shall revert to the General Fund.

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

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

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

6
7 Requested by: Representatives Ethridge, N.J. Crawford

8 ---ALLOCATION OF RAPE CRISIS CENTER FUNDS

9 Sec. 20. All funds for the Rape Crisis Centers appropriated to the
10 Department of Administration, Council of the Status of Women, for the 1991-92 fiscal
11 year and the 1992-93 fiscal year in this Title shall be available to Rape Crisis Centers
12 providing direct services to victims of sexual assault and rape prevention services.
13 Funds shall be awarded according to criteria established by the Department of
14 Administration. In reviewing grant applications, the Department shall consider the
15 impact of discontinued federal funding on those centers that received funding through
16 Section 41 of Chapter 1086 of the 1987 Session Laws, Regular Session 1988. Grants
17 shall be awarded by September 1 each fiscal year and the funds disbursed on a quarterly
18 basis.

19
20 Requested by: Representatives Bowman, N.J. Crawford

21 ---DOMESTIC VIOLENCE CENTER FUNDS

22 Sec. 21. The funds appropriated in this Title to the Department of
23 Administration, Council on the Status of Women, for fiscal years 1991-92 and 1992-93
24 for domestic violence centers, shall be allocated equally among all of the 61 domestic
25 violence centers in operation on July 1, 1989, that offered services including a hotline,
26 transportation services, community education programs, daytime services, and call
27 forwarding during the night. For the 1991-92 fiscal year and for the 1992-93 fiscal
28 year, each grant shall be \$17,500. Grants shall be awarded based on criteria established
29 by the Department of Administration and disbursed on a quarterly basis. The North
30 Carolina Coalition Against Domestic Violence, Incorporated, is eligible for a grant of
31 \$10,000 under this section.

32
33 Requested by: Representatives Bowman, N.J. Crawford

34 ---MOTOR FLEET MANAGEMENT CHANGES/EFFICIENCY
35 MEASURES/COMMUTING AND SPECIAL USE VEHICLE RESTRICTIONS

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

37 "i. To establish and operate a central motor pool and such
38 subsidiary related facilities as the Secretary may deem
39 necessary, and to that end:

- 40 1. To establish and operate central facilities for the
41 maintenance, repair, and storage of state-owned
42 passenger motor vehicles for the use of State agencies; to
43 utilize any available State facilities for that purpose; and

- 1 to establish such subsidiary facilities as the Secretary
2 may deem necessary.
- 3 2. To acquire passenger motor vehicles by transfer from
4 other State agencies and by purchase. All motor vehicles
5 transferred to or purchased by the Department shall
6 become part of a central motor pool.
- 7 3. To require on a schedule determined by the Department
8 all State agencies to transfer ownership, custody or
9 control of any or all passenger motor vehicles within the
10 ownership, custody or control of that agency to the
11 Department, except those motor vehicles under the
12 ownership, custody or control of the Highway Patrol or
13 the State Bureau of Investigation which are used
14 primarily for law-enforcement purposes, and except
15 those motor vehicles under the ownership, custody or
16 control of the Department of Crime Control and Public
17 Safety for Butner Public Safety which are used primarily
18 for law-enforcement, fire, or emergency purposes.
- 19 4. To maintain, store, repair, dispose of, and replace state-
20 owned motor vehicles under the control of the
21 Department. The Department shall ensure that state-
22 owned vehicles are not normally replaced until they have
23 been driven for 90,000 miles or more.
- 24 5. Upon proper requisition, proper showing of need for use
25 on State business only, and proper showing of proof that
26 all persons who will be driving the motor vehicle have
27 valid drivers' licenses, to assign suitable transportation,
28 either on a temporary or permanent basis, to any State
29 employee or agency. An agency assigned a motor
30 vehicle may not allow a person to operate that motor
31 vehicle unless that person displays to the agency and
32 allows the agency to copy that person's valid driver's
33 license. Notwithstanding G.S. 20-30(6), persons or
34 agencies requesting assignment of motor vehicles may
35 photostat or otherwise reproduce drivers' licenses for
36 purposes of complying with this subpart.
- 37 As used in this subpart, 'suitable transportation'
38 means the standard vehicle in the State motor fleet,
39 unless special towing provisions are required by the
40 employee or agency. The Department may not assign
41 any employee or agency a motor vehicle that is not
42 suitable. The Department shall not approve requests
43 for vehicle assignment or reassignment when the
44 purpose of that assignment or reassignment is to

1 provide any employee with a newer or lower mileage
2 vehicle because of his or her rank, management
3 authority, or length of service or because of any non-
4 job-related reason. The Department shall not assign
5 'special use' vehicles, such as four-wheel drive vehicles
6 or law enforcement vehicles, to any agency or
7 individual except upon written justification, verified by
8 historical data, and accepted by the Secretary.

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

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

- 16 I. Pursuit vehicles and full size ~~4-wheel~~ four-wheel
17 drive vehicles – \$.24/mile.
18 II. Vans and compact ~~4-wheel~~ four-wheel drive
19 vehicles – \$.22/mile.
20 III. All other vehicles – \$.20/mile.

- 21 7. To adopt, with the approval of the Governor, reasonable
22 rules for the efficient and economical operation,
23 maintenance, repair, and ~~replacement~~ replacement, as
24 limited in paragraph 4. of this subdivision, of all state-
25 owned motor vehicles under the control of the
26 Department, and to enforce those rules; and to adopt,
27 with the approval of the Governor, reasonable rules
28 regulating the use of private motor vehicles upon State
29 business by the officers and employees of State agencies,
30 and to enforce those rules. The Department, with the
31 approval of the Governor, may delegate to the respective
32 heads of the agencies to which motor vehicles are
33 permanently assigned by the Department the duty of
34 enforcing the rules adopted by the Department pursuant
35 to this paragraph. Any person who violates a rule
36 adopted by the Department and approved by the
37 Governor is guilty of a misdemeanor, and upon
38 conviction is punishable in the discretion of the court.

- 39 7a. To adopt with the approval of the Governor and to
40 enforce rules and to coordinate State policy regarding (i)
41 the permanent assignment of state-owned passenger
42 motor vehicles and (ii) the use of and reimbursement for
43 those vehicles for ~~commuting~~ the limited commuting
44 permitted by this subdivision. For the purpose of this

1 subdivision 7a, 'state-owned passenger motor vehicle'
2 includes any state-owned passenger motor vehicle,
3 whether or not owned, maintained or controlled by the
4 Department of Administration, and regardless of the
5 source of the funds used to purchase it. Notwithstanding
6 the provisions of G.S. 20-190 or any other provisions of
7 law, all state-owned passenger motor vehicles are subject
8 to the provisions of this subdivision 7a; no permanent
9 assignment shall be made and no one shall be exempt
10 from payment of reimbursement for commuting or from
11 the other provisions of this subdivision 7a except as
12 provided by this subdivision 7a. Commuting, as defined
13 and regulated by this subdivision, is limited to those
14 specific cases in which the Secretary has received and
15 accepted written justification, verified by historical data.
16 The Department shall not assign any state-owned motor
17 vehicle that may be used for commuting other than those
18 authorized by the procedure prescribed in this
19 subdivision.

20 A State-owned passenger motor vehicle shall not be
21 permanently assigned to an individual who is likely to
22 drive it on official business at a rate of less than ~~12,600~~
23 ~~miles per year~~ 3,150 miles per quarter unless (i) the
24 individual's duties are routinely related to public safety
25 or (ii) the individual's duties are likely to expose him
26 routinely to life-threatening situations. A State-owned
27 passenger motor vehicle shall also not be permanently
28 assigned to an agency that is likely to drive it on
29 official business at a rate of less than ~~12,600 miles per~~
30 ~~year~~ 3,150 miles per quarter unless the agency can
31 justify to the Division of Motor Fleet Management the
32 need for permanent assignment because of the unique
33 use of the vehicle. The Department of Administration
34 shall verify, on a quarterly basis, that each motor
35 vehicle has been driven at the minimum allowable rate.
36 If it has not and if the department by whom the
37 individual to which the car is assigned is employed or
38 the agency to which the car is assigned cannot justify
39 the lower mileage for the quarter in view of the
40 minimum annual rate, the permanent assignment shall
41 be revoked immediately.

42 Every individual who uses a State-owned passenger motor
43 vehicle, pickup truck, or van to drive between his official
44 work station and his home, shall reimburse the State for

1 these trips at a rate computed by the Department. This
2 rate shall approximate the benefit derived from the use of
3 the vehicle as prescribed by federal law. Reimbursement
4 shall be for 20 days per month regardless of how many
5 days the individual uses the vehicle to commute during
6 the month. Reimbursement shall be made by payroll
7 deduction. Funds derived from reimbursement on
8 vehicles owned by the Motor Fleet Management
9 Division shall be deposited to the credit of the Division;
10 funds derived from reimbursements on vehicles initially
11 purchased with appropriations from the Highway Fund
12 and not owned by the Division shall be deposited in a
13 Special Depository Account in the Department of
14 Transportation, which shall revert to the Highway Fund;
15 funds derived from reimbursement on all other vehicles
16 shall be deposited in a Special Depository Account in the
17 Department of Administration which shall revert to the
18 General Fund. Commuting, for purposes of this
19 paragraph, does not include those individuals whose
20 office is in their home, as determined by the Department
21 of Administration, Division of Motor Fleet Management.
22 Also, this paragraph does not apply to the following
23 vehicles: (i) clearly marked police and fire vehicles, (ii)
24 delivery trucks with seating only for the driver, (iii)
25 flatbed trucks, (iv) cargo carriers with over a 14,000
26 pound capacity, (v) school and passenger buses with
27 over 20 person capacities, (vi) ambulances, (vii) hearses,
28 (viii) bucket trucks, (ix) cranes and derricks, (x) forklifts,
29 (xi) cement mixers, (xii) dump trucks, (xiii) garbage
30 trucks, (xiv) specialized utility repair trucks (except vans
31 and pickup trucks), (xv) tractors, (xvi) unmarked law-
32 enforcement vehicles that are used in undercover work
33 and are operated by full-time, fully sworn law-
34 enforcement officers whose primary duties include
35 carrying a firearm, executing search warrants, and
36 making arrests, and (xvii) any other vehicle exempted
37 under Section 274(d) of the Internal Revenue Code of
38 1954, and Federal Internal Revenue Services regulations
39 based thereon. The Department of Administration,
40 Division of Motor Fleet Management, shall report
41 quarterly to the Joint Legislative Commission on
42 Governmental Operations and to the Fiscal Research
43 Division of the Legislative Services Office on
44 individuals who use State-owned passenger motor

1 vehicles, pickup trucks, or vans between their official
2 work stations and their homes, who are not required to
3 reimburse the State for these trips.

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

- 9 I. Uses the vehicle for other than official
10 business except in accordance with the
11 commuting rules;
12 II. Fails to supply required reports to the
13 Department of Administration, or supplies
14 incomplete reports, or supplies reports in a form
15 unacceptable to the Department of
16 Administration and does not cure the deficiency
17 within 30 days of receiving a request to do so;
18 III. Knowingly and willfully supplies false
19 information to the Department of Administration
20 on applications for permanent assignments,
21 commuting reimbursement forms, or other
22 required reports or forms;
23 IV. Does not personally sign all reports on forms
24 submitted for vehicles permanently assigned to
25 him and does not cure the deficiency within 30
26 days of receiving a request to do so;
27 V. Abuses the vehicle; or
28 VI. Violates other rules or policy promulgated by the
29 Department of Administration not in conflict with
30 this act.

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

35 The Department of Administration, with the approval of the
36 Governor, may delegate, or conditionally delegate, to the
37 respective heads of agencies which own passenger motor
38 vehicles or to which passenger motor vehicles are
39 permanently assigned by the Department, the duty of
40 enforcing all or part of the rules adopted by the
41 Department of Administration pursuant to this
42 subdivision 7a. The Department of Administration, with
43 the approval of the Governor, may revoke this delegation
44 of authority.

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

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

Requested by: Representatives Bowman, N.J. Crawford

—MOTOR FLEET MANAGEMENT/RETURN OF GENERAL FUND INVESTMENT

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

PART 9.—DEPARTMENT OF STATE TREASURER

Requested by: Representatives Ethridge, H. Hunter

—LOCAL GOVERNMENTS FUND COST OF LOCAL GOVERNMENT COMMISSION

Sec. 24. G.S. 105-213 reads as rewritten:

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

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

- (1) Refunds made during the fiscal year of taxes levied under this Article.
- (2) The Department of Revenue to collect and administer the taxes levied under this Article.

- 1 (3) The Department of Revenue in performing the duties imposed by
- 2 Article 15 of this Chapter.
- 3 (4) The Property Tax Commission.
- 4 (5) The Institute of Government in operating a training program in
- 5 property tax appraisal and assessment.
- 6 (6) The personnel and operations provided by the Department of State
- 7 Treasurer for the Local Government Commission.

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

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

15 The Secretary shall allocate the amount appropriated under this Article to the
16 counties according to the county in which the taxes were collected. The Secretary shall
17 then increase the amount allocable to each county by a sum equal to forty percent (40%)
18 of the amount of tax on accounts receivable allocated to the county on the basis of
19 collections. The amounts so allocated to each county shall in turn be divided between
20 the county and the municipalities in the county in proportion to the total amount of ad
21 valorem taxes levied by each during the fiscal year preceding the distribution. For the
22 purpose of computing the distribution of the intangibles tax to any county and the
23 municipalities located in the county for any year with respect to which the property
24 valuation of a public service company is the subject of an appeal pursuant to the
25 provisions of the Machinery Act, or to applicable provisions of federal law, and the
26 Department of Revenue is restrained by operation of law or by a court of competent
27 jurisdiction from certifying such valuation to the county and municipalities therein, the
28 Department shall use the last property valuation of such public service company which
29 has been so certified in order to determine the ad valorem tax levies applicable to such
30 public service company in the county and the municipalities therein.

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

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

5
6
7 PART 10.—DEPARTMENT OF REVENUE

8
9 Requested by: Representatives Bowman, N.J. Crawford

10 —NO GAS TAX ON GAS FOR STATE VEHICLES

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

13 **"§ 105-449A. Exemption of motor fuel used in State vehicles.**

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

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

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

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

37
38
39 PART 11.—OFFICE OF THE GOVERNOR

40
41 — COMPUTER RESERVE FUND

42 Sec. 26. (a) The funds appropriated in this Title to the Office of State Budget
43 and Management for a Computer Reserve shall be used by the Office of State Budget
44 and Management to address critical computer needs when no alternative source of funds

1 is available. Critical computer needs for which Computer Reserve funds may be used
2 pursuant to this section are defined as those needs that involve one or more of the
3 following factors:

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

17 The Office of State Budget and Management shall designate \$3,200,000 of
18 this reserve for each fiscal year for the critical computer needs of The University of
19 North Carolina and its constituent institutions.

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

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

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

31 Requested by: Representatives Nesbitt, Diamont, McAllister

32 —IDENTIFICATION OF POSITIONS, PROGRAMS, AND SALARY LINE ITEMS
33 TO BE REDUCED
34

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

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

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

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

9
10
11 PART 12.—OFFICE OF THE STATE CONTROLLER

12
13 Requested by: Representatives Bowman, N.J. Crawford
14 —STATE INFORMATION PROCESSING SYSTEMS' AMENDED RATE
15 SCHEDULE

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

20 The rates set by this amended rate schedule shall not be increased during the
21 1991-93 fiscal biennium.

22
23
24 PART 13.—GENERAL ASSEMBLY

25
26 Requested by: Representatives Bowman, N. J. Crawford
27 —STUDY COMMISSION ON COMPUTER SERVICES

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

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

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

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

18 (e) Members of the Study Commission who are also members of the General
19 Assembly shall be paid subsistence and travel expenses at the rate set forth in G.S. 120-
20 3.1. Members of the Study Commission who are officials or employees of the State
21 shall receive travel allowances at the rate set forth in G.S. 138-6. All other members of
22 the Study Commission shall be paid per diem and allowances at the rates set forth in
23 G.S. 138-5.

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

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

29
30
31 PART 14.—PUBLIC SCHOOLS

32
33 Requested by: Representatives Payne, Fussell

34 —CONSOLIDATE SCHOOL ADMINISTRATOR ALLOTMENTS

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

38
39 Requested by: Representatives Payne, Fussell

40 —DRIVER TRAINING PROGRAM

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

42 "**§ 20-88.1. Driver training and safety education.**

43 (a) In accordance with criteria and standards approved by the State Board of
44 Education, the State Superintendent of Public Instruction shall organize and administer

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

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

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

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

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

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

35 **"§ 115C-215. Instruction in driver training and safety education.**

36 There shall be organized and administered under the general supervision of the
37 Superintendent of Public Instruction a program of driver training and safety education in
38 the public schools of this State, said courses to be noncredit courses taught by
39 instructors ~~approved by the Department of Public Instruction.~~ who meet the
40 requirements established by the State Board of Education. Instructors shall not be
41 required to hold teacher certificates."

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

43 **"§ 115C-216. Boards of education required to provide courses in operation of**
44 **motor vehicles.**

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

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

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

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

34 (e) Content of Course; What Persons Eligible. — The words "a course of training
35 and instruction for eligible persons in the operation of motor vehicles" as applied to this
36 section means such course of instruction in the operation of motor vehicles prescribed
37 or approved by the Department of Public Instruction, provided that every such course
38 shall include actual operation of motor vehicles by the persons eligible for same, under
39 the supervision of a qualified instructor. Only such persons older than 14 years and six
40 months, who are approved by the principal of the school, shall be eligible for such
41 course of instruction, subject to rules and regulations prescribed by the Department of
42 Public Instruction.

43 (f) Acts Ratified and Confirmed. — The acts of all boards of county
44 commissioners and the governing bodies of all municipalities, the acts of all local

1 ~~boards of education, and the acts of the State Board of Education heretofore done in~~
2 ~~connection with providing courses of training and instruction in the operation of motor~~
3 ~~vehicles in this State, including the appropriation and expenditure of funds for such~~
4 ~~purpose, are hereby ratified and confirmed."~~

5 (d) The State Board of Education shall convert the allotments of funds for
6 months of employment for driver education instructors and for loan car fees to dollar
7 allotments.

8

9 Requested by: Representatives Payne, Fussell

10 ---DROPOUT PREVENTION/IN-SCHOOL SUSPENSION

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

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

24

25 Requested by: Representatives Payne, Fussell

26 ---DROPOUT PREVENTION COORDINATORS

27 Sec. 34. Of the funds appropriated to the Department of Public Education for
28 aid to local school administrative units for dropout prevention, the State Board of
29 Education shall allocate to the Department of Public Instruction up to \$225,000 for the
30 1991-92 fiscal year and up to \$225,000 for the 1992-93 fiscal year for the three dropout
31 prevention coordinators. The State Superintendent shall assign the dropout prevention
32 coordinators to designated areas within the State and shall develop job descriptions for
33 them. These funds are to be part of the continuation budget in the next biennium.

34

35 Requested by: Representatives Payne, Fussell

36 ---PROJECT TEACH FUNDS

37 Sec. 35. Of the funds appropriated to the Department of Public Education for
38 the 1991-93 fiscal biennium for aid to local school administrative units, the State Board
39 of Education shall allocate to the Department of Public Instruction \$73,000 for the
40 1991-92 fiscal year and \$73,000 for the 1992-93 fiscal year to be used to:

41 (1) Maintain the Project Teach Initiative in the Robeson, Pitt,
42 Cumberland, Warren, Halifax, Guilford, Vance, Northampton, Anson
43 and Bertie County Schools, and the Durham, High Point, and
44 Greensboro City Schools.

1 (2) Expand the project in at least two school systems to focus on parents
2 of students in the seventh grade so as to involve parents in the
3 coaching and support of promising minority young people.
4 These funds are to be part of the continuation budget in the next fiscal biennium.

5
6 Requested by: Representatives Payne, Fussell

7 —ADVANCED TRAINING FOR FOREIGN LANGUAGE TEACHERS

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

13 Requested by: Representatives J.W. Crawford, Hardaway, Hunter

14 —CONTINUE MODEL TEACHER EDUCATION CONSORTIUM

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

20

21 Requested by: Representatives Payne, Fussell

22 —FUNDING FOR CITY SCHOOL SYSTEMS

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

30 (b) Effective July 1, 1991, Chapter 115C of the General Statutes is amended by
31 adding a new section to read:

32 "**§ 115C-68.1. Merger of units by the board of county commissioners.**

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

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

41 (b) The boards of county commissioners of two counties in which one local
42 school administrative unit is located in both counties may jointly adopt plans for each of
43 their counties, including a plan of consolidation and merger for such unit that is located
44 in more than one county. The results of such consolidation and merger shall be that

1 there is only one county-wide local school administrative unit in each county, or that the
2 entirety of the unit located within two counties is merged and consolidated with the
3 county unit of one of the two counties. Such plans shall also merge and consolidate any
4 other city school administrative unit located wholly within one of the two counties.
5 Within the two county area, all the plans shall take effect on the same day.

6 The plans jointly adopted under this subsection shall require that the counties jointly
7 adopting the plans provide local funding per average daily membership to the resulting
8 local school administrative units for subsequent fiscal years of at least the highest level
9 of any local school administrative unit in the counties for the fiscal year before the
10 merger.

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

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

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

23 (c) Effective July 1, 1991, Chapter 115C of the General Statutes is amended
24 by adding a new section to read:

25 **"§ 115C-68.2. Merger of units by the local boards of education.**

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

39 (d) No liability for any supplemental school tax levied under local act or G.S.
40 115C-501 to G.S. 115C-511 that attached prior to the date on which a levy is
41 discontinued pursuant to a plan for merger for local school administrative units under
42 G.S. 115C-68.1 or G.S. 115C-68.2 is discharged as a result of the repeal, and no right to
43 a refund of tax that accrued prior to the effective date on which a levy is discontinued
44 may be denied as a result of the repeal.

1 This subsection becomes effective July 1, 1991.

2
3 Requested by: Representatives Payne, Fussell

4 —PUPIL TRANSPORTATION PROGRAM IMPROVEMENTS

5 Sec. 38. The Department of Public Instruction shall implement the Pupil
6 Transportation Program Improvements Implementation Projects authorized by Section
7 55 of Chapter 752 of the 1989 Session Laws. The Department of Public Instruction
8 may use up to \$400,000 of the funds appropriated for the 1991-92 fiscal year for aid to
9 local school administrative units for pupil transportation in order to replace computer
10 equipment located in the 100 county school bus garages and in the Department of Public
11 Instruction, as required by the State Fleet Vehicle Management System, and for other
12 purposes required for the implementation of the projects authorized by the 1989
13 Session.

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

17
18 Requested by: Representatives Diamont, Nesbitt

19 —APPROPRIATION OF FUNDS FROM STATE LITERARY FUND

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

23
24
25 PART 15.—COMMUNITY COLLEGES

26
27 Requested by: Representatives Payne, Fussell

28 —MAINTENANCE OF PLANT

29 Sec. 40. (a) Notwithstanding any provision of law to the contrary, any
30 community college that has an out-of-county student head count served on the main
31 campus of the college in excess of fifty percent (50%) of the total student head count as
32 defined by the State Board of Community Colleges shall be provided funds for the
33 purpose of "operations of plant". These funds shall not exceed eighty-five percent
34 (85%) of the funds allocated to these colleges during the 1990-91 fiscal year for this
35 purpose.

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

37
38 Requested by: Representatives Payne, Fussell

39 —BUDGET FLEXIBILITY

40 Sec. 41. The State Board of Community Colleges shall establish budget
41 guidelines that grant to the individual institutions maximum budget flexibility to
42 accomplish the budget reductions assigned to them by the State Board for the 1991-93
43 fiscal biennium. These guidelines shall allow transfers of all operating funds, except
44 from literacy funds and the Human Resources Development Program, between line

1 items and program areas. These guidelines shall also require that, to the extent possible,
2 reductions shall be taken in administrative costs rather than from instructional costs.

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

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

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

10
11 Requested by: Representatives Payne, Fussell

12 ---OPERATING APPROPRIATIONS/NOT USED FOR RECREATION
13 EXTENSION

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

21
22 Requested by: Representatives Payne, Fussell

23 ---FULL-TIME EQUIVALENT TEACHING POSITIONS/COMMUNITY
24 COLLEGES

25 Sec. 43. For the purpose of determining the community college system-wide
26 number of full-time equivalent (FTE) teaching positions each year, the total curriculum
27 full-time equivalent student enrollment shall be divided by 21.63 for the 1991-92 fiscal
28 year and by 21.44 for the 1992-93 fiscal year; the occupational extension full-time
29 equivalent student enrollment shall be divided by 23 for the 1991-92 fiscal year and by
30 23 for the 1992-93 fiscal year.

31
32 Requested by: Representatives Payne, Fussell

33 ---TUITION/PUBLIC SCHOOL STUDENTS TAKING COMMUNITY COLLEGE
34 COURSES

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

36 "(b) In order to make instruction as accessible as possible to all citizens, the
37 teaching of curricular courses and of noncurricular extension courses at convenient
38 locations away from institution campuses as well as on campuses is authorized and shall
39 be encouraged. A pro rata portion of the established regular tuition rate charged a full-
40 time student shall be charged a part-time student taking any curriculum course. In lieu
41 of any tuition charge, the State Board of Community Colleges shall establish a uniform
42 registration fee, or a schedule of uniform registration fees, to be charged students
43 enrolling in extension courses for which instruction is financed primarily from State
44 funds; provided, however, that the State Board of Community Colleges may provide by

1 general and uniform regulations for waiver of tuition and registration fees for persons
2 not enrolled in elementary or secondary schools taking courses leading to a high school
3 diploma or equivalent certificate, for training courses for volunteer firemen, local fire
4 department personnel, volunteer rescue and lifesaving department personnel, local
5 rescue and lifesaving department personnel, Radio Emergency Associated Citizens
6 Team (REACT) members when the REACT team is under contract to a county as an
7 emergency response agency, local law-enforcement officers, patients in State alcoholic
8 rehabilitation centers, all full-time custodial employees of the Department of Correction,
9 employees of the Department of Correction's Division of Adult Probation and Parole
10 and employees of the Division of Youth Services of the Department of Human
11 Resources required to be certified pursuant to Chapter 17C of the General Statutes and
12 the rules of the Criminal Justice and Training Standards Commission, trainees enrolled
13 in courses conducted under the New and Expanding Industry Program, clients of
14 sheltered workshops, clients of adult developmental activity programs, students in
15 Human Resources Development Programs, juveniles of any age committed to the
16 Division of Youth Services of the Department of Human Resources by a court of
17 competent jurisdiction, and prison inmates. Provided further, tuition shall be waived for
18 senior citizens attending institutions operating pursuant to this Chapter as set forth in
19 Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided
20 further, tuition shall also be waived for all courses taken by high school students at
21 community colleges in accordance with G.S. 115D-20(4) and this section."
22

23 Requested by: Representatives Payne, Fussell

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

25 Sec. 45. Appropriations to the Department of Community Colleges for
26 equipment and library books are made for each year of the fiscal biennium. All
27 unencumbered appropriations shall revert to the General Fund 12 months after the close
28 of each fiscal year for which they were appropriated. Encumbered balances outstanding
29 at the end of each period shall be handled in accordance with existing State Budget
30 policies. The Department shall be able to identify to the Office of State Budget and
31 Management which appropriations will revert at the end of the 12 months after the close
32 of each fiscal year.
33

34 Requested by: Representatives Payne, Fussell

35 ---" TECH PREP" IMPLEMENTATION

36 Sec. 46. Of the funds available to the Department of Public Education for
37 vocational education, \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93
38 fiscal year, shall be allocated to the North Carolina Tech Prep Leadership Development
39 Center at Richmond Community College for assistance to local education agencies and
40 community colleges in planning and implementing "Tech Prep" across the State. The
41 Department of Community Colleges shall allocate \$50,000 each year from funds
42 available to it for the 1991-92 fiscal year and for the 1992-93 fiscal year for the North
43 Carolina "Tech Prep" Leadership Development Center at Richmond Community
44 College.

1

2 Requested by: Representatives Payne, Fussell

3 —ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION

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

14

15 Requested by: Representative Nesbitt

16 —STATE DEFENSE MILITIA EXEMPT FROM COMMUNITY COLLEGE
17 TUITION AND FEES

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

19 "(b) In order to make instruction as accessible as possible to all citizens, the
20 teaching of curricular courses and of noncurricular extension courses at convenient
21 locations away from institution campuses as well as on campuses is authorized and shall
22 be encouraged. A pro rata portion of the established regular tuition rate charged a full-
23 time student shall be charged a part-time student taking any curriculum course. In lieu
24 of any tuition charge, the State Board of Community Colleges shall establish a uniform
25 registration fee, or a schedule of uniform registration fees, to be charged students
26 enrolling in extension courses for which instruction is financed primarily from State
27 funds; provided, however, that the State Board of Community Colleges may provide by
28 general and uniform regulations for waiver of tuition and registration fees for persons
29 not enrolled in elementary or secondary schools taking courses leading to a high school
30 diploma or equivalent certificate, for training courses for volunteer firemen, local fire
31 department personnel, volunteer rescue and lifesaving department personnel, local
32 rescue and lifesaving department personnel, Radio Emergency Associated Citizens
33 Team (REACT) members when the REACT team is under contract to a county as an
34 emergency response agency, local law-enforcement officers, patients in State alcoholic
35 rehabilitation centers, all full-time custodial employees of the Department of Correction,
36 employees of the Department's Division of Adult Probation and Parole and employees
37 of the Division of Youth Services of the Department of Human Resources required to be
38 certified pursuant to Chapter 17C of the General Statutes and the rules of the Criminal
39 Justice and Training Standards Commission, trainees enrolled in courses conducted
40 under the New and Expanding Industry Program, clients of sheltered workshops, clients
41 of adult developmental activity programs, students in Human Resources Development
42 Programs, juveniles of any age committed to the Division of Youth Services of the
43 Department of Human Resources by a court of competent jurisdiction, ~~and prison~~
44 ~~inmates.~~ prison inmates, and members of the North Carolina State Defense Militia as

1 defined in G.S. 127A-5 and as administered pursuant to Article 5 of Chapter 127A of
2 the General Statutes. Provided further, tuition shall be waived for senior citizens
3 attending institutions operating pursuant to this Chapter as set forth in Chapter 115B of
4 the General Statutes, Tuition Waiver for Senior Citizens."

5
6
7 **PART 16.—COLLEGES AND UNIVERSITIES**

8
9 Requested by: Representatives Payne, Fussell

10 **—TEACHING HOSPITAL REIMBURSEMENT**

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

15
16 Requested by: Representatives Payne, Fussell

17 **—AID TO PRIVATE COLLEGES/LEGISLATIVE TUITION GRANT**
18 **LIMITATIONS**

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

25 (b) No Legislative Tuition Grant funds may be expended for a program at an off-
26 campus site of a private institution, as defined in G.S. 116-22(1), established after May
27 15, 1987, unless (i) the private institution offering the program has previously notified
28 and secured agreement from other private institutions operating degree programs in the
29 county in which the off-campus program is located or operating in the counties adjacent
30 to that county or (ii) the degree program is neither available nor planned in the county
31 with the off-campus site or in the counties adjacent to that county.

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

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

40
41 Requested by: Representatives Payne, Fussell

42 **—AID TO PRIVATE COLLEGES/PROCEDURE**

43 Sec. 51. (a) Funds appropriated in this Title to the Board of Governors of The
44 University of North Carolina for aid to private colleges shall be disbursed in accordance

1 with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up
2 to \$450.00 per full-time equivalent North Carolina undergraduate student enrolled at a
3 private institution as of October 1 each year.

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

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

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

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

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

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

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

41 Any remaining funds shall revert to the General Fund.

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

44

1 Requested by: Representatives Payne, Fussell
2 —WAKE FOREST AND DUKE MEDICAL SCHOOL ASSISTANCE/FUNDING
3 FORMULAE

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

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

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

36

37 Requested by: Representatives Payne, Fussell
38 —UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL
39 HILL/NURSING

40 Sec. 53. Notwithstanding the provisions of G.S. 126-4(1), G.S. 126-4(2),
41 and Section 9 of Chapter 738 of the 1987 Session Laws, as amended by Section 100(a)
42 of the 1987 Session Laws, and as further amended by Section 54 of Chapter 500 of the
43 1989 Session Laws, the Current Operations Appropriations Act of 1989, the Board of
44 Directors of the University of North Carolina Hospitals at Chapel Hill shall establish

1 policies and rules governing the study and implementation of competitive position
2 classification and compensation plans for registered and licensed practical nurse
3 positions that have been approved by the Board of Directors. These plans shall provide
4 for minimum, maximum, and intermediate rates of pay, and may include provisions for
5 range revisions and shift premium pay and for salary adjustments to address internal
6 inequities, job performance, and market conditions. The Office of State Personnel shall
7 review the classification and compensation plans on an annual basis, and all changes in
8 compensation plans for these registered and licensed practical nursing positions shall be
9 submitted to the Office of State Personnel upon implementation.

10
11 Requested by: Representatives Payne, Fussell

12 —UNC BUDGETARY CHANGES

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

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

23
24 Requested by: Representatives Payne, Fussell

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

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

- 33 (1) Refine existing agreements to increase coordination of services, to
34 provide for referral and client tracking between the systems, and to
35 define the types of service to be provided by each entity;
- 36 (2) Provide for subcontractors when necessary or reasonable for the
37 provision of services, including the use of federal funds to provide
38 services;
- 39 (3) Require definitive working agreements at the local level in those
40 counties or municipal areas where more than one State-funded entity
41 provides services to small businesses. These defined working
42 agreements shall include:
- 43 a. Efforts to consolidate office space and support services where
44 feasible;

- 1 b. Referral and client tracking systems; and
2 c. Coordination of program and service delivery efforts; and
3 (4) Provide for joint annual reports on these efforts.

4 The Board of Governors of The University of North Carolina and the State
5 Board of Community Colleges shall approve the Memorandum of Agreement and report
6 the results of their efforts and the impact of the working agreements on operations and
7 cost to the General Assembly by March 31, 1992.

8

9 Requested by: Representatives Payne, Fussell

10 —UNC BOARD OF GOVERNORS PREVENTION OF DUPLICATIVE
11 ECONOMIC DEVELOPMENT EFFORTS

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

- 15 (1) Reallocate the funds for Northeastern North Carolina Tomorrow
16 (E.C.S.U.), Western North Carolina Tomorrow (W.C.U.), the Regional
17 Development Institute (ECU), The Economic Development Office
18 (PSU), and the Urban Development Institute (UNC-C), pulled out of
19 the individual campuses and provided to the Board in this act, after the
20 funding reduction required by this act, to achieve consolidation of
21 services and after:

- 22 a. Ensuring that the efforts of these offices are consistent with the
23 Small Business and Technology Development Centers Program
24 (SBTDC) efforts and may be used to match federal funds,
25 including additional federal funds that may become available.
26 The Board shall, when possible, consolidate these offices into
27 the (SBTDC) network; and
28 b. Requiring the Small Business and Technology Development
29 Centers Program (SBTDC) to provide those direct services to
30 small businesses previously offered by the Department of
31 Economic and Community Development, including
32 purchaser/supplier conferences and export assistance.

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

37

38 Requested by: Representative Nesbitt

39 —OBSTETRICAL EDUCATION FUNDS

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

1 funds transferred by this section shall be used for the MAHEC Obstetrical Education
2 Program.

3
4
5 PART 17.—DEPARTMENT OF TRANSPORTATION

6
7 Requested by: Representative Anderson

8 —MOWING ROAD SHOULDERS

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

20
21 Requested by: Representatives McLaughlin, Holt

22 —DOT PERSONNEL ACTIONS REPORTED

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

28
29 Requested by: Representatives McLaughlin, Holt

30 —PLAN TO REDUCE LABOR VARIANCE

31 Sec. 60. The Department of Transportation shall submit to the House
32 Appropriations Subcommittee on Transportation and the Senate Appropriations
33 Committee on Natural and Economic Resources during the 1992 Session of the General
34 Assembly, a plan to reduce labor variance in highway planning and design from the
35 current nineteen and two-tenths percent (19.2%) to the pre-Trust Fund 1985 level of ten
36 and six-tenths percent (10.6%). The Plan shall list all activities that are charged to labor
37 variance and the reasons why the work has not been assigned to job orders.

38
39 Requested by: Representatives McLaughlin, Holt

40 —PERFORMANCE AUDIT COMPARING COST OF ENGINEERING SERVICES
41 BETWEEN DEPARTMENT OF TRANSPORTATION AND PRIVATE
42 ENGINEERING FIRMS

43 Sec. 61. The State Auditor shall conduct a performance audit comparing the
44 cost, quality, and timeliness of engineering services provided by outside consultants

1 versus Department of Transportation personnel. This audit shall include an analysis of
2 overhead costs, labor variance, the impact of newly hired employees or Department of
3 Transportation efficiency and the cost of supervising consultants. The State Auditor
4 shall report his findings, by April 1, 1992, to the Chairmen of the Senate and House
5 Appropriations Committees, the Chairmen of the House Appropriations Subcommittee
6 on Transportation, and the Chairman of the Senate Appropriations Committee on
7 Natural and Economic resources.

8

9 Requested by: Representatives McLaughlin, Holt

10 —REDUCTION OF HIGHWAY TRUST FUND REVENUE USED FOR
11 ADMINISTRATIVE EXPENSES

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

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

- 19 (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design,
20 and construct the projects of the Intrastate System described in G.S.
21 136-179.
- 22 (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and
23 construct the urban loops described in G.S. 136-180.
- 24 (3) Six and one-half percent (6.5%) to supplement the appropriation to
25 cities for city streets under G.S. 136-181.
- 26 (4) Six and one-half percent (6.5%) for secondary road construction as
27 provided in G.S. 136-182."

28

29 Requested by: Representatives McLaughlin, Holt

30 —BRANCH AGENT TRANSACTION RATE

31 Sec. 63. The Division of Motor Vehicles of the Department of Transportation
32 shall compensate a contractor with whom it has a contract under G.S. 20-63(h) at the
33 rate of ninety-two cents (92¢) for each transaction performed in accordance with the
34 requirements set by the Division. A transaction is any of the following activities:

- 35 (1) Issuance of a registration plate, a registration card, a registration
36 renewal sticker, or a certificate of title.
- 37 (2) Issuance of a handicapped placard or handicapped identification card.
- 38 (3) Acceptance of an application for a personalized registration plate.
- 39 (4) Acceptance of a surrendered registration plate, registration card, or
40 registration renewal sticker, or acceptance of an affidavit stating why a
41 person cannot surrender a registration plate, registration card, or
42 registration renewal sticker.
- 43 (5) Cancellation of a title because the vehicle has been junked.

- 1 (6) Acceptance of an application for, or issuance of, a refund for a fee or a
 2 tax, other than the highway use tax.
 3 (7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in
 4 financial responsibility or receipt of the restoration fee imposed by that
 5 statute.
 6 (8) Acceptance of a notice of failure to maintain financial responsibility
 7 for a motor vehicle.
 8 (9) Collection of the highway use tax.
 9 Performance at the same time of any combination of the items that are listed
 10 within each subdivision or are listed within subdivisions (1) through (8) is a single
 11 transaction. Performance of the item listed in subdivision (9) in combination with any
 12 other items listed in this section is a separate transaction.
 13

14 Requested by: Representatives McLaughlin, Holt
 15 —BIDS FOR COMPUTER SERVICES

16 Sec. 64. In requests for bids, requests for quotes, requests for proposals, or
 17 other procurement actions issued through the Department of Administration, Division of
 18 Purchase and Contract, or through any other State agency, for vendors to develop a
 19 strategic plan, conduct a feasibility study, or prepare a needs assessment for a computer
 20 system, information system, data communications network, data processing application,
 21 or other information technology application, there shall be a provision that reads as
 22 follows:" Eligibility for Future Requirements: The successful offeror on this project
 23 will not be considered for an award on subsequent hardware, software, software
 24 support, and related procurements which are based on specifications or
 25 recommendations resulting from this procurement." The Division of Purchase and
 26 Contract and the State agency or agencies involved in the procurement may delete this
 27 provision in a procurement request by jointly (i) filing a written request with the
 28 Director of the Office of State Budget for authorization to delete this provision from the
 29 procurement effort, (ii) sending a copy of this written request for authorization to the
 30 Director of the Fiscal Research Division at the time it is filed with the Office of State
 31 Budget, (iii) receiving written authorization to delete the provision from the Director of
 32 the Office of State Budget, and (iv) reporting the authorization, if it is granted, to the
 33 Director of the Fiscal Research Division and to the next meeting of the Joint Legislative
 34 Commission on Governmental Operations.
 35

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

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

40 **"§ 136-16.6. Continuing rail appropriations.**

41 There is annually ~~appropriated, beginning with the 1987-88 fiscal year, from the~~
 42 ~~General Fund to the Department of Transportation for rail purposes the greater of one~~
 43 ~~hundred thousand dollars (\$100,000) or appropriated one hundred percent (100%) of the~~
 44 annual dividends received in the prior fiscal year ~~(less any amounts that are required by~~

1 ~~Section 13.18 of Chapter 792, Session Laws of 1985 to be paid for the expenses of the~~
2 ~~Railroad Negotiating Commission) by the State from its ownership of stock in the North~~
3 ~~Carolina Railroad Company and the Atlantic and North Carolina Railroad Company.~~
4 Company to the Highway Fund for use by the Department of Transportation for railroad
5 purposes."
6

7 Requested by: Representatives McLaughlin, Holt
8 ---TRANSFER OF FUNDS FROM THE EQUIPMENT FUND

9 Sec. 66. The Department of Transportation's Equipment Fund shall pay to the
10 Highway Fund \$5,000,000 for the 1991-92 fiscal year and \$5,000,000 for the 1992-93
11 fiscal year. These funds shall be used for highway maintenance.
12
13

14 PART 18.—DEPARTMENT OF CORRECTION
15

16 Requested by: Representatives Anderson, Redwine
17 ---PRIVATE CONFINEMENT FACILITIES

18 Sec. 67. No for-profit, privately owned or operated confinement facilities
19 may be added to the State prison system unless approved by the General Assembly.
20 The State may contract with private, nonprofit firms to provide or operate work and
21 study release centers for women and for youth.
22

23 Requested by: Representatives Anderson, Redwine
24 ---NEGOTIATED RATES FOR MEDICAL SERVICES

25 Sec. 68. The Department of Correction shall negotiate for rates as close to
26 Medicaid rates as possible for all medical services rendered to that Department by
27 providers who are not State employees. The Department shall report the results of its
28 negotiations to the Chairmen of the Senate Appropriations Committee and the Senate
29 Base Budget Appropriations Committee, the Chairmen of the House Appropriations
30 Committee, and the Chairmen of the Senate and the House Appropriations Committees
31 on Justice and Public Safety prior to March 15, 1992.
32

33 Requested by: Representatives Anderson, Redwine
34 ---LIMIT USE OF OPERATIONAL FUNDS

35 Sec. 69. Funds appropriated in this Title to the Department of Correction for
36 operational costs for additional facilities shall be used for the personnel and operating
37 expenses set forth in the budget approved by the General Assembly in this act. These
38 funds may not be expended for any other purpose, and may not be expended for
39 additional prison personnel positions until the new facilities are within 90 days of
40 completion, except as authorized for the facilities at Nash, Pender, South Mountain, and
41 Brown Creek.
42

43 Requested by: Representatives Anderson, Redwine
44 ---INMATE REPRESENTATION STUDY

1 Sec. 70. The Joint Legislative Commission on Governmental Operations
2 shall study the issue of providing legal representation to inmates in the custody of the
3 Department of Correction by examining the current means and alternative means of
4 providing such representation and determining which of those means are the most
5 feasible. The Commission shall report its findings and any recommendations to the
6 Chairmen of the Senate and House Appropriations Committees and the Chairmen of the
7 Senate and House Appropriations Committees on Justice and Public Safety by May 1,
8 1992.

9
10
11 PART 19.—DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY
12

13 Requested by: Representatives Anderson, Redwine
14 —REPORT ON COMMUNITY SERVICE WORKERS

15 Sec. 71. The Department of Crime Control and Public Safety shall report
16 quarterly in the 1991-92 fiscal year and the 1992-93 fiscal year to the Joint Legislative
17 Commission on Governmental Operations and the Fiscal Research Division on the
18 number of community service workers who were available during each month of the
19 time period preceding that report to perform repairs and maintenance of the parks and
20 when and where they were available.

21
22 Requested by: Representatives Anderson, Redwine
23 —REPORTS ON THE COMMUNITY PENALTIES PROGRAM AND THE CRIME
24 VICTIMS COMPENSATION FUND

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

30
31 Requested by: Representatives Anderson, Redwine
32 —LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER
33 GRANTS

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

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

43 (c) Unless a State statute provides a different forum for review where a federal
44 law or regulation provides that a State application for a grant must be reviewed by the

1 State legislature or its designated body and at the time of the review the General
2 Assembly is not in session, that application shall be reviewed by the Joint Legislative
3 Commission on Governmental Operations.

4
5 Requested by: Representatives Anderson, Redwine

6 ---REPORT ON MOTOR VEHICLE REPLACEMENT COST

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

17
18 Requested by: Representatives Anderson, Redwine

19 ---REPORT ON HIGHWAY PATROL FURNITURE AND EQUIPMENT
20 REPLACEMENT SCHEDULE

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

27
28 Requested by: Representatives Anderson, Redwine

29 ---CRIME VICTIMS COMPENSATION/SOFTWARE FUNDS

30 Sec. 76. (a) The Office of State Budget and Management shall designate
31 \$10,080 of the Computer Reserve Fund created in the Office of State Budget and
32 Management for the 1991-92 fiscal year for the critical computer needs of the Crime
33 Victims Compensation Program in the Department of Crime Control and Public Safety.

34 (b) The Department of Crime Control and Public Safety shall eliminate one
35 position for a claims examiner and one position for an investigator by July 1, 1992.

36
37
38 PART 20.—JUDICIAL DEPARTMENT

39
40 Requested by: Representatives Anderson, Redwine

41 ---COMMISSIONERS ON UNIFORM STATE LAWS

42 Sec. 77. From funds appropriated to the Judicial Department in the certified
43 budget for the 1991-93 biennium, the Administrative Office of the Courts may transfer
44 within its budget up to \$19,000 for the 1991-92 fiscal year and up to \$19,000 for the

1 1992-93 fiscal year to reimburse the expenses of travel of the North Carolina delegation
2 of the National Conference of Commissioners on Uniform State Laws.

3
4 Requested by: Representatives Anderson, Redwine

5 —INDIGENT PERSONS' ATTORNEY FEE FUND

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

12 (b) Effective July 1, 1991, the Administrative Office of the Courts shall, for
13 each year of the biennium, allot the sum of \$11,500,000 from the Indigent Persons'
14 Attorney Fee Fund for adult, juvenile, and guardian **ad litem** cases for the 1991-92 and
15 1992-93 fiscal years to each judicial district where the superior and district court
16 districts are coterminous, and otherwise by county, according to the caseload of indigent
17 persons who were not represented by the public defender in the districts or counties
18 during 1990-91 and 1991-92, respectively.

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

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

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

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

1

2 Requested by: Representatives Anderson, Redwine

3 —CURRENT OPERATING EXPENSES

4

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

12

13 Requested by: Representatives Anderson, Redwine

14 —RAPE VICTIM WITNESS COUNSELLOR PROGRAM

15

16 Sec. 80. From funds appropriated to the Judicial Department in the certified
17 budget for the 1991-93 biennium in this Title, the Administrative Office of the Courts
18 may transfer within its budget up to \$25,000 for the 1991-92 fiscal year and up to
19 \$25,000 for the 1992-93 fiscal year to support the existing Rape Victim Witness
20 Counsellor Program.

20

21 Requested by: Representatives Anderson, Redwine

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

25

26 Sec. 81. (a) Before the 1992 Regular Session of the General Assembly
27 convenes, the Administrative Office of the Courts shall submit to the House and Senate
28 Appropriations Committees on Justice and Public Safety and to the Joint Legislative
29 Commission on Governmental Operations two reports which compare the amount
30 actually spent on private assigned counsel for indigent persons in Superior Court
31 District or Set of Districts 4A (Sampson, Duplin, and Jones Counties), 5 (New Hanover
32 and Pender Counties), and 10 (Wake County), with the estimated amount which would
33 have been incurred had there been a public defender in each of those districts. The first
34 report shall be submitted on or before January 1, 1992, and shall cover the period May
35 1, 1991, through October 31, 1991; the second report shall be submitted on or before
36 May 20, 1992, and shall cover the period May 1, 1991, through April 30, 1992. Each
37 report shall be based on methods and shall be presented in a format substantially similar
38 to those of the "Comparative Cost Estimates for Establishing Additional Public
39 Defender Offices in Certain Judicial Districts" which are prepared annually by the
40 Administrative Office of the Courts.

40

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

1 had there been a public defender office in that district or set of districts, as shown in the
2 reports submitted pursuant to subsection (a) of this section.

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

6
7 Requested by: Representatives Anderson, Redwine

8 ---APPELLATE DEFENDER – DEATH PENALTY CASES

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

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

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

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

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

27 "**§ 7A-486.3. Duties.**

28 The appellate defender shall:

29 (1) Represent indigent persons subsequent to conviction in trial courts
30 pursuant to assignment by trial court judges under the general
31 supervision of the Chief Justice of the Supreme Court. The Chief
32 Justice may, following consultation with the appellate defender and
33 consistent with the resources available to the appellate defender to
34 ensure quality criminal defense services by the appellate defender's
35 office, authorize the appellate defender not to accept assignments of
36 certain appeals but instead to cause those appeals to be assigned either
37 to a local public defender's office or to private assigned counsel.

38 (2) Maintain a clearinghouse of materials and a repository of briefs
39 prepared by the appellate defender to be made available to private
40 counsel representing indigents in criminal cases.

41 (3) Provide continuing legal education training to assistant appellate
42 defenders and to private counsel representing indigents in criminal
43 cases, including capital cases, as resources are available.

- 1 (4) Provide consulting services to attorneys representing defendants in
2 capital cases.
- 3 (5) Recruit qualified members of the private bar who are willing to
4 provide representation in State and federal death penalty
5 postconviction proceedings.
- 6 (6) In his discretion, serve as counsel of record for indigent defendants in
7 capital cases in State court.
- 8 (7) Undertake direct representation and consultation in capital cases
9 pending in federal court only to the extent that such work is fully
10 federally funded."

11
12 Requested by: Representatives Anderson, Redwine

13 —JUDICIAL DEPARTMENT AND DEPARTMENT OF CORRECTION
14 PURCHASES OF SUPPLIES, MATERIALS, AND EQUIPMENT

15 Sec. 83. During the 1991-93 biennium, the Administrative Office of the
16 Courts is authorized to make direct purchases of supplies, materials, and equipment for
17 the Judicial Department, and the Department of Correction is authorized to make direct
18 purchases of supplies, materials, and equipment for the Department of Correction,
19 without complying with Article 3 of Chapter 143 of the General Statutes (Purchases and
20 Contracts) provided that (i) all purchases shall be made pursuant to an open competitive
21 bidding process substantially similar to that provided for in that Article, and (ii) no
22 purchases may be made under the authority of this section except at a price which is less
23 than that for the same item or items under any State contract in effect at the time of the
24 purchase.

25 The Administrative Office of the Courts and the Department of Correction
26 shall report to the Joint Legislative Commission on Governmental Operations and the
27 Fiscal Research Division regarding these purchases by December 31, 1991, and by May
28 1, 1992, for the 1991-92 fiscal year and by May 1, 1993, for the 1992-93 fiscal year.

29
30 Requested by: Representatives Anderson, Redwine

31 —TERMINATION OF AUTOMATIC DISMISSAL PROGRAMS

32 Sec. 84. Effective July 1, 1991, the programs in Prosecutorial Districts 5, 25,
33 26, 27A, and 27B for dismissing all minor traffic citation court cases and forgiving the
34 payment of all court costs upon the completion by the offender of a "defensive driving
35 course" or "traffic safety school" shall be terminated. No such program may be
36 established or operated in any judicial or prosecutorial district except by express
37 enactment of the General Assembly.

38
39
40 PART 21.—DEPARTMENT OF JUSTICE

41
42 Requested by: Representatives Anderson, Redwine

43 —USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE
44 LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

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

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

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

20
21 Requested by: Representatives Anderson, Redwine

22 —DEPARTMENT OF JUSTICE STUDY/CHARGES FOR LEGAL SERVICES TO
23 LOCAL GOVERNMENTS AND STATE AGENCIES

24 Sec. 86. (a) The Department of Justice shall study the feasibility of charging
25 local governments for legal services rendered to those governments by the Office of the
26 Attorney General. The Department of Justice shall consider the number of requests for
27 legal assistance received from local governments, the type of legal assistance requested,
28 the time required to respond to the requests, and any other matters related to the issue of
29 charging local governments for legal assistance. The Department of Justice shall also
30 consider what fee, if any, is appropriate to charge local governments for such legal
31 services. The Department of Justice shall report its findings and recommendations to
32 the 1991 General Assembly, 1992 Regular Session.

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

40
41 Requested by: Representatives Anderson, Redwine

42 —DEPARTMENT OF TRANSPORTATION TO PAY COMPENSATION OF
43 ATTORNEYS ASSIGNED TO MOTOR VEHICLES DIVISION BY THE
44 ATTORNEY GENERAL

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

5
 6 Requested by: Representatives Anderson, Redwine
 7 ~~—JUSTICE ACADEMY STUDY/STUDENT REGISTRATION FEE~~

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

14
 15 Requested by: Representatives Anderson, Redwine
 16 ~~—SBI USE OF COURT-ORDERED RESTITUTION FUNDS~~

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

19
 20 Requested by: Representatives Anderson, Redwine
 21 ~~—PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING~~
 22 ~~BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES~~

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

26
 27 REQUESTED BY: Representatives Anderson, Redwine
 28 ~~—TRANSFER LEGAL AND SUPPORT STAFF POSITIONS FROM VARIOUS~~
 29 ~~DEPARTMENTS TO THE DEPARTMENT OF JUSTICE~~

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

33 Dept	Position	Position	
34 Agency	Number	Title	Grade

35
 36
 37 ADMINISTRATION

39 Radioactive			
40 Waste	0095	Paralegal II	67

41
 42 (b) The following positions are transferred to the Department of Justice from the
 43 Department of Agriculture:

1	Dept	Position	Position	
2	Agency	Number	Title	Grade

3

4

5 AGRICULTURE

6

7 Administration

8 Legal Staff

9

0105

Agency Legal
Specialist II

75

10

11 (c) The following positions are transferred to the Department of Justice from the
12 Department of Community Colleges:

13

14	Dept	Position	Position	
15	Agency	Number	Title	Grade

16

17

18 COMMUNITY COLLEGES

19

20 Legal Staff

21

0180

(to 1160)

Paralegal I

65

22

23 (d) The following positions are transferred to the Department of Justice from the
24 Department of Correction:

25

26	Dept	Position	Position	
27	Agency	Number	Title	Grade

28

29

30 CORRECTION

31

32 Legal Staff

33

0074

Agency Legal
Specialist III

77

34

35

36

0078

Agency Legal
Specialist II

75

37

38

39

0080

Agency Legal
Specialist II

75

40

41

42

0079

Agency Legal
Specialist II

75

43

44

Paralegal III

1		(Employee Title =	70
2	0084	Paralegal II)	67
3			
4	Support Staff		
5		Administrative	
6	0088	Secretary IV	61
7			
8	0090	Clerk-Typist IV	59
9			
10	0092	Clerk-Typist III	57

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

15	Dept	Position	Position	
16	Agency	Number	Title	Grade
17				
18				
19	<u>ENVIRONMENT, HEALTH AND NATURAL RESOURCES</u>			
20				
21	Legal Staff			
22	Administration		Agency Legal	
23		1902	Specialist III	77
24				
25			Agency Legal	
26		1903	Specialist III	77
27				
28			Agency Legal	
29		1906	Specialist I	73
30				
31			Agency Legal	
32		1907	Specialist III	77
33				
34			Agency Legal	
35		1909	Specialist III	77
36				
37			Agency Legal	
38		1911	Specialist II	75
39				
40			Agency Legal	
41		1912	Specialist III	77
42				
43			Agency Legal	
44		1915	Specialist III	77

1				
2			Agency Legal	
3		1916	Specialist III	77
4				
5			Agency Legal	
6		1918	Specialist I	73
7				
8	Marine Fisheries	8442	Paralegal II	67
9				
10		8443	Paralegal II	67
11				
12		8444	Paralegal II	67
13				
14	Solid Waste	4523	Attorney II	79
15				
16	Support Staff	1914	Clerk-Steno V	61
17				
18		1917	Clerk-Typist IV	59
19				
20		1908	Clerk-Typist IV	59
21				
22		1905	Clerk-Typist IV	59
23				
24		4035	Secretary III	57
25				

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

28				
29	Dept	Position	Position	
30	Agency	Number	Title	Grade
31				
32				
33	<u>HUMAN RESOURCES</u>			
34				
35	Legal Staff			
36				
37	Office of the		Agency Legal	
38	Secretary	0713	Specialist II	75
39				
40				
41	Division of			
42	Youth Services		Agency Legal	
43		0003	Specialist I	73
44				

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

Dept Agency	Position Number	Position Title	Grade
<u>INSURANCE</u>			
Legal Services Division	0114	Attorney II	79
	0117	Attorney II	79
	0120	Attorney II	79
	0122	Attorney II	79
	0123	Attorney II	79
	0124	Attorney II	79
	0125	Attorney II	75
	0126	Agency Legal Specialist III	77
	0133	Paralegal II	67
Field Audit	0420	Attorney II	79
Support Staff	0134	Clerk-Typist IV	59
	0138	Clerk-Typist IV	59
	0139	Administrative Secretary V	61
	0144	Clerk-Typist IV	59

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

Dept Agency	Position Number	Position Title	Grade
----------------	--------------------	-------------------	-------

REVENUE

Legal Staff

Field Operations

8210

Agency Legal
Specialist II

75

(i) The following positions are transferred to the Department of Justice from the Department of the Secretary of State:

Dept Agency	Position Number	Position Title	Grade
----------------	--------------------	-------------------	-------

SECRETARY OF STATE

Legal Staff

Corporations

Division

0200

Attorney-
Corporations Filing

75

Support Staff

0420

Clerk-Steno III

57

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

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

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

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

3
4 Requested by: Representative Anderson

5 ---DEPARTMENT OF JUSTICE/DRUG INFORMATION SYSTEM

6 Sec. 92. The North Carolina Drug Information System proposed in the State's
7 1991 Criminal Justice Improvement and Drug Control Grant application submitted to
8 the United States Department of Justice, Bureau of Justice Assistance, shall be housed
9 in the Department of Justice and shall be under the supervision and control of the
10 Attorney General. The Department of Justice and the Department of Crime Control and
11 Public Safety shall report to the Joint Legislative Commission on Governmental
12 Operations and the Fiscal Research Division by March 15, 1992, regarding the progress
13 in implementing the system.

14
15
16 PART 22.—DEPARTMENT OF HUMAN RESOURCES

17
18 Requested by: Representatives Nye, Easterling

19 ---MEDICAID

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

25 Services and payment bases:

- 26 (1) Hospital-Inpatient - Payment for hospital inpatient services will be
27 prescribed in the State Plan as established by the Department of
28 Human Resources. Administrative days for any period of
29 hospitalization shall be limited to a maximum of three days.
- 30 (2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a
31 prospective reimbursement plan as established by the Department of
32 Human Resources.
- 33 (3) Nursing Facilities - As prescribed under the reimbursement plan for
34 Nursing Facilities. Nursing facilities providing services to Medicaid
35 recipients who also qualify for Medicare, must be enrolled in the
36 Medicare program as a condition of participation in the Medicaid
37 program, subject to phase-in certification for those nursing facilities
38 not already enrolled in Medicare. State facilities are not subject to the
39 requirement to enroll in the Medicare Program.
- 40 (4) Intermediate Care Facilities for the Mentally Retarded - As prescribed
41 under the State Plan for reimbursing intermediate care facilities for the
42 mentally retarded.
- 43 (5) Drugs - Drug costs as allowed by federal regulations plus a
44 professional services fee per month excluding refills for the same drug

- 1 or generic equivalent during the same month. Reimbursement shall be
2 available for up to six prescriptions per recipient, per month, including
3 refills. Payments for drugs are subject to the provisions of subsection
4 (h) of this section and to the provisions at the end of subsection (a) of
5 this section, or in accordance with a plan adopted by the Department of
6 Human Resources consistent with federal reimbursement regulations.
7 Payment of the professional services fee shall be made in accordance
8 with the plan adopted by the Department of Human Resources,
9 consistent with federal reimbursement regulations. Adjustments to the
10 professional services fee shall be established by the General Assembly.
- 11 (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified
12 Nurse Midwife Services - Fee schedules as developed by the
13 Department of Human Resources. Payments for dental services are
14 subject to the provisions of subsection (g) of this section.
- 15 (7) Community Alternative Program, EPSDT Screens - Payment to be
16 made in accordance with rate schedule developed by the Department
17 of Human Resources.
- 18 (8) Home Health, Private Duty Nursing, Clinic Services, Prepaid Health
19 Plans - Payment to be made according to reimbursement plans
20 developed by the Department of Human Resources.
- 21 (9) Medicare Buy-In - Social Security Administration premium.
- 22 (10) Ambulance Services - Uniform fee schedules as developed by the
23 Department of Human Resources.
- 24 (11) Hearing Aids - Actual cost plus a dispensing fee.
- 25 (12) Rural Health Clinic Services - Provider based - reasonable cost;
26 nonprovider based - single cost reimbursement rate per clinic visit.
- 27 (13) Family Planning - Negotiated rate for local health departments. For
28 other providers - see specific services, for instance, hospitals,
29 physicians.
- 30 (14) Independent Laboratory and X-Ray services - Uniform fee schedules
31 as developed by the Department of Human Resources.
- 32 (15) Optical Supplies - One hundred percent (100%) of reasonable
33 wholesale cost of materials.
- 34 (16) Ambulatory Surgical Centers - Payment as prescribed in the
35 reimbursement plan established by the Department of Human
36 Resources.
- 37 (17) Medicare Crossover Claims - An amount up to the actual coinsurance
38 or deductible or both, in accordance with the plan, as approved by the
39 Department of Human Resources.
- 40 (18) Physical Therapy and Speech Therapy - Services limited to EPSDT
41 eligible children. Payments are to be made only to the Children's
42 Special Health Services program at rates negotiated by the Department
43 of Human Resources.

- 1 (19) Personal Care Services - Payment in accordance with plan approved
- 2 by the Department of Human Resources.
- 3 (20) Case Management Services - Reimbursement in accordance with the
- 4 availability of funds to be transferred within the Department of Human
- 5 Resources.
- 6 (21) Hospice - Services may be provided in accordance with plan
- 7 developed by the Department of Human Resources.
- 8 (22) Other Mental Health Services - Unless otherwise covered by this
- 9 section, coverage is limited to agencies meeting the requirements of
- 10 the rules established by the Commission for Mental Health,
- 11 Developmental Disabilities, and Substance Abuse Services, and
- 12 reimbursement is made in accordance with a plan developed by the
- 13 Department of Human Resources not to exceed the upper limits
- 14 established in federal regulations.
- 15 (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible
- 16 Children - Reimbursement in accordance with plan approved by the
- 17 Department of Human Resources.
- 18 (24) Health Insurance Premiums - Payments to be made in accordance with
- 19 the plan adopted by the Department of Human Resources consistent
- 20 with federal regulations.

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

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

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

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

	<u>Categorically Needy</u>		<u>Medically Needy</u>	
	<u>Family</u>	<u>Standard</u>	<u>AFDC Payment</u>	
	<u>Size</u>	<u>Of Need</u>	<u>Level*</u>	<u>AA,AB,AD*</u>
41				
42	1	\$ 4,344	\$ 2,172	\$ 2,900
43	2	5,664	2,832	3,800
44	3	6,528	3,264	4,400

1	4	7,128	3,564	4,800
2	5	7,776	3,888	5,200
3	6	8,376	4,188	5,600
4	7	8,952	4,476	6,000
5	8	9,256	4,680	6,300

6

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

9 The payment level for Aid to Families with Dependent Children shall be fifty percent
10 (50%) of the standard of need.

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

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

19 (f) Dental Coverage Limits. Dental services will be provided on a restricted
20 basis in accordance with regulations developed by the Department. Funds for dental
21 services shall be disbursed only with prior approval by the Department of Human
22 Resources, Division of Medical Assistance, as required by this subsection. No prior
23 approval shall be required for emergency services or routine services. Routine services
24 are defined as examinations, X rays, prophylaxes, nonsurgical tooth extractions,
25 amalgam fillings, and fluoride treatments. Prior approval shall be required for all other
26 services and for routine services performed more than two times during a consecutive
27 12-month period. The Department of Human Resources shall adopt rules, as provided
28 by the Administrative Procedure Act, to implement this subsection.

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

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

42 (h) Exceptions to Service Limitations, Eligibility Requirements, and
43 Payments. Service limitations, eligibility requirements, and payments, and payments
44 bases in this section may be waived by the Department of Human Resources, with the

1 approval of the Director of the Budget, to allow the Department to carry out pilot
2 programs for prepaid health plans or community based services programs in accordance
3 with plans approved by the U.S. Department of Health and Human Services, or when
4 the Department determines that such a waiver will result in a reduction in the total
5 Medicaid costs for the recipient.

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

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

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

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

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

- 23 (1) Pregnant women with incomes equal to or less than one hundred
24 eighty-five percent (85%) of the federal poverty guidelines as revised
25 each July shall be covered for Medicaid benefits;
- 26 (2) Infants under the age of 1 with family incomes equal to or less than
27 one hundred eighty-five percent (85%) of the federal poverty
28 guidelines as revised each July 1, shall be covered for Medicaid
29 benefits;
- 30 (3) Children aged 1 through 5 with family incomes equal to or less than
31 one hundred thirty-three percent (133%) of the federal poverty
32 guidelines as revised each July 1 shall be covered for Medicaid
33 benefits; and
- 34 (4) Children aged 6 through 18 who were born after September 30, 1983,
35 with family incomes equal to the federal poverty guidelines as revised
36 each July 1, shall be covered for Medicaid benefits.

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

43 (n) The Department of Human Resources may use Medicaid funds budgeted
44 from program services to support the cost of administrative activities to the extent that

1 these administrative activities produce a net savings in services requirements.
2 Administrative initiatives funded by this section shall be first approved by the Office of
3 State Budget and Management.

4
5 Requested by: Representatives Easterling, Nye

6 ---REDUCTIONS FROM INFLATIONARY INCREASES

7 Sec. 94. The Department of Human Resources, Division of Medical
8 Assistance, shall effect the reductions of \$10,700,000 for the 1991-92 fiscal year and
9 \$10,700,000 for the 1992-93 fiscal year from inflationary increases in the following
10 categories of services:

- 11 (1) Inpatient Hospital;
- 12 (2) Specialty Hospital Inpatient;
- 13 (3) Mental Hospital Inpatient - Private;
- 14 (4) Skilled Nursing;
- 15 (5) Intermediate Nursing;
- 16 (6) Intermediate Care Facilities for the Mentally Retarded - Private;
- 17 (7) Physician, Dental, Chiropractor, Optometrist, and Podiatrist;
- 18 (8) Drugs - Profession Services Fee;
- 19 (9) Home Health;
- 20 (10) Personal Care Service;
- 21 (11) Community Alternative Program (CAP).

22 The Division of Medical Assistance shall implement these reductions and
23 shall adopt rules necessary to reflect these reductions and accomplish these savings at
24 the earliest appropriate date for each service type.

25
26 Requested by: Representatives Nye, Easterling

27 ---GENERAL REDUCTIONS

28 Sec. 95. The Department of Human Resources, Division of Medical
29 Assistance, shall effect the reduction of \$3,200,000 for the 1991-92 fiscal year and of
30 \$3,200,000 for the 1992-93 fiscal year and shall adopt rules necessary to reflect these
31 reductions and accomplish these savings at the earliest appropriate date.

32
33 Requested by: Representatives Easterling, Nye

34 ---FAMILY SUPPORT ACT

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

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

40 (b) The General Assembly finds that it is in the best interest of the State and of
41 all its citizens to encourage recipients of Aid to Families with Dependent Children to
42 obtain jobs and become self-sufficient. It further finds that, by continuing medical
43 assistance and providing limited wage assistance to those recipients who are working,

1 the State will make it possible to help many recipients to be able to keep their jobs,
2 support their families, and become self-sufficient.

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

11
12 Requested by: Representatives Nye, Easterling

13 ---RETROSPECTIVE ACCOUNTING ADJUSTMENT

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

21
22 Requested by: Representatives Easterling, Nye

23 ---AFDC/WOMEN IN THIRD TRIMESTER OF PREGNANCY ADJUSTMENT

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

28
29 Requested by: Representatives Nye, Easterling

30 ---ADOPTION SUBSIDY

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

34
35 Requested by: Representatives Easterling, Nye

36 ---FOSTER CARE

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

40
41 Requested by: Representatives Nye, Easterling

42 ---EMERGENCY ASSISTANCE

43 Sec. 101. The Division of Social Services, Department of Human Resources,
44 shall not expend more State funds than are appropriated for Emergency Assistance by

1 this Title. Within this limit, Emergency Assistance benefits shall not exceed \$300.00
2 per year per family, payable over a 30-day period. After this 30-day period, Emergency
3 Assistance benefits are not available to that family until 12 months have elapsed from
4 the initial authorization date. The family may have no more than a total of \$300.00 in
5 liquid assets in order to qualify for any Emergency Assistance pursuant to this section.

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

12
13 Requested by: Representatives Easterling, Nye

14 —FOOD STAMP OUTREACH

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

25
26 Requested by: Representatives Nye, Easterling

27 —CHILD PROTECTIVE SERVICES

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

- 34 (1) \$10,000 for the 1991-92 fiscal year and \$10,000 for the 1992-93 fiscal
35 year shall be allocated to each of the 15 county departments that did
36 not receive an allocation of the 1985 State appropriation for child
37 protective services;
- 38 (2) In addition, each of the 100 county departments shall receive an
39 allocation of \$10,000 for the 1991-92 fiscal year and \$10,000 for the
40 1992-93 fiscal year;
- 41 (3) The balance of available funds shall be allocated to each county
42 department based upon the percentage that the total number of abuse
43 and neglect reports within that county represents to the statewide total
44 number of abuse and neglect reports. These percentages shall be

1 computed from the reports received by the Central Registry of Abuse
2 and Neglect cases for the next two prior fiscal years.

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

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

16

17 Requested by: Representatives Easterling, Nye

18 —CHILD CARING INSTITUTION REIMBURSEMENT

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

25 (1) Only those child caring agencies that have been receiving funds from
26 the Division of Social Services that have been appropriated as grants-
27 in-aid to non-State agencies shall be included in the disbursement
28 unless additional State or federal funds are made available to permit
29 disbursement to new child caring agencies. A new child caring agency
30 may receive funds pursuant to this section only if the additional State
31 or federal funds made available are sufficient to allow disbursements
32 to the new agency without reducing the disbursement to the agencies
33 already receiving funds;

34 (2) The formula for the disbursement of these funds shall be based on the
35 assumption that the State is committed to paying allowable foster care
36 maintenance costs and shall do so, to the extent that State and federal
37 funds are available; and

38 (3) In any year that State and federal funds are not sufficient to pay each
39 agency's allowable foster care maintenance costs, each participating
40 agency's rate shall be reduced by the same percentage, so that each
41 agency receives the same percentage of its allowable costs.

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

43

44 Requested by: Representatives Easterling, Nye

1 ---CHILD-PLACING AGENCIES CHANGE

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

3 "(2) The Social Services Commission shall have the power and duty to
4 establish standards and adopt rules and regulations:

5 a. For the programs of public assistance established by federal
6 legislation and by Article 2 of Chapter 108A of the General
7 Statutes of the State of North Carolina with the exception of the
8 program of medical assistance established by G.S. 108A-25(b);

9 b. To achieve maximum cooperation with other agencies of the
10 State and with agencies of other states and of the federal
11 government in rendering services to strengthen and maintain
12 family life and to help recipients of public assistance obtain
13 self-support and self-care;

14 c. For the placement and supervision of dependent and delinquent
15 children and payment of necessary costs of foster home care for
16 needy and homeless children as provided by G.S. 108A-48; and

17 d. For the payment of ~~grants in aid and other~~ State funds to
18 ~~private child-caring institutions. The payment and distribution of~~
19 ~~grants in aid funds to private child-caring institutions shall be~~
20 ~~regulated by the grant in aid (GIA) formula. This formula and~~
21 ~~any modifications of this formula shall be approved by the~~
22 ~~Advisory Budget Commission prior to its implementation.~~
23 child-placing agencies as defined in G.S. 131D-10.2(4) and
24 residential child care facilities as defined in G.S. 131D-10.2(13)
25 for care and services provided to children who are in the
26 custody or placement responsibility of a county department of
27 social services."
28

29 Requested by: Representatives Nye, Easterling

30 ---LIMITATIONS ON STATE ABORTION FUND

31 Sec. 106. Section 93 of Chapter 479 of the 1985 Session Laws, as amended
32 by Section 75 of Chapter 738 of the 1987 Session Laws, as amended by Section 72 of
33 Chapter 500 of the 1989 Session Laws, as amended by Section 79 of Chapter 1066 of
34 the 1989 Session Laws, Regular Session 1990, shall remain in effect on and after July 1,
35 1991, with the following exception:

36 Any reference in Section 93 of Chapter 479 of the 1985 Session Laws, as
37 amended, to the 1985-86 fiscal year or the 1986-87 fiscal year applies to the 1991-92
38 fiscal year and the 1992-93 fiscal year.
39

40 Requested by: Representatives Easterling, Nye

41 ---WILLIE M.

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

43 (1) That there is a need in North Carolina to provide appropriate treatment
44 and education programs to children under the age of 18 who suffer

1 from emotional, mental, or neurological handicaps accompanied by
2 violent or assaultive behavior;

3 (2) That children meeting these criteria have been identified as a class in
4 the case of Willie M., et al. vs. Martin, et al., formerly Willie M., et al.
5 vs. Hunt, et al.; and

6 (3) That these children have a need for a variety of services, in addition to
7 those normally provided, that may include but are not limited to
8 residential treatment services, educational services, and independent
9 living arrangements.

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

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

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

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

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

42 (e) Reporting Requirements. The Department of Human Resources and the
43 Department of Public Education shall submit, by May 1 of each fiscal year, a joint
44 report to the Governor and the General Assembly on the progress achieved in serving

1 members of the Willie M. Class. The report shall include the following unduplicated
2 data for each county: (i) the number of children nominated for the Willie M. Class; (ii)
3 the number of children actually identified as members of the Class in each county; (iii)
4 the number of children served as members of the Class in each county; (iv) the number
5 of children who remain unserved or for whom additional services are needed in order to
6 be determined to be appropriately served; (v) the types and locations of treatment and
7 education services provided to Class members; (vi) the cost of services, by type, to
8 members of the Class and the maximum and minimum rates paid to providers for each
9 service; (vii) the number of cases whose treatment costs were in excess of one hundred
10 fifty percent (150%) of the average annual per client expenditure; (viii) information on
11 the impact of treatment and education services on members of the Class; (ix) an
12 explanation of, and justification for, any waiver of departmental rules that affect the
13 Willie M. program; and (x) the total State funds expended, by program, on Willie M.
14 class members, other than those funds specifically appropriated for the Willie M.
15 programs and services.

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

20 (1) In the 1991-92 fiscal year, to a representative sample of class
21 members;

22 (2) In the 1992-93 fiscal year and thereafter, to each member of the class,
23 and the information generated from these measures shall be used to
24 assess client progress and program effectiveness,

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

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

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

35 (2) That the funds appropriated will enable the development and
36 implementation of placement and services for the class members in
37 Willie M., et al. vs. Martin, et al., formerly Willie M., et al. vs. Hunt,
38 et al., within a reasonable period of time considered within the context
39 of the needs of the class members, the other needs of the State and the
40 resources available to the State.

41 (h) The General Assembly supports the efforts of the responsible officials
42 and agencies of the State to meet the requirements of the court order in Willie M., et al.
43 vs. Martin, et al., formerly Willie M., et al. vs. Hunt, et al. To ensure that Willie M.

1 class members are appropriately served, no State funds shall be expended on placement
2 and services for Willie M. class members except:

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

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

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

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

23
24 Requested by: Representatives Nye, Easterling

25 —WILLIE M. AUDIT CONTINUED

26 Sec. 108. The Office of State Auditor shall conduct a follow-up study of its
27 1990 performance audit of the Willie M. program to determine, along with other issues
28 the Auditor considers appropriate, the following:

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

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

41
42 Requested by: Representatives Easterling, Nye

43 —THOMAS S.

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

9 (1) Funds specifically appropriated by the General Assembly for the
10 placement and services of Thomas S. Class members; and

11 (2) Funds for placement and services for which Thomas S. Class members
12 are otherwise eligible.

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

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

23
24 Requested by: Representatives Nye, Easterling

25 —TRANSFERS OF CERTAIN FUNDS AUTHORIZED

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

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

36
37 Requested by: Representatives Easterling, Nye

38 —MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS

39 Sec. 111. Funds received by the Department of Human Resources for the tax
40 levied on mixed beverages under G.S. 18B-804(b)(8) shall be expended by the
41 Department of Human Resources as prescribed by G.S. 18B-805(h). These funds shall
42 be matched by local funds in accordance with the State/local ratio established by the
43 current area mental health matching formula. These funds shall be allocated to the area
44 mental health programs for substance abuse services on a per capita basis as determined

1 by the Office of State Budget and Management's most recent estimates of county
2 populations.

3

4 Requested by: Representatives Nye, Easterling

5 —ADAP TRANSPORTATION FUNDS

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

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

13

14 Requested by: Representatives Easterling, Nye

15 —SPECIALIZED RESIDENTIAL CENTERS' BED CONVERSION

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

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

25

26 Requested by: Representatives Nye, Easterling

27 —LIABILITY INSURANCE

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

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

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

1
2 Requested by: Representatives Easterling, Nye

3 —NON-MEDICAID REIMBURSEMENT

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

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

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

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

23 Family		Medical Eye		All	
24 <u>Size</u>		<u>Care Adults</u>		<u>Rehabilitation</u>	<u>Other</u>
25 1	\$4,860	\$ 8,364		\$4,200	
26 2	5,940	10,944		5,300	
27 3	6,204	13,500		6,400	
28 4	7,284	16,092		7,500	
29 5	7,824	18,648		7,900	
30 6	8,220	21,228		8,300	
31 7	8,772	21,708		8,800	
32 8	9,312	22,220		9,300	

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

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

40
41 Requested by: Representatives Nye, Easterling
42 —JOHN UMSTEAD HOSPITAL - PLANNING

43 Sec. 116. The Department of Human Resources may use funds that become
44 available to it through gifts, federal or private grants, receipts from federal programs, or

1 any other source in the 1991-92 fiscal year, for advance planning through the working
2 drawings phase for a psychiatric facility at John Umstead Hospital.

3
4 Requested by: Representatives Easterling, Nye

5 —DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND
6 SUBSTANCE ABUSE SERVICES BUDGET CODE CONSOLIDATION

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

17
18 Requested by: Representatives Nye, Easterling

19 —DEVELOPMENTAL DAY CENTERS GRANT-IN-AID

20 Sec. 118. Of the funds appropriated in this Title, to the Department of
21 Human Resources, Division of Mental Health, Developmental Disabilities, and
22 Substance Abuse Services, the sum of \$2,260,470 for the 1991-92 fiscal year is
23 transferred to the Department of Public Instruction for handicapped children aged 3
24 through 4 years who have been identified through Division of Mental Health,
25 Developmental Disabilities, and Substance Abuse Services statewide services and who
26 are served in developmental day centers. These funds shall be used to contract with
27 area mental health, developmental disabilities, and substance abuse authorities or with
28 public or private nonprofit developmental day centers to continue to serve handicapped
29 children aged 3 through 4 years who are identified as needing developmental day
30 services.

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

34
35 Requested by: Representatives Easterling, Nye

36 —CAREGIVER SUPPORT SHARING

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

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

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

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

23
24 Requested by: Representatives Nye, Easterling

25 —IN-HOME AGING SERVICES

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

31 The Division shall administer the in-home aide services and activities funded
32 by this section. The Division of Aging shall choose in-home service providers in
33 accordance with procedures under the Older Americans Act and shall include the
34 following criteria: documented capacity to provide care, adequacy of quality assurance,
35 training, supervision, abuse prevention complaint mechanisms, and costs. All funds
36 allocated by the Division pursuant to this section shall be allocated by October 1 of each
37 fiscal year on the same basis as funding under the Older Americans Act. Effective July
38 1, 1992, local matching requirements shall be no less than ten percent (10%). State
39 funding shall not exceed ninety percent (90%) of the reimbursable costs.

40
41 Requested by: Representatives Easterling, Nye

42 —SENIOR CENTER OUTREACH

43 Sec. 121. (a) Of the funds appropriated to the Department of Human
44 Resources, Division of Aging, by this Title for the 1991-93 fiscal biennium, \$403,800

1 for the 1991-92 fiscal year and \$403,800 for the 1992-93 fiscal year shall be used by the
2 Division of Aging to enhance senior center programs as follows:

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

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

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

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

10 (1) Formally endorse the need for such a center;

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

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

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

17

18 Requested by: Representatives Nye, Easterling

19 —FUNDS TO MATCH FEDERAL FUNDS FOR AGING

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

24

25 Requested by: Representatives Easterling, Nye

26 —DAY CARE FUNDS MATCHING REQUIREMENT

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

30

31 Requested by: Representatives Nye, Easterling

32 —DAY CARE

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

36

37 Requested by: Representatives Easterling, Nye

38 —DAY CARE RATES

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

43 (1) For day care facilities, as defined in G.S. 110-86(3), in which fewer
44 than fifty percent (50%) of the enrollees are subsidized by State or

1 federal funds, the State shall continue to pay the same fee paid by
2 private paying parents for a child in the same age group in the same
3 facility.

4 (2) Facilities in which fifty percent (50%) or more of the enrollees are
5 subsidized by State or federal funds may choose annually one of the
6 following payment options:

7 a. The facility's payment rate for fiscal year 1985-86; or

8 b. The market rate, as calculated annually by the Division of
9 Facility Services' Child Day Care Section in the Department of
10 Human Resources.

11 (3) A market rate shall be calculated for each county and for each age
12 group or age category of enrollees and shall be representative of fees
13 charged to unsubsidized private paying parents for each age group of
14 enrollees within the county. The county market rates shall be
15 calculated from facility fee schedules collected by the Child Day Care
16 Section on a routine basis. The Section shall also calculate a statewide
17 market rate for each age category. The Social Services Commission
18 shall adopt rules to establish minimum county rates that use the
19 statewide market rates as a reference point.

20 (4) Child day care homes as defined in G.S. 110-86(4) and individual
21 child care arrangements may be paid the market rate for day care
22 homes which shall be calculated at least biennially by the Child Day
23 Care Section according to the method described in subsection (a)(3) of
24 this section.

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

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

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

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

41 (1) One-third of budgeted funds shall be distributed according to the
42 county's population in relation to the total population of the State;

43 (2) One-third of the budgeted funds shall be distributed according to the
44 number of children under 6 years of age in a county who are living in

1 families whose income is below the State poverty level in relation to
2 the total number of children under 6 in the State in families whose
3 income is below the poverty level; and

- 4 (3) One-third of budgeted funds shall be distributed according to the
5 number of working mothers with children under 6 years of age in a
6 county in relation to the total number of working mothers with
7 children under 6 in the State.

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

18
19 Requested by: Representatives Nye, Easterling

20 ---COMMUNITY ACTION PROGRAM FUNDS

21 Sec. 126. For the 1991-92 fiscal year and the 1992-93 fiscal year, all
22 agencies designated as eligible agencies pursuant to G.S. 108A-24 that receive
23 Community Service Block Grant Funds may use those funds for the administration of
24 agency programs. The amount of those funds used for administration of agency
25 programs shall be limited to ten percent (10%) of the total annual budget of the agency
26 as certified in the prior year's audit of the agency. The Department of Human Resources
27 shall report annually to the Joint Legislative Commission on Governmental Operations
28 and the Appropriations Committee on Human Resources beginning October 1, 1991, on
29 the use of Community Service Block Grant Funds for administration of agency
30 programs. The report shall show:

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

37
38 Requested by: Representatives Easterling, Nye

39 ---DOMICILIARY RATE INCREASE

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

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Requested by: Representatives Nye, Easterling

—DOMICILIARY STATE/COUNTY SHARE OF COSTS

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

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

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

Requested by: Representatives Easterling, Nye

—DHR EMPLOYEES/IN-KIND MATCH

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

Requested by: Representatives Nye, Easterling

—NO EYE CLINICS IN CERTAIN COUNTIES

Sec. 130. No funds may be expended by the Division of Services for the Blind, Department of Human Resources, to hold eye clinics in any county in which an optometrist or ophthalmologist is willing to perform the services that would otherwise be performed by the clinic.

Requested by: Representatives Easterling, Nye

—COMMUNITY-BASED ALTERNATIVES PARTICIPATION

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

Requested by: Representatives Nye, Easterling

—DEPARTMENT OF HUMAN RESOURCES PROGRAM FUNDS

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

Requested by: Representatives Easterling, Nye

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

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

8

9 Requested by: Representatives Nye, Easterling

10 —EXPANSION OF THE TARGET POPULATION FOR TASC SERVICES

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

13

14 Requested by: Representatives Easterling, Nye

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

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

18 "(b) The Secretary may:

19 (1) Acquire by purchase or otherwise in the name of the Department
20 equipment, supplies, and other personal property necessary to carry out
21 the mental health, developmental disabilities, and substance abuse
22 programs;

23 (2) Sponsor training opportunities in the fields of mental health,
24 developmental disabilities, and substance abuse;

25 (3) Promote and conduct research in the fields of mental health,
26 developmental disabilities, and substance abuse;

27 (4) Provide technical assistance for the development and improvement of
28 prevention services;

29 (5) Receive donations of money, securities, equipment, supplies, or any
30 other personal property of any kind or description which shall be used
31 by the Secretary for the purpose of carrying out mental health,
32 developmental disabilities, and substance abuse programs. Any
33 donations shall be reported to the Office of State Budget and
34 Management as determined by that office;

35 (6) Accept, allocate, and spend any federal funds for mental health,
36 developmental disabilities, and substance abuse activities that may be
37 made available to the State by the federal government. This Chapter
38 shall be liberally construed in order that the State and its citizens may
39 benefit fully from these funds. Any federal funds received shall be
40 deposited with the State Treasurer and shall be appropriated by the
41 General Assembly for the mental health, developmental disabilities, or
42 substance abuse purposes specified;

43 (7) Enter agreements authorized by G.S. 122C-346;

- 1 (8) Accept, allocate, and spend funds from the United States Department
 2 of Defense to operate mental health demonstration projects for families
 3 of the uniformed services. Demonstration projects shall be operated
 4 through an area authority. The operation of these demonstration
 5 projects may be accomplished through subcontracts with one or more
 6 private sector ~~providers~~ providers; and
 7 (9) Authorize funds for contracting with a person, firm, or corporation for
 8 aid or assistance in locating, recruiting, or arranging employment of
 9 health care professionals in any facility listed in G.S. 122C-181,
 10 notwithstanding the provisions of G.S. 126-18."
 11

12 Requested by: Representative Nye

13 ---WILLIE M. SECURE TREATMENT FACILITY AUTHORIZATION

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

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

- 17 (1) For the mentally ill:
 18 a. Cherry Hospital;
 19 b. Dorothea Dix Hospital;
 20 c. John Umstead Hospital; and
 21 d. Broughton Hospital; and
 22 (2) For the mentally retarded:
 23 a. Caswell Center;
 24 b. O'Berry Center;
 25 c. Murdoch Center;
 26 d. Western Carolina Center; and
 27 e. Black Mountain Center; and
 28 (3) For substance abusers:
 29 a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at
 30 Greenville;
 31 b. Alcohol and Drug Abuse Treatment Center at Butner; and
 32 c. Alcohol and Drug Abuse Treatment Center at Black Mountain;
 33 and
 34 (4) As special care facilities:
 35 a. Wilson Special Care Center;
 36 b. Whitaker School; ~~and~~
 37 c. ~~Wright School~~ School; and
 38 d. Butner Adolescent Treatment Center."
 39

40 Requested by: Representatives Nye, Easterling

41 ---EARLY EDUCATION/HANDICAPPED/FUNDS

42 Sec. 137. The Department of Human Resources shall ensure that, by October
 43 1, 1991, all types of early intervention services referenced in G.S. 122C-3(13a), and any
 44 other such services the Secretary of Human Resources, in cooperation with the other

1 appropriate agencies and upon the advice of the Interagency Coordinating Council for
2 Handicapped Children from Birth to Five Years of Age, considers necessary, shall be
3 available to all eligible infants and toddlers and their families, as defined in G.S. 122C-
4 3(13a).

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

7 **—CHILD PROTECTIVE SERVICES NON-SUPLANT REQUIREMENT**

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

14
15
16 **PART 23.—DEPARTMENT OF AGRICULTURE**

17
18 Requested by: Representatives Ethridge, H. Hunter

19 **—AGRICULTURE TO MARKET FOREST PRODUCTS**

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

22
23
24 **PART 24.—DEPARTMENT OF ECONOMIC AND COMMUNITY**
25 **DEVELOPMENT**

26
27 Requested by: Representatives Ethridge, H. Hunter

28 **—MAIN STREET PROGRAM RESTRICTIONS**

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

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

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

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

42
43 Requested by: Representatives Ethridge, H. Hunter

44 **—WORKER TRAINING TRUST FUND**

1 Sec. 141. (a) There is appropriated from the Worker Training Trust Fund to the
2 Employment Security Commission of North Carolina the sum of \$5,459,673 for the
3 1991-92 fiscal year and the sum of \$6,059,673 for the 1992-93 fiscal year for the
4 operation of local offices at the 1986-87 level of service.

5 (b) Notwithstanding G.S. 96-5(c), there is appropriated from the Special
6 Employment Security Administration Fund to the Employment Security Commission of
7 North Carolina, the sum of \$2,000,000 for the 1991-92 fiscal year and the sum of
8 \$2,000,000 for the 1992-93 fiscal year for administration of the Veterans Employment
9 Program, Employment Services Program, and Unemployment Insurance Program.

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

13 (d) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the
14 Worker Training Trust Fund to the following agencies the following sums for the 1991-
15 92 and the 1992-93 fiscal years for the following purposes:

16 (1) \$3,000,000 for the 1991-92 fiscal year and \$2,400,000 for the 1992-93
17 fiscal year to the Department of Economic and Community
18 Development, Division of Employment and Training, for the
19 Employment and Training Grant Program.

20 (2) \$500,000 for the 1991-92 fiscal year and \$500,000 for the 1992-93
21 fiscal year to the North Carolina Department of Labor for customized
22 training of the unemployed and the working poor for specific jobs
23 needed by employers through the Department's Pre-Apprenticeship
24 Division.

25 (3) \$2,000,000 for the 1991-92 fiscal year and \$2,000,000 for the 1992-93
26 fiscal year to the North Carolina Department of Human Resources to
27 assist welfare recipients in gaining employment through the federally
28 funded Job Opportunities and Basic Skills Program in such a way as to
29 gain the maximum match of federal funds for the State dollars
30 appropriated.

31 (4) \$1,250,000 for the 1991-92 fiscal year and \$1,250,000 for the 1992-93
32 fiscal year to the North Carolina Department of Community Colleges
33 to continue the Focused Industrial Training Program.

34
35 Requested by: Representatives Ethridge, H. Hunter

36 ---WORKER TRAINING TRUST FUND/REVERSION OF FUNDS

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

38 "(f) Employment Security Commission Reserve Fund. – There is created in the
39 State treasury a special trust fund, separate and apart from all other public moneys or
40 funds of this State, to be known as the Employment Security Commission Reserve
41 Fund, hereinafter 'Reserve Fund'. Except as provided herein and in G.S. 96-9(b)(3)j, all
42 proceeds from the tax as defined in G.S. 96-9(b)(3)j and collected pursuant to G.S. 96-
43 10 shall be paid into the Reserve Fund. The moneys in the Reserve Fund may be used
44 by the Commission for loans to the Unemployment Insurance Fund, as security for

1 loans from the federal Unemployment Insurance Trust Fund, and to pay any interest
2 required on advances under Title XII of the Social Security Act as required by G.S. 96-
3 6(f), and shall be continuously available to the Commission for expenditure in
4 accordance with the provisions of this section. The State Treasurer shall be ex officio
5 the treasurer and custodian and shall invest said moneys in accordance with existing law
6 as well as rules and regulations promulgated pursuant thereto. Furthermore, the State
7 Treasurer shall disburse the moneys in accordance with the directions of the
8 Commission and in accordance with such regulations as the Commission may prescribe.

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

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

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

27 The use of funds from the Worker Training Trust Fund, for the purposes set out in
28 the above paragraph, shall be pursuant to appropriations in the Current Operations
29 Appropriations Act. Funds deposited in the Worker Training Trust Fund prior to July 1,
30 1987, shall be used as provided in the Current Operations Appropriations Act for 1987-
31 89. Funds appropriated from the Worker Training Trust Fund that are unexpended and
32 unencumbered at the end of the fiscal year for which they are appropriated shall revert
33 to the State treasury to the credit of the Worker Training Trust Fund in accordance with
34 G.S. 143-18."

35
36 Requested by: Representatives Ethridge, H. Hunter
37 ---UTILITIES REGULATORY FEE

38 Sec. 143. The percentage rate for the Utilities regulatory fee is set at nine
39 hundredths percent (0.09%) effective July 1, 1991.

40
41 Requested by: Representatives Ethridge, H. Hunter
42 ---TOURISM PROMOTION FUNDS

43 Sec. 144. Funds appropriated in this Title to the Department of Economic
44 and Community Development for tourism promotion grants shall be allocated according

1 to per capita income, unemployment, and population growth in an effort to direct funds
2 to counties most in need in terms of lowest per capita income, highest unemployment,
3 and slowest population growth, in the following manner:

- 4 (1) Counties 1 through 20 are each eligible to receive a maximum grant of
5 \$7,500 for each fiscal year, provided these funds are matched on the
6 basis of one non-State dollar for every four State dollars.
- 7 (2) Counties 21 through 50 are each eligible to receive a maximum grant
8 of \$3,500 for two of the next three fiscal years, provided these funds
9 are matched on the basis of one non-State dollar for every three State
10 dollars.
- 11 (3) Counties 51 through 100 are each eligible to receive a maximum grant
12 of \$3,500 for alternating fiscal years, beginning with the 1991-92
13 fiscal year, provided these funds are matched on the basis of four non-
14 State dollars for every State dollar.

15
16 Requested by: Representatives Ethridge, H. Hunter

17 —PETROLEUM OVERCHARGE ATTORNEY FEES

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

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

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

36
37 Requested by: Representatives Ethridge, H. Hunter

38 —NORTH CAROLINA MANUFACTURING DIRECTORY PROCEEDS

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

43 (b) Beginning October 1, 1991, the Department shall submit quarterly reports to
44 the Joint Legislative Commission on Governmental Operations and the Fiscal Research

1 Division. These reports shall include the amount of proceeds collected from the sales of
2 the Directory and the amount spent on advertising pursuant to the provisions of this
3 section.

4
5 Requested by: Representatives Ethridge, H. Hunter

6 —INDUSTRIAL DEVELOPMENT FUND/LOCAL MATCH

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

12
13 Requested by: Representatives Ethridge, H. Hunter

14 —BIOTECHNOLOGY CENTER

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

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

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

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

32
33 Requested by: Representatives Ethridge, H. Hunter

34 —MCNC

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

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

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

5 (1) Technical policy and operating procedure advice,

6 (2) Advice concerning use of the supercomputing facilities by educational
7 institutions and other groups and individuals,

8 (3) Advice and policy suggestions concerning the structures and
9 operations of the supercomputing center and any adjunct institutes,
10 conferences, or consultative committees, and

11 (4) Advice and counsel to MCNC or anyone it employs or enters into
12 contract with related to the operation of the supercomputer project,

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

20 (d) It is the intent of the General Assembly that all appropriations to MCNC
21 for all years after the 1990-91 fiscal year for the MCNC basic research program contain
22 the proviso that the appropriated funds are matched on the basis of two non-State dollars
23 (\$2.00) for every three State dollars (\$3.00).

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

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

38
39 Requested by: Representatives Ethridge, H. Hunter

40 —MCNC BUDGET LIMITS

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

	<u>FY 1991-92</u>	<u>FY 1992-93</u>
43 Microelectronics Program	\$ 6,194,302	\$ 6,000,000

1	Grants Program	-0-	-0-
2	Administration & Support	2,204,804	2,000,000
3	Supercomputer	5,298,063	5,224,705
4	Telecommunications	2,827,971	2,775,295

5 In addition, the above amounts shall be further reduced by \$850,000 in each fiscal year
6 of the biennium. The allocation of such reductions may be determined by MCNC.

7 (b) Of the funds appropriated to MCNC for the Microelectronics Program,
8 \$2,000,000 of the total appropriation in each fiscal year is contingent upon a dollar-for-
9 dollar match in non-State funds.

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

14
15 Requested by: Representatives Ethridge, H. Hunter

16 ---RURAL ECONOMIC DEVELOPMENT CENTER

17 Sec. 151. (a) Of the funds appropriated in this Title to the Department of
18 Economic and Community Development, \$1,630,627 for fiscal year 1991-92 and
19 \$1,614,766 for fiscal year 1992-93 shall be used for a grant-in-aid to the Rural
20 Economic Development Center, Inc., for the administrative costs of the Center and for
21 its pilot projects and research. No more than \$300,000 of the funds appropriated for
22 each fiscal year may be used for the administrative costs of the Rural Economic
23 Development Center, Inc.

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

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

36
37 Requested by: Representatives Ethridge, H. Hunter

38 ---RURAL ECONOMIC DEVELOPMENT CENTER FUND LIMITATIONS

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

43
44 Requested by: Representatives Ethridge, H. Hunter

1 —FEDERAL FUNDS ADMINISTRATION

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

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

- 11 (1) To negotiate, collect, and pay reasonable fees and charges regarding
12 the making or servicing of grants, loans, or other evidences of
13 indebtedness.
14 (2) To establish and revise by regulation, in accordance with Chapter
15 150B of the General Statutes, schedules of reasonable rates, fees, or
16 charges for services rendered, including but not limited to, reasonable
17 fees or charges for servicing applications. Schedules of rates, fees, or
18 charges may vary according to classes of service, and different
19 schedules may be adopted for public entities, nonprofit entities, private
20 for-profit entities, and individuals."

21
22 Requested by: Representatives Ethridge, H. Hunter

23 —EMPLOYMENT AND TRAINING PROGRAM

24 Sec. 154. Chapter 143B is amended by adding the following new section to
25 read:

26 "**§ 143B-438.6. Employment and Training Grant Program.**

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

40 (b) Use of grant funds: Local agencies may use funds received under this section
41 only for the purpose of upgrading the foundation of basic skills of the adult population
42 and the existing work force in North Carolina. Services that may be provided include
43 participant programs currently available under the federal Job Training Partnership Act
44 that are appropriate for adults; on-the-job training; work experience; adult basic

1 education; skills training, upgrading, and retraining; counseling and screening for job
2 placement; service corps; and related support services. Local agencies may use grant
3 funds to provide services only to individuals who are 18 years of age or older and who
4 either (i) meet the current Federal Job Training Partnership Act definition of
5 'economically disadvantaged', or (ii) meet the current definition for eligibility under
6 Title III of the Federal Job Training Partnership Act.

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

13 (1) One half of the funds shall be allocated on the basis of the relative
14 excess number of unemployed individuals residing in each county as
15 compared to the total excess number of unemployed individuals in all
16 counties in the State.

17 'Excess number of unemployed' is defined as the number of
18 unemployed individuals in excess of four and one-half percent (4.5%)
19 of the civilian labor force in each county or the number of unemployed
20 individuals in excess of four and one-half percent (4.5%) of the
21 civilian labor force in each census tract within the county. The
22 following methodology is used to determine the excess number of
23 unemployed:

24 a. For counties classified as having excess unemployment, the
25 excess number of unemployed is determined by subtracting four
26 and one-half percent (4.5%) of the civilian labor force from the
27 number of unemployed individuals within the county. The
28 difference equals the number of excess unemployed.

29 b. In situations where the entire county is not classified as having
30 excess unemployment, the excess number of unemployed is
31 determined by census tract unemployment within the county.
32 Census tract data is used to determine which subcounty areas
33 qualify as areas of excess unemployment. In those subcounty
34 areas classified as having excess unemployment (census tracts
35 with four and one-half percent (4.5%) or higher unemployment
36 rates), four and one-half percent (4.5%) of the census tract labor
37 force is subtracted from the number of unemployed individuals
38 within the area of excess unemployment. The subcounty
39 figures of excess number of unemployed within the county are
40 then added together to determine the total excess number of
41 unemployed within the county.

42 (2) One half of the funds shall be allocated on the basis of the relative
43 number of economically disadvantaged individuals within each county
44 compared to the total number of economically disadvantaged

1 individuals in the State. To determine the number of economically
2 disadvantaged individuals within each county, data from the State Data
3 Center in the Office of State Budget and Management, or from the
4 federal decennial census, whichever is most recent, shall be used.

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

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

17
18
19 PART 25.—DEPARTMENT OF LABOR

20
21 Requested by: Representatives Ethridge, H. Hunter
22 —FUNDING FOR OSHA ENFORCEMENT POSITIONS

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

29
30
31 PART 26.—DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL
32 RESOURCES

33
34 Requested by: Representatives Ethridge, H. Hunter
35 —REDUCTION IN ADMINISTRATIVE SERVICES

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

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

1 in order to reduce the budget of administrative services by the sum of \$200,000 for the
2 1991-92 fiscal year and by the sum of \$400,000 for the 1992-93 fiscal year.

3

4 Requested by: Representatives Ethridge, H. Hunter

5 ---SEPTAGE MANAGEMENT FEES

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

9

10 Requested by: Representatives Ethridge, H. Hunter

11 ---AUTHORIZE USE OF WATER QUALITY FEES

12 Sec. 158. There is appropriated from the nonreverting account established in
13 G.S. 143-215.3A to the Department of Environment, Health, and Natural Resources a
14 sum not to exceed \$2,124,142 for the 1991-92 fiscal year and a sum not to exceed
15 \$2,148,017 for the 1992-93 fiscal year for the salaries and the necessary support for up
16 to 49 positions for the 1991-92 fiscal year and the 1992-93 fiscal year in the water
17 quality program. Water quality fees shall be the only source of funds for these positions
18 and all necessary support. These positions shall be used to reduce the backlog of permit
19 applications and to improve the rate of compliance of facilities with environmental
20 standards for toxic substances.

21

22 Requested by: Representatives Ethridge, H. Hunter

23 ---AUTHORIZE USE OF AIR QUALITY FEES

24 Sec. 159. There is appropriated from the nonreverting account established in
25 G.S. 143-215.3A to the Department of Environment, Health, and Natural Resources a
26 sum not to exceed \$1,193,340 for the 1991-92 fiscal year and a sum not to exceed
27 \$1,487,506 for the 1992-93 fiscal year for the salaries and the necessary support:

28 (1) For up to 24 positions for the 1991-92 fiscal year; and

29 (2) For up to 29 positions for the 1992-93 fiscal year

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

33

34 Requested by: Representatives Ethridge, H. Hunter

35 ---SUPERFUND PROGRAM

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

41 (b) The Department of Environment, Health, and Natural Resources and the
42 Office of State Budget and Management shall report to the Joint Legislative
43 Commission on Governmental Operations the amount and the source of the funds used

1 pursuant to subsection (a) of this section within 30 days of the expenditure of these
2 funds.

3
4 Requested by: Representatives Ethridge, H. Hunter

5 —FOREST DEVELOPMENT ACT FUNDS

6 Sec. 161. Notwithstanding the provisions of G.S. 113A-192, the assessment
7 from the primary forest product processors shall be collected for the 1991-92 fiscal year
8 and the 1992-93 fiscal year. Notwithstanding the provisions of G.S. 113A-180 and G.S.
9 113A-183(c), all funds accrued to the Forest Development Fund, from whatever source,
10 may be expended pursuant to the provisions of G.S. 113A-193(c) and Article 11 of
11 Chapter 113A of the General Statutes for the 1991-92 fiscal year and the 1992-93 fiscal
12 year.

13
14 Requested by: Representatives Ethridge, H. Hunter

15 —STUDY TERMINATING LEASE WITH FEDERAL GOVERNMENT

16 Sec. 162. The Parks and Recreation Division, Department of Environment,
17 Health, and Natural Resources, shall study the desirability and the feasibility of
18 terminating any long-term lease that the State entered into, whereby the State leases
19 federal reservoirs. The Department shall report its findings and recommendations to the
20 1991 General Assembly (1992 Regular Session) no later than April 1, 1992.

21
22 Requested by: Representatives Ethridge, H. Hunter

23 —REVISION OF PARKS FEE SCHEDULE

24 Sec. 163. (a) The Parks and Recreation Division, Department of Environment,
25 Health, and Natural Resources may amend its fee schedule such that an additional sum
26 of \$392,300 is raised by such fees.

27 (b) Notwithstanding the provisions of G.S. 150B-13, the Department may adopt
28 temporary rules to implement subsection (a) of this section.

29 (c) If the Division amends its fee schedule under subsection (a) of this section,
30 the amended fee schedule becomes effective July 1, 1991.

31
32 Requested by: Representatives Ethridge, H. Hunter

33 —TECHNICAL REVIEW COMMITTEE APPOINTMENTS

34 Sec. 164. The Soil and Water Conservation Commission shall include the
35 Executive Director of the Wildlife Resources Commission, or his designee, and the
36 Director of the Marine Fisheries Division of the Department of Environment, Health,
37 and Natural Resources, or his designee, among its appointments to the Technical
38 Review Committee, which reviews the technical specifications for the best management
39 practices specified for the Agricultural Cost Share Program for Nonpoint Source
40 Pollution Control.

41
42 Requested by: Representatives Ethridge, H. Hunter

43 —AGRICULTURE COST SHARE PROGRAM

1 Sec. 165. Of the funds appropriated in this Title to the Department of
2 Environment, Health, and Natural Resources for the Agriculture Cost Share Program for
3 Nonpoint Source Pollution Control, a sum not to exceed \$40,000 for the 1991-92 fiscal
4 year and a sum not to exceed \$40,000 for the 1992-93 fiscal year shall be used to fund
5 tide gates in Hyde County in accordance with the match requirements specified in G.S.
6 143-215.74(b)(6).

7
8 Requested by: Representatives Ethridge, H. Hunter

9 —AUDITS OF SOIL AND WATER DISTRICT BOARDS

10 Sec. 166. G.S. 139-7 reads as rewritten:

11 **"§ 139-7. District board of supervisors – appointive members; organization of**
12 **board; certain powers and duties.**

13 The governing body of a soil and water conservation district shall consist of the
14 three elective supervisors from the county or counties in the district, together with the
15 appointive members appointed by the Soil and Water Conservation Commission
16 pursuant to this section, and shall be known as the district board of supervisors. When a
17 district is composed of less than four counties, the board of supervisors of each county
18 shall on or before October 31, 1978, and on or before October 31 as the terms of the
19 appointive supervisors expire, recommend in writing two persons from the district to the
20 Commission to be appointed to serve with the elective supervisors. If the names are not
21 submitted to the Commission as required, the office shall be deemed vacant on the date
22 the term is set to expire and the Commission shall appoint two persons of the district to
23 the district board of supervisors to serve with the elected supervisors. The Commission
24 shall make its appointments prior to or at the November meeting of the Commission.
25 Appointive supervisors shall take office on the first Monday in December following
26 their appointment. Such appointive supervisors shall serve for a term of four years, and
27 thereafter, as their terms expire, their successors shall serve for a term of four years. The
28 terms of office of all appointive supervisors who have heretofore been lawfully
29 appointed for terms the final year of which presently extends beyond the first Monday
30 in December are hereby terminated on the first Monday in December of the final year of
31 appointment. Vacancies for any reason in the appointive supervisors shall be filled for
32 the unexpired term by the appointment of a person by the Commission from the district
33 in which the vacancy occurs. Vacancies for any reason in the elected supervisors shall
34 be filled for the unexpired term by appointment by the Commission of a person from the
35 county in the district in which the vacancy occurs.

36 In those districts composed of four or more counties, the Commission may, but is
37 not ~~required, to~~ required to, appoint two persons from the district without
38 recommendation from the board of supervisors, to serve as district supervisors along
39 with the elected members of the board of supervisors. Such appointments shall be made
40 at the same time other appointments are made under this section, and the persons
41 appointed shall serve for a term of four years.

42 The supervisors shall designate a chairman and may, from time to time, change such
43 designation. A simple majority of the board shall constitute a quorum for the purpose of
44 transacting the business of the board, and approval by a majority of those present shall

1 be adequate for a determination of any matter before the board, provided at least a
2 quorum is present. Supervisors of soil and water conservation districts shall be
3 compensated for their services at the per diem rate and allowed travel, subsistence and
4 other expenses, as provided for State boards, commissions and committees generally,
5 under the provisions of G.S. 138-5; provided, that when per diem compensation and
6 travel, subsistence, or other expense is claimed by any supervisor for services performed
7 outside the district for which such supervisor ordinarily may be appointed or elected to
8 serve, the same may not be paid unless prior written approval is obtained from the
9 Department of Environment, Health, and Natural Resources.

10 The supervisors may employ a secretary, technical experts, whose qualifications
11 shall be approved by the Department, and such other employees as they may require,
12 and shall determine their qualifications, duties and compensation. The supervisors may
13 call upon the Attorney General of the State for such legal services as they may require.
14 The supervisors may delegate to their chairman, to one or more supervisors, or to one or
15 more agents, or employees such powers and duties as they may deem proper. The
16 supervisors shall furnish to the Soil and Water Conservation Commission, upon request,
17 copies of such ordinances, rules, regulations, orders, contracts, forms, and other
18 documents as they shall adopt or employ, and such other information concerning their
19 activities as it may require in the performance of its duties under this Chapter.

20 The supervisors shall provide for the execution of surety bonds for all employees
21 and officers who shall be entrusted with funds or property; shall provide for the keeping
22 of a full and accurate record of all proceedings and of all resolutions, regulations, and
23 orders issued or adopted; and shall provide for an annual audit of the accounts of
24 receipts and disbursements. In any given year, if the supervisors provide for an internal
25 audit, the supervisor serving as chairman shall certify, under oath, that this internal audit
26 is a true and accurate reflection of the accounts of receipts and disbursements, then the
27 supervisors shall not be required, notwithstanding the provisions of G.S. 159-34, to
28 provide for an audit of the accounts of receipts and disbursements by a certified public
29 accountant or by an accountant certified by the Local Government Commission. Any
30 supervisor may be removed by the Soil and Water Conservation Commission upon
31 notice and hearing, for neglect of duty, incompetence or malfeasance in office, but for
32 no other reason.

33 The supervisors may invite the legislative body of any municipality or county
34 located near the territory comprised within the district to designate a representative to
35 advise and consult with the supervisors of the district on all questions of program and
36 policy which may affect the property, water supply, or other interests of such
37 municipality or county.

38 All district supervisors whose terms of office expire prior to the first Monday in
39 January, 1948, shall hold over and remain in office until supervisors are elected or
40 appointed and qualify as provided in this Chapter, as amended. The terms of office of
41 all district supervisors, who have heretofore been elected or appointed for terms
42 extending beyond the first Monday in January, 1948, are hereby terminated on the first
43 Monday in January, 1948."
44

1 Requested by: Representatives Ethridge, H. Hunter
2 —INTEREST ON WILDLIFE RESOURCES FUND/PRESERVE FEDERAL
3 FUNDING

4 Sec. 167. (a) G.S. 143-250 reads as rewritten:

5 **"§ 143-250. Wildlife Resources Fund.**

6 All moneys in the game and fish fund or any similar State fund when this Article
7 becomes effective shall be credited forthwith to a special fund in the office of the State
8 Treasurer, and the State Treasurer shall deposit all such moneys in said special fund,
9 which shall be known as the Wildlife Resources Fund.

10 All unexpended appropriations made to the Department of Conservation and
11 Development, the Board of Conservation and Development, the Division of Game and
12 Inland Fisheries or to any other State agency for any purpose pertaining to wildlife and
13 wildlife resources shall also be transferred to the Wildlife Resources Fund.

14 Except as otherwise specifically provided by law, all moneys derived from hunting,
15 fishing, trapping, and related license fees, exclusive of commercial fishing license fees,
16 including the income received and accruing from the investment of license revenues,
17 and all funds thereafter received from whatever sources shall be deposited to the credit
18 of the Wildlife Resources Fund and made available to the Commission until expended
19 subject to the provisions of this Article. License revenues include the proceeds from the
20 sale of hunting, fishing, trapping, and related licenses, from the sale, lease, rental, or
21 other granting of rights to real or personal property acquired or produced with license
22 revenues, and from federal aid project reimbursements to the extent that license
23 revenues originally funded the project for which the reimbursement is being made. For
24 purposes of this section, real property includes lands, buildings, minerals, energy
25 resources, timber, grazing, and animal products. Personal property includes equipment,
26 vehicles, machines, tools, and annual crops. The Wildlife Resources Fund herein
27 created shall be subject to the provisions of the Executive Budget Act, Chapter 143,
28 Article 1 of the General Statutes of North Carolina as amended, and the provisions of
29 the General Statutes of North Carolina as amended, and the provisions of the Personnel
30 Act, Chapter 143, Article 2 of the General Statutes of North Carolina as amended.

31 All moneys credited to the Wildlife Resources Fund shall be made available to carry
32 out the intent and purposes of this Article in accordance with plans approved by the
33 North Carolina Wildlife Resources Commission, and all such funds are hereby
34 appropriated, reserved, set aside and made available until expended, for the enforcement
35 and administration of this Article, Chapter 75A, Article 1, and Chapter 113, Subchapter
36 IV of the General Statutes of North Carolina. The Wildlife Resources Commission
37 shall report to the Joint Legislative Commission on Governmental Operations before
38 expending from the Wildlife Resources Fund more than the amount authorized in the
39 budget enacted by the General Assembly for the fiscal period.

40 In the event any uncertainty should arise as to the funds to be turned over to the
41 North Carolina Wildlife Resources Commission the Governor shall have full power and
42 authority to determine the matter and his recommendation shall be final and binding to
43 all parties concerned."

44 (b) This section becomes effective January 1, 1992.

1
2 Requested by: Representatives Ethridge, H. Hunter
3 —ABOLISH PERINATAL COUNCIL

4 Sec. 168. G.S. 130A-128 is repealed.

5
6 Requested by: Representative Michaux
7 —CONTINUE PUBLIC DENTAL HEALTH PROGRAM EMPHASIS

8 Sec. 169. (a) The reduction of \$204,000 for each fiscal year of the biennium
9 in the budget for the Department of Environment, Health, and Natural Resources for
10 Dental Health Services shall be taken only in vacant positions. When eliminating
11 vacant positions and reducing the funding for these positions, the Department shall
12 eliminate vacant Dentist and Dental Hygienist positions only after eliminating other
13 vacancies.

14 (b) From the funds appropriated to the Department of Environment, Health,
15 and Natural Resources in this act for Dental Health Services, the Department shall
16 administer the public dental health program the primary emphasis of which shall
17 continue to be the delivery of preventive, educational, and dental care services to
18 preschool children and school-age children.

19
20 Requested by: Representative Diamont
21 —MATERNAL AND CHILD HEALTH CARE NON-SUPPLANTING
22 REQUIREMENT

23 Sec. 170. Chapter 130A of the General Statutes is amended by adding a new
24 section to read:

25 "**§ 130A-4.1. State Funds for Maternal and Child Health Care/non-supplanting.**

26 (a) The Department of Environment, Health, and Natural Resources shall ensure
27 that local health departments do not reduce county appropriations for maternal and child
28 health services provided by the local health departments because they have received
29 State appropriations for this purpose.

30 (b) All income earned by local health departments for maternal and child health
31 programs supported in whole or in part from State or federal funds, received from the
32 Department of Environment, Health, and Natural Resources, shall be budgeted and
33 expended by local health departments to further the objectives of the program that
34 generated the income."

35
36 Requested by: Representative Diamont
37 —HEALTH PROMOTION NON-SUPPLANTING REQUIREMENT

38 Sec. 171. Chapter 130A of the General Statutes is amended by adding a new
39 section to read:

40 "**§ 130A-4.2. State Funds for Health Promotion/non-supplanting.**

41 The Department of Environment, Health, and Natural Resources shall ensure that
42 local health departments do not reduce county appropriations for health promotion
43 services provided by the local health departments because they have received State
44 appropriations for this purpose."

1
 2 Requested by: Representatives Ethridge, H. Hunter
 3 —NON-MEDICAID REIMBURSEMENT

4 Sec. 172. Providers of medical services under the various State programs
 5 other than Medicaid offering medical care to citizens of the State shall be reimbursed at
 6 rates no more than those under the North Carolina Medical Assistance Program.

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

13 Notwithstanding the provisions of paragraph one of this section, the
 14 Department of Environment, Health, and Natural Resources may negotiate with
 15 providers of medical services under the various Environment, Health, and Natural
 16 Resources programs, other than Medicaid, for rates as close as possible to Medicaid
 17 rates for the following purposes: contracts or agreements for medical services and
 18 purchases of medical equipment and other medical supplies. These negotiated rates are
 19 allowable only to meet the medical needs of its non-Medicaid eligible patients, residents
 20 and clients who require such services which cannot be provided when limited to the
 21 Medicaid rate.

22 Maximum net family annual income eligibility standards for services in these
 23 programs with the exception of Migrant Health, School Health, AIDS Drug
 24 Reimbursement Program, diagnostic assessment for infants with sickle cell syndrome,
 25 and Home Health shall be as follows:

	Family		All
	<u>Size</u>	<u>Kidney</u>	<u>Other</u>
26	1	\$ 6,400	\$ 4,200
27	2	8,000	5,300
28	3	9,600	6,400
29	4	11,000	7,500
30	5	12,000	7,900
31	6	12,800	8,300
32	7	13,600	8,800
33	8	14,400	9,300

34 The eligibility level each fiscal year for outpatient services for all clients and
 35 for inpatient services for children under the age of 5, in the Children's Special Health
 36 Services Program shall be one hundred percent (100%) of the federal poverty guidelines
 37 as revised annually by the United States Department of Health and Human Services, in
 38 effect on July 1 of each fiscal year.
 39

40
 41
 42 Requested by: Representatives Ethridge, H. Hunter
 43 —ASBESTOS HAZARD MANAGEMENT FUNDS

1 Sec. 173. The fees established and collected pursuant to Article 19 of
2 Chapter 130A of the General Statutes are appropriated to the Department of
3 Environment, Health, and Natural Resources to support the Asbestos Hazard
4 Management Program.

5
6 Requested by: Representatives Ethridge, H. Hunter

7 —ADOLESCENT PREGNANCY PREVENTION PROJECTS

8 Sec. 174. (a) Of the funds appropriated in Section 3 of this act to the Division
9 of Maternal and Child Health, Department of Environment, Health, and Natural
10 Resources, \$982,768 for the 1991-92 fiscal year and \$982,768 for the 1992-93 fiscal
11 year shall be used to fund adolescent pregnancy prevention projects.

12 (b) Beginning in fiscal year 1991-92, the Division shall evaluate all of the
13 adolescent pregnancy projects funded as a result of this program at least yearly and shall
14 report its findings to the Commission for Health Services, the Joint Legislative
15 Commission on Governmental Operations, and the Chairmen of the House
16 Appropriations Committee on Environment, Health, and Natural Resources, and the
17 Senate Appropriations Committee on Natural and Economic Resources by April 1 of
18 each year. The evaluation shall be conducted by a firm or individual external to the
19 Department. Funds appropriated to the Department in Section 3 of this act for
20 employing a Public Health Program Consultant in the Division of Maternal and Child
21 Health shall be used by the Department to retain the services of the evaluator required
22 by this subsection. Any evaluation of these projects shall include a study of the
23 effectiveness of the project in reducing the pregnancy rate within the target population.

24 (c) The Commission for Health Services shall be responsible for monitoring the
25 Division's administration of the Adolescent Pregnancy Prevention Program. The
26 Division shall implement the following changes in the management and funding of the
27 Adolescent Pregnancy Prevention Program for projects funded from General Fund
28 appropriations and federal block grants:

- 29 (1) Applications. Any local agency or organization or combination of
30 agencies and organizations may apply to the Division of Maternal and
31 Child Health for an allocation of money to operate a project aimed at
32 preventing adolescent pregnancy. The application shall contain an
33 analysis of the adolescent pregnancy and related problems in the
34 locality the project would serve, and a description of how the project
35 would attempt, over a period of at least five years, to prevent the
36 problems. The application shall state how much money is needed to
37 operate the project and how the money shall be spent. The Division
38 shall conduct annually a proposal-writing session that shall be attended
39 by a representative of any project that wishes to apply for funding; that
40 session shall define the criteria for accountability and evaluation that
41 the Division requires of projects. That session shall also provide
42 information about additional funding sources to which projects might
43 turn to satisfy the matching requirements of subdivision (5) of this
44 subsection.

- 1 (2) Proposal Requirements. The Division shall apply the following
2 minimum standards to projects applying for first-year funding:
3 a. Each project shall have a plan of action that extends for at least
4 five years for prevention of adolescent pregnancy.
5 b. Each project shall have realistic, specific, and measurable goals
6 and objectives for the prevention of adolescent pregnancy.
7 c. Each project, before submitting its proposal, shall send a
8 representative to the proposal-writing session held by the
9 Division.
- 10 (3) Operating standards. The Division shall apply the following minimum
11 operating standards:
12 a. Each project shall have a Board of Advisors composed of
13 members from outside the sponsoring agency of the project.
14 The Board of Advisors shall include representatives from at
15 least four of the following: media, government, charitable
16 organizations, private business, medical institutions. The
17 Boards of Advisors shall meet at least quarterly and advise
18 project staff on project policies and operations.
19 b. Each project shall comply with reporting, contracting, and
20 evaluation requirements of the Division.
21 c. Each project shall define and maintain cooperative ties with
22 other community institutions.
23 d. Each project shall demonstrate its ability to attract financial
24 support from sources other than the State, including sources in
25 the local community.
- 26 (4) Criteria for Selection. For first-year funding, the Division shall choose
27 from among the applicants that meet the minimum standards in
28 subdivision (2) of this subsection the best selection of projects
29 according to the following criteria:
30 a. Adequacy of proposed staff to meet project objectives;
31 b. Appropriateness of project strategies to reduce adolescent
32 pregnancy;
33 c. Level of community support, including documentation from the
34 appropriate local government entity or from community
35 organizations that opportunity has been given for citizen input
36 into the proposed program, and that there is community support
37 for the proposal. Documentation may include letters or
38 statements of support from citizens or community
39 organizations, or statements that community support was
40 expressed at public hearings;
41 d. Degree of need of the locality, including that the county has a
42 significant adolescent pregnancy problem as evidenced by its
43 attributable risk score developed by the Division of Statistics
44 and Information Services; and

1 e. Other appropriate criteria.

2 The Division shall make its recommendations for funding to the
3 Commission for Health Services. The Commission shall make the
4 final determination of which projects are to be funded. The
5 Commission shall consider the recommendations of the Division but
6 shall not be bound by them. The Commission shall notify the projects
7 that are to be funded by June 1 of each year.

8 (5) Schedule of Funding. If the Commission, upon consultation with the
9 Division, finds that a project it has chosen for first-year funding
10 continues to meet the operating standards of subdivisions (2) and (3) of
11 this subsection, funding for that project shall continue, to the extent of
12 available money, for an additional four years. The level of funding
13 provided by the Division to approved projects shall be set according to
14 the following schedule:

15 a. First year, eighty percent (80%) of the project's annual budget
16 not to exceed the maximum award established by the
17 Commission for Health Services,

18 b. Second year, ninety percent (90%) of the State appropriations
19 or federal block grant funds awarded in the first year,

20 c. Third year, seventy-five percent (75%) of the State
21 appropriations or federal block grant funds awarded in the first
22 year,

23 d. Fourth year, sixty-five percent (65%) of the State appropriations
24 or federal block grant funds awarded in the first year, and

25 e. Fifth year, fifty percent (50%) of the State appropriations or
26 federal block grant funds awarded in the first year.

27 The portion of a project's budget that must come from sources other
28 than State or federal block grant funds may be provided as in-kind
29 contributions as well as cash.

30 (6) Five-Year Limit on Funding. No project shall receive State funding if
31 it has previously received State funding for five full years. Any
32 project that has received State funding before July 1, 1990 will be
33 eligible for consideration for an additional five years' State support,
34 according to the schedule. The Commission may fund any such
35 project that meets the minimum standards if it determines, after
36 considering the experience and impact of the project and measuring its
37 application against those of other applicants, that it should be funded.

38 (7) Maximum Level of Funding. The Commission for Health Services
39 shall by rule determine the maximum annual amount that may be made
40 to any one project.

41 (8) As adolescent pregnancy prevention project grant funds decrease, a
42 project shall maintain its original budget level, less the amount
43 expended for start-up costs. The Department shall develop guidelines
44 for determining start-up costs, which guidelines shall be uniform for

1 all projects. Local match percentage may come from any in-kind
2 source or newly generated funds, public or private, available to the
3 project.
4

5 Requested by: Representatives Ethridge, H. Hunter

6 —INFECTION CONTROL PROGRAM/FUNDS TRANSFER

7 Sec. 175. Of the funds appropriated to the Department of Environment,
8 Health, and Natural Resources, Division of Epidemiology, for the 1991-93 biennium,
9 \$85,274 shall be transferred in each fiscal year to the University of North Carolina at
10 Chapel Hill for the School of Medicine of the University of North Carolina at Chapel
11 Hill. Funds transferred pursuant to this section shall be used to support the Health Care
12 Facilities Infection Control Program in investigating and controlling nosocomial
13 infections in hospitals, long-term care facilities, and other medical facilities in
14 cooperation with the Division of Epidemiology. Funds transferred shall also be used to
15 provide training and consultation to hospitals, long-term care facilities, and other
16 medical facilities to prevent and control nosocomial infections.
17

18 Requested by: Representative James

19 —SOIL AND WATER CONSERVATION DISTRICT SUPERVISORS' EXPENSES

20 Sec. 176. Of the funds appropriated in this Title to the Division of Soil and
21 Water Conservation, Department of Environment, Health, and Natural Resources,
22 \$214,594 for the 1991-92 fiscal year and \$214,594 for the 1992-93 fiscal year shall be
23 used for the per diem and travel expenses of the Soil and Water Conservation District
24 Supervisors.
25

26 Requested by: Representative Ethridge

27 —NO CAP ON USE OF PERMIT FEES

28 Sec. 177. G.S. 143-215.3A reads as rewritten:

29 **"§ 143-215.3A. Use of application and permit fees.**

30 There is established a separate nonreverting account within the Department of
31 Environment, Health, and Natural Resources. The account may be used, to the extent
32 appropriated by the General Assembly, to (a) defray the expenses of any project or
33 program supporting the permitting and compliance activities needed to protect the
34 State's surface water, groundwater, and air quality, and (b) establish additional
35 permanent positions, under the Personnel Act, for water, groundwater, and air quality
36 permitting and compliance activities. All application fees and permit administration
37 fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38,
38 except those collected under Part 2 of Article 21A and deposited in the Oil or Other
39 Hazardous Substances Pollution Protection Fund, and except as provided in G.S. 143-
40 215.28A and G.S. 143-215.3B shall be credited to the account. ~~The total monies~~
41 ~~collected per year from fees for permits under G.S. 143-215.3(a)(1a) shall not exceed~~
42 ~~thirty percent (30%) of the total budgets from all sources of environmental permitting~~
43 ~~and compliance programs within the Department of Environment, Health, and Natural~~
44 ~~Resources.—The Department shall make an annual report to the General Assembly and~~

1 its Fiscal Research Division on the cost of the State's environmental permitting
2 programs contained within such Department. The report shall include, but is not limited
3 to, fees set and established under this Article, fees collected under this Article, revenues
4 received from other sources for environmental permitting and compliance programs,
5 changes made in the fee schedule since the last report, anticipated revenues from all
6 other sources, interest earned and any other information requested by the General
7 Assembly."

8
9 Requested by: Representative Gottovi

10 —CHILDREN'S SPECIAL HEALTH SERVICES/REFUNDS

11 Sec. 178. (a) The Office of State Budget and Management shall carry
12 forward all funds allotted in the 1990-91 fiscal year for the Children's Special Health
13 Services Program to the 1991-92 fiscal year in the Division of Maternal and Child
14 Health, Department of Environment, Health, and Natural Resources.

15 (b) The Office of State Budget and Management shall allow the Department
16 of Environment, Health, and Natural Resources to budget and expend refunds of the
17 prior year's expenditures for the purchase of care by the Children's Special Health
18 Services Program for the same purpose in the fiscal year in which the refund is received.

19
20 Requested by: Representatives Ethridge, H. Hunter

21 —PUBLIC HEALTH PROGRAM FEES/EXEMPTION FOR ELDERLY

22 Sec. 179. G.S. 130A-248(d) reads as rewritten:

23 "(d) (Expires June 30, 1992) The Department shall charge each facility subject to
24 this section, except nutrition programs for the elderly administered by the Division of
25 Aging of the Department of Human Resources and public school cafeterias, an annual
26 fee of twenty-five dollars (\$25.00). The Department shall charge an additional twenty-
27 five dollar (\$25.00) late payment fee to any facility that fails to pay the required fee
28 within 45 days after billing by the Department. The Department may, in accordance
29 with G.S. 130A-23, suspend or revoke the permit of a facility that fails to pay the
30 required fee within 60 days after billing by the Department. The Commission shall
31 adopt rules to implement this subsection. Fees collected under this subsection shall be
32 credited to the General Fund and may be used to support State and local public health
33 programs and activities. The Department shall make an annual report to the Joint
34 Legislative Commission on Governmental Operations and the Director of the Fiscal
35 Research Division that shall include the fees collected and disbursed under this
36 subsection and any other information requested by the General Assembly or the
37 Commission."

38
39 Requested by: Representative James

40 —EHNH REDUCTIONS/HOLD COUNTIES HARMLESS

41 Sec. 180. The Department of Environment, Health, and Natural Resources
42 shall not reduce current operations disbursements to local governments for the 1991-92
43 fiscal year and the 1992-93 fiscal year solely for the purpose of effectuating budget
44 reductions required by this act.

1

2 Requested by: Representative Redwine

3 —TRANSFER LAND RECORDS MANAGEMENT

4 Sec. 181. (a) The statutory authority, powers, duties, and functions, records,
5 personnel, property, unexpended balances of appropriations, allocations or other funds,
6 including the functions of budgeting and purchasing, of the Department of
7 Environment, Health, and Natural Resources to conduct the land records management
8 program, as provided by G.S. 143-345.6, is transferred to the Department of the
9 Secretary of State.

10 (b) G.S. 143-345.6 is recodified as G.S. 147-54.3.

11 (c) G.S. 143-345.6, as recodified as G.S. 147-54.3 by subsection (b) of this
12 section, reads as rewritten:

13 **"§ 147-54.3. Land records management program.**

14 (a) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of
15 State shall administer a land records management program for the purposes (i) of
16 advising registers of deeds, local tax officials, and local planning officials about sound
17 management practices, and (ii) of establishing greater uniformity in local land records
18 systems. The management program shall consist of the activities provided for in
19 subsections (b) through (e) of this section, and other related activities essential to the
20 effective conduct of the management program.

21 (b) ~~The Department of Environment, Health, and Natural Resources, Secretary of~~
22 State, in cooperation with the Secretary of Cultural Resources and in accordance with
23 G.S. 121-5(c) and G.S. 132-8.1, shall establish minimum standards and provide advice
24 and technical assistance to local governments in implementing and maintaining
25 minimum standards with regard to the following aspects of land records management:

26 (1) Uniform indexing of land records;

27 (2) Uniform recording and indexing procedures for maps, plats and
28 condominiums; and

29 (3) Security and reproduction of land records.

30 (c) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of
31 State shall conduct a program for the preparation of county base maps pursuant to
32 standards prepared by ~~that Department.~~ the Secretary.

33 (c1) ~~The Department of Environment, Health, and Natural Resources, Secretary of~~
34 State, shall, in cooperation with the Secretary of Revenue, conduct a program for the
35 preparation of county cadastral maps pursuant to standards prepared by the ~~Department~~
36 ~~of Environment, Health, and Natural Resources.~~ Secretary of State.

37 (d) Upon the joint request of any board of county commissioners and the register
38 of deeds and subject to available resources of personnel and funds, the Secretary shall
39 make a management study of the office of register of deeds, using assistance from the
40 Office of State Personnel. At the conclusion of the study, the Secretary shall make
41 nonbinding recommendations to the board, the register of deeds, and to the General
42 Assembly.

43 (d1) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of
44 State shall make comparative salary studies periodically of all registers of deeds offices

1 and at the conclusion of each study the Secretary of ~~Environment, Health, and Natural~~
2 ~~Resources~~-State shall present his written findings and shall make recommendations to
3 the board of county commissioners and register of deeds of each county.

4 (e) The ~~Department of Environment, Health, and Natural Resources~~, Secretary of
5 State, in cooperation with the Secretary of Cultural Resources and in accordance with
6 G.S. 121-5(c) and G.S. 132-8.1, shall undertake research and provide advice and
7 technical assistance to local governments on the following aspects of land records
8 management:

- 9 (1) Centralized recording systems;
- 10 (2) Filming, filing, and recording techniques and equipment;
- 11 (3) Computerized land records systems; and
- 12 (4) Storage and retrieval of land records.

13 (f) An advisory committee on land records is created to assist the Secretary in
14 administering the land records management program. The Governor shall appoint 12
15 members to the committee; one member shall be appointed from each of the
16 organizations listed below from persons nominated by the organization:

- 17 (1) The North Carolina Association of Assessing Officers;
- 18 (2) The North Carolina Section of the American Society of
19 Photogrammetry;
- 20 (3) The North Carolina Chapter of the American Institute of Planners;
- 21 (4) The North Carolina Section of the American Society of Civil
22 Engineers;
- 23 (5) The North Carolina Tax Collectors' Association;
- 24 (6) The North Carolina Association of Registers of Deeds;
- 25 (7) The North Carolina Bar Association;
- 26 (8) The North Carolina Society of Land Surveyors; and
- 27 (9) The North Carolina Association of County Commissioners.

28 In addition, three members from the public at large shall be appointed. The members of
29 the committee shall be appointed for four-year terms, except that the initial terms for
30 members listed in positions (1) through (4) above and for two of the members-at-large
31 shall be two years; thereafter all appointments shall be for four years. The Governor
32 shall appoint the chairman, and the committee shall meet at the call of the chairman.
33 The Governor in making the appointments shall try to achieve geographical and
34 population balance on the advisory committee; one third of the appointments shall be
35 persons from the most populous counties in the State containing approximately one
36 third of the State's population, one third from the least populous counties containing
37 approximately one third of the State's population, and one third shall be from the
38 remaining moderately populous counties containing approximately one third of the
39 State's population. Each organization shall nominate one nominee each from the more
40 populous, moderately populous, and less populous counties of the State. The members
41 of the committee shall receive per diem and subsistence and travel allowances as
42 provided in G.S. 138-5."

43 (d) This section is effective upon ratification.

44

TITLE II. - EXPANSION

PART 27.—CURRENT OPERATIONS/GENERAL FUND

Sec. 182. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the biennium ending June 30, 1993, according to the following schedule:

<u>Current Operations-General Fund</u>	<u>1991-92</u>	<u>1992-93</u>
Judicial Department	\$ 1,000,000	\$ 1,000,000
Department of Public Education	54,253,414	72,774,393
Department of Justice	229,627	229,627
Department of Administration		
01. Administration	569,395	606,507
02. State Controller	1,037,280	1,037,280
Department of Agriculture	205,000	205,000
Department of Insurance	964,893	925,349
Department of Environment, Health, and Natural Resources	5,459,644	9,529,095
Office of Administrative Hearings	619,776	1,916,466
Department of Human Resources		
01. DHR - Secretary	43,892	43,892
02. Social Services	17,178,708	19,723,832
03. Medical Assistance	58,750,817	67,938,215
04. School for the Deaf and Hard of Hearing	496,955	577,151
05. Division of Services for the Blind	944,910	1,639,890
06. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	15,368,898	22,196,460
07. Division of Youth Services	900,000	960,000
Total Department of		

1	Human Resources	93,684,180	113,079,440
2			
3	Department of Correction		- 6,902,493
4			
5	Department of Economic and Community		
6	Development	150,461	393,989
7			
8	Rural Economic Development Center	4,500,000	4,500,000
9			
10	Department of Cultural Resources		70,145 70,145
11			
12	Department of Crime Control		
13	and Public Safety		197,262 197,262
14			
15	University of North Carolina - Board		
16	of Governors		
17	01. University Institutional		
18	Program	8,564,400	9,664,400
19			
20	State Board of Elections		8,200 -
21			
22	Department of Community		
23	Colleges	14,507,173	14,507,173
24			
25	Debt Service	3,210,800	14,610,800
26			
27	Salary Increase Reserve (For all		
28	employees except teachers on		
29	Salary Schedule)		<u>- 16,900,000</u>
30			
31	GRAND TOTAL CURRENT OPERATIONS –		
32	GENERAL FUND	\$189,231,650	\$268,049,419
33			

34

35 PART 28.—CURRENT OPERATIONS/HIGHWAY FUND

36

37 Sec. 183. Appropriations from the Highway Fund of the State for the

38 maintenance and operation of the Department of Transportation, and for other purposes

39 as enumerated, are made for the biennium ending June 30, 1993, according to the

40 following schedule:

41

42

43	<u>Current Operations-Highway Fund</u>	<u>1991-92</u>	<u>1992-93</u>
44			

1	Department of Transportation		
2	01. Administration	\$ 552,800	\$ 555,440
3	02. Division of Highways		
4	a. Administration and		
5	Operations	236,824	221,474
6	b. State Maintenance		
7	(01) Primary	8,191,105	5,993,348
8	(02) Secondary	14,396,487	10,533,764
9	(03) Urban	2,233,938	1,634,550
10	03. Division of Motor Vehicles	822,436	1,184,729
11	04. Reserve for Asphalt Cleanup	1,000,000	2,000,000
12	05. Reserve for Pay Increase		<u>1,700,000</u>
13			
14	GRAND TOTAL CURRENT OPERATIONS—		
15	HIGHWAY FUND		\$ 27,433,590 \$ 23,823,305

18 PART 29.—GENERAL PROVISIONS

20 Requested by: Representative Gardner
 21 —STATE AGENCY MAILING LISTS PURGED

22 Sec. 184. (a) Each State agency, commission, institution, and university that
 23 maintains a mailing list comprising more than 200 addressees to whom free printed
 24 material is distributed through the postal service shall, no later than January 1, 1992,
 25 query each addressee to determine whether that addressee desires to remain on the
 26 mailing list. The agency, commission, institution, or university shall within one month
 27 thereafter purge the mailing list of each nonresponding addressee and each addressee
 28 who indicates a desire that the addressee's name be removed. Each State agency,
 29 commission, institution, and university shall report to the Joint Legislative Commission
 30 on Governmental Operations and the Fiscal Research Division by March 1, 1992,
 31 regarding its cost savings.

32 (b) Mailing lists that are required by law are exempt from this section.

35 PART 30.—SALARIES AND BENEFITS

37 Requested by: Representatives Nesbitt, Diamont
 38 —SALARIES/GOVERNMENT EMPLOYEES

39 Sec. 185. The salaries of those individuals whose annual salaries for the
 40 1989-90 and 1990-91 fiscal years were set in Sections 23, 24, 25, 26, 27, 28, 30, 31, 32,
 41 33, and 39 of Chapter 752 of the 1989 Session Laws, are set for the 1991-92 and 1992-
 42 93 fiscal years at the level set in those sections for the 1990-91 fiscal year.

44 Requested by: Representative Nesbitt

1 —RESERVE FOR STATE EMPLOYEES' SALARY INCREASES

2 Sec. 186. (a) Effective July 1, 1992, there is established in the Office of State
3 Budget and Management a Reserve for State Employee Salary Increases, to be
4 administered pursuant to subsection (b) of this section.

5 (b) The funds in the Reserve for State Employee Salary Increases, established
6 by subsection (a) of this section, shall be used in accordance with Section 187 of this act
7 for State employee Cost of Living general pay increases and/or performance pay only
8 for those State employees not covered under the Teacher Salary Schedule Plan provided
9 by law.

10
11 Requested by: Representative Nesbitt

12 —STATE EMPLOYEE COST OF LIVING PRIORITY

13 Sec. 187. (a) It is the intent of the General Assembly that Cost of Living
14 general pay increases be given priority over performance pay as the Governor and the
15 General Assembly determine the appropriate allocation of State employee salary
16 increases relating to Cost of Living general pay adjustments and performance pay. To
17 effect this intent, no performance pay shall be granted except in accordance with
18 subsections (b), (c), (d), and (e) of this section, which ensure that Cost of Living general
19 pay increases of at least two percent (2%) are allocated before any performance pay is
20 allocated. It is also the intent of the General Assembly to acknowledge the need to
21 adjust the determination of Cost of Living general pay increases so that all State
22 employees, regardless of salary, are treated equitably. To effect that intent, the General
23 Assembly may make any adjustment to the Cost of Living general salary increases
24 allocated to State employees that it considers necessary to render the allocations truly
25 equitable for all employees.

26 Nothing in this section affects the right of the General Assembly to allocate
27 flat percentage Cost of Living general pay increases.

28 (b) G.S. 126-7(a) reads as rewritten:

29 "(a) It is the policy of the State to compensate its employees at a level sufficient to
30 encourage excellence of performance and to maintain the labor market competitiveness
31 necessary to recruit and retain a competent work force. To this end, salary increases to
32 State employees ~~shall~~ may be based, in part, on each individual employee's job
33 performance and, in part, on general increases given to all State employees."

34 (c) G.S. 126-7(a1) is amended by adding a new subsection to read:

35 "(a1) General salary increases for State employees shall precede any consideration
36 of a performance pay allocation. Performance pay shall be allocated only when the total
37 allocation for increases equals or exceeds two percent (2%).

38 (d) G.S. 126-7(b) reads as rewritten:

39 "(b) To guide the Governor and the General Assembly in making appropriations
40 to further the compensation policy of the State, the State Personnel Commission shall
41 conduct annual compensation surveys. ~~The Commission shall determine the percent of~~
42 ~~funds appropriated for salary increases to be reserved for a general increase for all State~~
43 ~~employees and the percent to be reserved for performance-based increases for eligible~~
44 ~~employees.—The Commission shall present its recommendation on the percentages and~~

1 the results of the compensation survey to the Appropriations Committees of the House
2 and Senate no later than two weeks after the convening of the legislature in odd years
3 and May 1st of even years. ~~The amount reserved for performance increases shall not be~~
4 ~~less than twenty-five percent (25%) nor more than seventy-five percent (75%) of the~~
5 ~~total allocation."~~

6 (e) G.S. 126-7(c), until the first subdivision, reads as rewritten:

7 "(c) Performance ~~increases~~ increases, if awarded, shall be based on performance
8 appraisals of all employees conducted by each department, agency, and institution. The
9 State Personnel Commission, under the authority of G.S.126-4(8), shall adopt policy
10 and regulations for performance appraisal. The policy and regulations shall include the
11 following:"

12
13 Requested by: Representatives Diamont, Nesbitt

14 —SALARY RELATED CONTRIBUTIONS/EMPLOYERS

15 Sec. 188. (a) Required employer salary-related contributions for employees
16 whose salaries are paid from department, office, institution, or agency receipts shall be
17 paid from the same source as the source of the employees' salary. If an employee's
18 salary is paid in part from the General Fund or Highway Fund and in part from
19 department, office, institution, or agency receipts, required employer salary-related
20 contributions may be paid from the General Fund or Highway Fund only to the extent of
21 the proportionate part paid from the General Fund or Highway Fund in support of the
22 salary of the employee, and the remainder of the employer's requirements shall be paid
23 from the source that supplies the remainder of the employee's salary. The requirements
24 of this section as to source of payment are also applicable to payments on behalf of the
25 employee for hospital-medical benefits, longevity pay, unemployment compensation,
26 accumulated leave, workers' compensation, severance pay, separation allowances, and
27 applicable disability income and disability salary continuation benefits.

28 (b) Effective July 1, 1991, the State's employer contribution rates budgeted
29 for retirement and related benefits as a percentage of covered salaries for the 1991-92
30 fiscal year and the 1992-93 fiscal year are (i) ten and ninety-three hundredths percent
31 (10.93%) - Teachers and State Employees; (ii) fifteen and ninety-three hundredths
32 percent (15.93%) - State Law Enforcement Officers; (iii) eight and sixty-six hundredths
33 percent (8.66%) - University Employees' Optional Retirement Program; (iv) twenty-
34 nine and forty-six hundredths percent (29.46%) - Consolidated Judicial Retirement
35 System; and (v) thirty-two and thirty hundredths percent (32.30%) - Legislative
36 Retirement System. Each of the foregoing contribution rates includes two percent (2%)
37 for hospital and medical benefits. The rate for State Law Enforcement Officers includes
38 five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers
39 and State Employees, State Law Enforcement Officers, and for the University
40 Employees' Optional Retirement Program includes forty-two hundredths percent
41 (0.42%) for the Disability Income Plan.

42 (c) The maximum annual employer contributions, payable monthly, by the
43 State for each covered employee or retiree for the 1991-92 fiscal year to the Teachers'
44 and State Employees' Comprehensive Major Medical Plan are: (i) Medicare eligible

1 employees and retirees - \$1,260; and (ii) Non-Medicare eligible employees and retirees
2 - \$1,655.

3 (d) The maximum annual employer contributions, payable monthly, by the
4 State for each covered employee or retiree for the 1992-93 fiscal year to the Teachers'
5 and State Employees' Comprehensive Major Medical Plan are: (i) Medicare eligible
6 employees and retirees - \$1,351; and (ii) Non-Medicare eligible employees and retirees
7 - \$1,774.

8

9

10 PART 31.—DEPARTMENT OF INSURANCE

11

12 Requested by: Representative Diamont

13 —INSURANCE STUDY OF HEALTH INSURANCE COVERAGE OF WOMEN
14 NEEDING PRENATAL AND DELIVERY HEALTH SERVICES

15 Sec. 189. (a) The Department of Insurance, in conjunction with the Department
16 of Environment, Health, and Natural Resources, Division of Maternal and Child Health,
17 and the Department of Human Resources, Division of Medical Assistance, shall conduct
18 a study to determine the extent to which there are women who lack health insurance
19 covering prenatal and delivery services; and to determine the gaps in private and self-
20 funded health insurance coverage. Not later than March 1, 1992, the Department of
21 Insurance shall report to the Joint Legislative Commission on Governmental Operations
22 and to the Fiscal Research Division on the progress of this study.

23 (b) Of the funds appropriated to the Department of Insurance in this act,
24 \$40,000 is allocated for the study required by this act. The Department may contract for
25 clerical or professional staff or any other services it requires in the course of this study.

26

27

28 PART 32.—OFFICE OF STATE AUDITOR

29

30 Requested by: Representatives Bowman, N. J. Crawford

31 —INFORMATION FROM PRIVATE ORGANIZATIONS RECEIVING STATE
32 FUNDS AND FROM STATE AGENCIES PROVIDING THESE
33 FUNDS/INFORMATION FROM STATE AGENCIES JUSTIFYING
34 APPROPRIATIONS REQUESTS

35 Sec. 190. (a) G.S. 143-6.1 reads as rewritten:

36 "**§ 143-6.1. Information from private organizations receiving State ~~funds.~~ funds;**
37 **information from State departments and agencies providing State funds.**

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

42 Each ~~private person,~~ corporation, organization, and institution which receives, uses
43 or expends State funds in the amount of twenty-five thousand dollars (\$25,000) or more
44 annually, except when the funds are ~~compensation~~ for the purchase of goods or services,

1 shall file annually with the State Auditor and with the Joint Legislative Commission on
2 Governmental Operations ~~a financial statement~~ statements in such form and on such
3 schedule as shall be prescribed by the State Auditor, and shall furnish to the State
4 Auditor for audit all books, records and other information as shall be necessary for the
5 State Auditor to account fully for the receipt, use and expenditure of State funds. Each
6 such ~~private person, corporation, organization, and institution~~ shall furnish such
7 additional financial or budgetary information as shall be requested by the State Auditor
8 or by the Joint Committee on Governmental Operations. All financial statements
9 furnished to the State Auditor or to the Joint Legislative Commission on Governmental
10 Operations pursuant to this section, and any audits or other reports prepared by the State
11 Auditor, shall be public records.

12 Each State department and agency shall identify to the State Auditor each
13 corporation, organization, and institution to which State funds received by the
14 department or agency have been provided, except for the purchase of goods and
15 services, and submit documents to the State Auditor for approval in a prescribed format
16 describing standards of compliance and suggested audit procedures sufficient to give
17 adequate direction to independent auditors performing audits.

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

21 (b) G.S. 143-6 reads as rewritten:

22 **"§ 143-6. Information from departments and agencies asking State aid.**

23 (a) On or before the first day of September ~~biennially,~~ in the even-numbered
24 years, each of the departments, bureaus, divisions, officers, boards, commissions,
25 institutions, and other State agencies and undertakings receiving or asking financial aid
26 from the State, or receiving or collecting funds under the authority of any general law of
27 the State, shall furnish the Director all the information, data and estimates which he may
28 request with reference to past, present and future appropriations and expenditures,
29 receipts, revenue, and income.

30 (b) Any department, bureau, division, officer, board, commission, institution, or
31 other State agency or undertaking desiring to request financial aid from the State for the
32 purpose of constructing or renovating any State building, utility, or other property
33 development (except a railroad, highway, or bridge structure) shall, before making any
34 such request for State financial aid, submit to the Department of Administration a
35 statement of its needs in terms of space and other physical requirements, and shall
36 furnish the Department with such additional information as it may request. The
37 Department of Administration shall then prepare preliminary studies and cost estimates
38 for the use of the requesting department, bureau, division, officer, board, commission,
39 institution, or other State agency or undertaking in presenting its request to the Director
40 of the Budget.

41 (c) On or before the first day of September in the even-numbered years, each of
42 the departments, bureaus, divisions, officers, boards, commissions, institutions, and
43 other State agencies receiving or asking financial aid or support from the State, any part
44 or all of which is being requested for disbursement to non-State entities under the

1 authority of any general law of the State, shall furnish the Director with the following
2 information:

3 (1) The amount of State funds disbursed to the entity in the immediately
4 preceding two fiscal years and the purpose for which the funds were
5 disbursed and used, the amount being requested as continuation funds
6 for the upcoming fiscal year for the non-State entity, and the
7 justification for continued State support for the non-State entity; and

8 (2) Justification for continued State support for each non-State entity shall
9 include information on the extent of the public benefit being derived
10 from State support of the non-State entity.

11 (d) The Office of State Budget and Management and the Director of the Budget
12 shall provide to the General Assembly, on or before January 15 of each odd-numbered
13 year, a report that adequately and fairly presents the information required in this
14 section."

15 (c) This section does not apply to the General Assembly or its membership.
16
17

18 PART 33.—DEPARTMENT OF CULTURAL RESOURCES

19
20 Requested by: Representative Colton

21 —MUSEUM OF HISTORY/MODIFY DUTIES

22 Sec. 191. (a) G.S. 121-7(b) reads as rewritten:

23 "(b) Insofar as practicable, the North Carolina Museum of History shall accession
24 and maintain records showing provenance, value, location, and other pertinent
25 information on such furniture, furnishings, decorative items, and other objects as have
26 historical or cultural importance and which are owned by or to be acquired by the State
27 for use in the State ~~Capitol, Capitol and the Executive Mansion, and, upon request of the~~
28 ~~Department of Administration, any other state-owned building.~~—When any such item or
29 object has been entered in the accession records of the Museum of History, the
30 custodian of such item or object shall, upon its removal from the premises upon which it
31 was located or when it is otherwise disposed of, submit to the Museum of History
32 sufficient details concerning its removal or disposition to permit an adequate entry in
33 the accession records to the end that its location or disposition, and authority for such
34 change, shall be showed therein."

35 (b) This section is effective upon ratification.
36

37 Requested by: Representative Colton

38 —MUSEUM OF HISTORY CONTRACTS

39 Sec. 192. (a) G.S. 121-4 is amended by adding a new subdivision to read:

40 "(16) To enter into an agreement with a private nonprofit corporation for the
41 management of facilities to provide food and beverages at the North
42 Carolina Museum of History. Any net proceeds received by the private
43 nonprofit corporation shall be devoted to the work of the Department.
44 Any private nonprofit corporation entering into an agreement with the

Department with regard to the management of the facilities may enter into further agreements with private persons or corporations concerning the operation of the facilities. The Department may enter into an agreement in regard to obtaining or installing equipment, furniture, and furnishings for such facilities."

(b) This section is effective upon ratification.

PART 34.—PUBLIC SCHOOLS

Requested by: Representatives Barnes, Payne, Fussell
—TEACHER SALARY SCHEDULE

Sec. 193. (a) The Director of the Budget may transfer from the Reserve for Teachers Salary Increases for the 1991-92 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 two and one-half percent (2.5%) of base salary only upon the completion of 25 years of State service, commencing with the sixth teacher pay period in the 1991-92 fiscal year 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 and the Superintendent of Public Instruction.

(b)(1) Beginning with the sixth teacher pay period in the 1991-92 fiscal year the following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "A"teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

<u>Years of Experience</u>	<u>1991-92 Salary</u>
00	\$1,981
01	2,021
02	2,061
03	2,164
04	2,207
05	2,251
06	2,296
07	2,342
08	2,389
09	2,437
10	2,486
11	2,536
12	2,587
13	2,639
14	2,692

1	15	2,746
2	16	2,801
3	17	2,857
4	18	2,914
5	19	2,972
6	20	3,031
7	21	3,092
8	22	3,154
9	23	3,217
10	24	3,281
11	25	3,347
12	26	3,414
13	27	3,482
14	28	3,552
15	29+	3,623

(2) Beginning with the sixth teacher pay period in the 1991-92 fiscal year the following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "G"teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

	<u>Years of Experience</u>	<u>1991-92 Salary</u>
21		
22		
23		
24	00	\$2,105
25	01	2,147
26	02	2,190
27	03	2,300
28	04	2,346
29	05	2,393
30	06	2,441
31	07	2,490
32	08	2,540
33	09	2,591
34	10	2,643
35	11	2,696
36	12	2,750
37	13	2,805
38	14	2,861
39	15	2,918
40	16	2,976
41	17	3,036
42	18	3,097
43	19	3,159
44	20	3,222

1	21	3,286
2	22	3,352
3	23	3,419
4	24	3,487
5	25	3,557
6	26	3,628
7	27	3,701
8	28	3,775
9	29+	3,851

10 (3) The rules adopted by the State Board for allocating funds to
 11 individuals shall provide for (i) a seven and one-half percent (7.5%)
 12 salary increase for teachers with certification based on academic
 13 preparation at the six-year degree level, (ii) a ten percent (10%) salary
 14 increase for teachers with certification based on academic preparation
 15 at the doctoral degree level, and (iii) annual longevity pay at two and
 16 one-half percent (2.5%) of base salary only upon the completion of 25
 17 years of State service.
 18

19 Requested by: Representatives Payne, Fussell
 20 ---DIFFERENTIATED PAY FUNDS

21 Sec. 194. Notwithstanding the provisions of Part 4 of Article 16 of Chapter
 22 115C of the General Statutes or any other provision of law, no State funds shall be spent
 23 for differentiated pay for public school employees for the 1991-93 fiscal biennium,
 24 except for funds for employees in career development pilot projects. State funds for
 25 differentiated pay plans in career development pilot units shall be phased down for the
 26 1991-93 fiscal biennium as provided in Section 7 of Chapter 778 of the 1989 Session
 27 Laws, as amended by Section 97 of Chapter 1066 of the 1989 Session Laws.
 28

29 Requested by: Representative Diamont
 30 ---SALARY SCHEDULE FOR ADMINISTRATORS

31 Sec. 195. Prior to February 1, 1992, the State Board of Education shall
 32 develop a reasonable salary schedule for superintendents, assistant superintendents,
 33 associate superintendents, supervisors, directors, coordinators, evaluators, program
 34 administrators, principals, and assistant principals whose salaries are supported from the
 35 State's General Fund.

36 The State Board of Education shall also develop a reasonable schedule for
 37 implementing this salary schedule.

38 The State Board of Education shall report to the Joint Legislative
 39 Commission on Governmental Operations prior to February 1, 1992, on the salary
 40 schedule developed pursuant to this section and the proposed implementation schedule
 41 for this salary schedule.
 42

43 Requested by: Representatives Barnes, Fussell, Payne, Rogers, Diamont, Nesbitt
 44 ---BASIC EDUCATION PROGRAM

1 Sec. 196. (a) G.S. 115C-81(a) reads as rewritten:

2 "(a) The State Board of Education shall adopt a Basic Education Program for the
3 public schools of the State. Before it adopts or revises the Basic Education Program, the
4 State Board shall consult with an Advisory Committee, including at least eight members
5 of local boards of education, that the State Board appoints from a list of nominees
6 submitted by the North Carolina School Boards Association. The State Board shall
7 report annually to the General Assembly on any changes it has made in the program in
8 the preceding 12 months and any changes it is considering for the next 12 months.

9 The State Board of Education shall review the Basic Education Program in an effort
10 to (i) simplify the Basic Education Program, especially the standard course of study
11 and the core curriculum for all students, and (ii) assure that the Program adopted by the
12 State Board and implemented by the local boards of education carries out the intent of
13 the General Assembly to provide every student in the State equal access to a Basic
14 Education Program. The State Board shall report the results of its review to the Joint
15 Legislative Education Oversight Committee and to the General Assembly prior to
16 March 15, 1992.

17 The State Board shall implement the Basic Education Program within funds
18 appropriated for that purpose by the General Assembly and by units of local
19 government. It is the intent of the General Assembly that until the Basic Education
20 Program is fully funded, the implementation of the Basic Education Program shall be
21 the focus of State educational funding. It is the goal of the General Assembly that the
22 Basic Education Program be fully funded and completely operational in each local
23 school administrative unit by July 1, 1995.

24 It is further a goal of the General Assembly to provide supplemental funds to low-
25 wealth counties to allow those counties to enhance the instructional program and student
26 achievement."

27 (b) G.S. 115C-12(9) reads as rewritten:

28 "(9) Miscellaneous Powers and Duties. – All the powers and duties
29 exercised by the State Board of Education shall be in conformity with
30 the Constitution and subject to such laws as may be enacted from time
31 to time by the General Assembly. Among such duties are:

- 32 a. To certify and regulate the grade and salary of teachers and
33 other school employees.
- 34 b. To adopt and supply textbooks.
- 35 c. To adopt rules requiring all local boards of education to
36 implement the Basic Education Program on an incremental
37 basis within funds appropriated for that purpose by the General
38 Assembly and by units of local government. Beginning with
39 the 1991-92 school year, the rules shall require each local
40 school administrative unit to implement fully the standard
41 course of study in every school in the State in accordance with
42 the Basic Education Program so that every student in the State
43 shall have equal access to the curriculum as provided in the
44 Basic Education Program and the standard course of study.

1 The Board shall establish benchmarks by which to measure
2 the progress that each local board of education has made in
3 implementing the Basic Education Program. The Board shall
4 report to the Joint Legislative Education Oversight Committee
5 and to the General Assembly by December 31, 1991, and by
6 February 1 of each subsequent year on each local board's
7 progress in implementing the Basic Education Program,
8 including the use of State and local funds for the Basic
9 Education Program.

10 The Board shall develop a State accreditation program that
11 meets or exceeds the standards and requirements of the Basic
12 Education Program. The Board shall require each local school
13 administrative unit to comply with the State accreditation
14 program to the extent that funds have been made available to
15 the local school administrative unit for implementation of the
16 Basic Education Program.

17 The Board shall use the State accreditation program to
18 monitor the implementation of the Basic Education Program.

19 c1. To issue an annual 'report card' for the State and for each local
20 school administrative unit, assessing each unit's efforts to
21 improve student performance and taking into account progress
22 over the previous years' level of performance and the State's
23 performance in comparison with other states. This assessment
24 shall take into account demographic, economic, and other
25 factors that have been shown to affect student performance.

26 c2. To develop management accountability indicators to measure
27 the efficiency and appropriate use of staff in each school and at
28 the administrative office. Staff development for school
29 administrators shall be a high priority of the Department of
30 Public Instruction.

31 d. To formulate rules and regulations for the enforcement of the
32 compulsory attendance law.

33 e. To manage and operate a system of insurance for public school
34 property, as provided in Article 38 of this Chapter.

35 In making substantial policy changes in administration, curriculum,
36 or programs the Board should conduct hearings throughout the regions
37 of the State, whenever feasible, in order that the public may be heard
38 regarding these matters."

39 (c) G.S. 115C-238.6(a) reads as rewritten:

40 "(a) Prior to June 30 each year, the State Superintendent shall review local school
41 improvement plans submitted by the local school administrative units in accordance
42 with policies and performance indicators adopted by the State Board of Education. If
43 the State Superintendent approves the plan for a local school administrative unit, that
44 unit shall participate in the Program for the next fiscal year.

1 If a local plan contains a request for a waiver of State laws, regulations, or policies,
2 in accordance with G.S. 115C-238.3(e), the State Superintendent shall determine
3 whether and to what extent the identified laws, regulations, or policies should be
4 waived. The State Superintendent shall present that plan and his determination to the
5 State Board of Education. If the State Board of Education deems it necessary to do so
6 to enable a local unit to reach its local accountability goals, the State Board, only upon
7 the recommendation of the State Superintendent, may grant waivers of:

8 (1) State laws pertaining to class size, teacher certification, assignment of
9 teacher assistants, the use of State-adopted textbooks, and the purposes
10 for which State funds for the public schools may be ~~used, and used:~~
11 Provided, however, the State Board of Education shall not permit the
12 use of funds for teachers for expanded programs under the Basic
13 Education Program for any other purpose;

14 (2) All State regulations and policies, except those pertaining to State
15 salary schedules and employee benefits for school employees, the
16 instructional program that must be offered under the Basic Education
17 Program, the system of employment for public school teachers and
18 administrators set out in G.S. 115C-325, health and safety codes,
19 compulsory school attendance, the minimum lengths of the school day
20 and year, and the Uniform Education Reporting System."

21 (d) The Department of Public Instruction shall report to the Joint Legislative
22 Education Oversight Committee and to the General Assembly before May 1, 1992, on
23 the methods used to measure student achievement.

24 (e) Of the funds appropriated to the Department of Public Education for the
25 1991-93 fiscal biennium, the sum of \$28,907,374 for the 1991-92 fiscal year and the
26 sum of \$28,907,374 for the 1992-93 fiscal year shall be used to complete the funding of
27 teachers for expanded programs under the Basic Education Program. These funds shall
28 be used by local school administrative units to implement fully the standard course of
29 study in every school in the State in accordance with the Basic Education Program so
30 that every student in the State shall have equal access to the curriculum provided for
31 therein.

32 The State Board of Education shall not waive, in accordance with G.S. 115C-
33 238.6(a), the requirement that all local schools use these funds for teachers for expanded
34 programs to implement fully the standard course of study in every school in the State.
35

36 Requested by: Representatives Barnes, Diamont, Nesbitt
37 —EXTENDED SCHOOL DAY

38 Sec. 197. G.S. 115C-84(a) reads as rewritten:

39 "(a) School Day. – The length of the school day shall be determined by the several
40 local boards of education for all public schools in their respective local school
41 administrative units, and the minimum time for which teachers shall be employed in the
42 schoolroom or on the grounds supervising the activities of children shall not be less than
43 six hours: Provided, the several local boards of education may adopt rules and
44 regulations allowing handicapped pupils, kindergarten pupils, and pupils attending the

1 first, second, and third grades to attend school for a period less than six hours. The
2 superintendent of the several local boards of education, in the event of an emergency,
3 act of God, or any other conditions requiring the termination of classes before six hours
4 have elapsed, may suspend the operation of any school for that particular day without
5 loss of credit to the pupil or loss of pay to the teacher.

6 The General Assembly urges the local boards of education to expand the length of
7 the school day so that it includes at least six hours of instructional time."

8
9 Requested by: Representatives Barnes, Fussell, Payne, Diamont, Nesbitt

10 —SCHOOL-TO-WORK TRANSITION

11 Sec. 198. G.S. 115C-81(a1) reads as rewritten:

12 "(a1) The Basic Education Program shall describe the education program to be
13 offered to every child in the public schools. It shall provide every student in the State
14 equal access to a Basic Education Program. Instruction shall be offered in the areas of
15 arts, communication skills, physical education and personal health and safety,
16 mathematics, media and computer skills, science, second languages, social studies, and
17 vocational education.

18 Instruction in vocational education under the Basic Education Program shall be
19 based on factors including:

20 (1) The integration of academic and vocational education;

21 (2) A sequential course of study leading to both academic and
22 occupational competencies;

23 (3) Increased student work skill attainment and job placement;

24 (4) Increased linkages, where geographically feasible, between public
25 schools and community colleges, so the public schools can emphasize
26 academic preparation and the community colleges can emphasize
27 specific job training; and

28 (5) Instruction and experience, to the extent practicable, in all aspects of
29 the industry the students are prepared to enter."

30
31 Requested by: Representatives Nesbitt, Diamont, Barnes

32 —OUTCOME-BASED EDUCATION

33 Sec. 199. (a) Article 16 of Chapter 115C of the General Statutes is amended by
34 adding a new Part to read:

35 **"PART 5. OUTCOME-BASED EDUCATION PROGRAM.**

36 **"§ 115C-238.12. Purpose of program.**

37 An outcome-based education program is a program in which expectations for
38 student achievement are clearly stated in terms of knowledge, skills, and attitudes.
39 Students develop skills and attitudes to maximize the acquisition of knowledge. The
40 program recognizes that achievement occurs as a result of individual and developmental
41 progress towards goals, and reflects that students learn at different rates using varying
42 learning styles. Outcome-based education measures achievement periodically
43 throughout the learning process and is the criteria for high school graduation.
44 Measurement of student achievement is implemented by teachers to complement varied

1 learning growth and styles. The results of those measurements are used to determine
2 when a student understands and has mastered the material and is ready to move forward
3 in the learning process.

4 **"§ 115C-238.13. Implementation of the project by the State Board of Education.**

5 (a) The State Board of Education shall develop and implement an outcome-based
6 education program. The State Board of Education shall select four sites to participate in
7 the program for five fiscal years beginning with the 1992-93 fiscal year. The first year
8 of the project shall be a year for the sites to plan their projects. The remaining four
9 years shall be to implement the projects and to demonstrate their effectiveness.

10 (b) The State Board of Education shall adopt expectations for student
11 achievement, necessary for students to function successfully in the next century. These
12 expectations shall be consistent with national education goals recommended by the
13 National Governors' Association in 1990. The State Board of Education, after
14 consultation with the Board of Governors of The University of North Carolina, the State
15 Board of Community Colleges, representatives of independent colleges, representatives
16 of the business community, representatives of the Department of Public Instruction,
17 representatives of local school administrative units, principals, teachers, and parents,
18 shall adopt proficiencies that are required for graduation from high school. These
19 expectations and proficiencies shall be adopted no later than June 15, 1992, and shall be
20 used by the sites to develop their local outcome-based education projects.

21 The proficiencies that are required for graduation from high school may include:

- 22 (1) Writing – High school graduates will be able to organize complex,
23 demanding, and extended subject matter clearly and effectively. They
24 will produce structured writings in which relationships between
25 successive paragraphs are signaled by connective words and phrases.
26 They will punctuate their writing so that meaning and structure are
27 clear.
- 28 (2) Reading – High school graduates will be able to make independent and
29 discriminating selections from a range of reference materials; retrieve
30 information from those materials using techniques such as skimming;
31 and evaluate and synthesize information from different parts of a text
32 or different texts.
- 33 (3) Mathematics – High school graduates will be able to present a set of
34 complex data in a simplified form using a variety of diagrams and
35 graphs.

36 (c) The State Board of Education, the Board of Governors of The University of
37 North Carolina, and the State Board of Community Colleges shall work jointly to
38 develop a mechanism by which the institutions of higher education accept certification
39 of proficiencies on high school transcripts in lieu of Carnegie units.

40 **"§ 115C-238.14. Selection of sites.**

41 (a) No later than October 10, 1991, the State Board of Education shall develop a
42 competitive process for the selection of project sites.

43 (b) No later than November 30, 1991, the Department of Public Instruction shall
44 initiate the competitive process for the selection of project sites and shall conduct

1 regional briefings for local school administrative units interested in submitting
2 proposals. The regional briefings shall provide detailed information about outcome-
3 based education models so local school administrative units can decide whether to
4 compete for selection as a project site.

5 (c) No later than February 29, 1992, local school administrative units shall
6 submit their proposals to the Department of Public Instruction. The proposal may cover
7 all or part of the schools in a local school administrative unit.

8 The proposal shall include information regarding the local school administrative
9 unit's plan for, ability to, and commitment to complying with the following
10 requirements for local programs:

- 11 (1) The program shall ensure that all students have access to a common
12 core of knowledge and that all students are treated equitably.
- 13 (2) Student advancement shall be based on the mastery of the
14 proficiencies adopted by the State Board of Education pursuant to G.S.
15 115C-238.13(b).
- 16 (3) Students shall be allowed to progress at different rates; however,
17 expectations for progress shall be based on the goal that all students
18 master the proficiencies required for high school graduation. Computer
19 assisted, personal education plans shall be available for every student.
- 20 (4) Parents and guardians shall be involved in a student's selection of high
21 school completion options.
- 22 (5) Teachers and principals shall have a major role in development of
23 local projects.
- 24 (6) A majority of the teachers and principals who will participate in the
25 pilot project shall approve the proposal for selection as a pilot site and
26 the plans for the local program before they are submitted to the
27 Department of Public Instruction.
- 28 (7) Programs shall provide each student a school-based adult advocate to
29 foster self-esteem, protect learning options, ensure that student needs
30 are being met, and ensure that students are being treated equitably.
- 31 (8) Projects shall be shared with the public. Annual reports describing
32 program goals, activities, and accomplishments shall be made
33 available to the public. The reports shall contain specific information
34 regarding the contributions of teachers, administrators, and the local
35 board of education to the program, and to student progress under the
36 program.

37 (d) The Department of Public Instruction shall review the proposals and shall
38 transmit its recommendations regarding the sites to the State Board of Education no
39 later than April 30, 1992. The Department of Public Instruction shall involve an
40 advisory committee comprised of business leaders, legislators, school board members,
41 public school administrators, and other educators in the review process.

42 (e) The State Board of Education shall select the project sites no later than June
43 15, 1992. The State Board shall base its decision on the local school administrative

1 units' plans for, ability to, and commitment to complying with the requirements for local
2 programs set out in subsection (c) of this section.

3 **"§ 115C-238.15. Development of local programs by the project sites.**

4 (a) From June 15, 1992, through March 15, 1993, the project sites shall develop
5 their local programs. No later than March 15, 1993, the sites shall submit their plans to
6 the Department of Public Instruction for review. No later than May 30, 1993, the
7 Department shall review the plans and work with the sites to assure that the plans carry
8 out the provisions of this Part.

9 (b) The Department of Public Instruction shall provide technical assistance to the
10 sites in developing their local programs.

11 (c) In developing its local plan, each local school administrative unit shall select
12 the outcome-based education model to be followed. Each local school administrative
13 unit shall determine the instructional programs and strategies used to develop student
14 proficiencies at its site. Under the plan, teachers shall determine when the proficiencies
15 of a group of students are assessed; provided, however, State-administered tests shall be
16 used to test proficiencies at a site no more than four times a year. Student advancement
17 shall be determined by school-based personnel assigned to oversee the instructional
18 program of a group of students.

19 (d) In developing and administering local projects, local boards of education
20 need broad decision-making authority so that teachers and administrators at the sites can
21 experiment with the instructional activities that meet the instructional needs in that
22 particular setting. Each local school administrative unit shall set forth in its plan, with
23 specificity, those aspects of the plan that would be enhanced by flexibility with regard
24 to statutes and regulations. The State Board of Education may grant each local school
25 administrative unit such flexibility with regard to statutes and regulations as it finds
26 necessary and appropriate to implement a local program (i) so long as the projects and
27 activities are carried out within total funds available for that purpose, and (ii) so long as
28 the State Board of Education does not find as a fact that the flexibility is being abused.

29 The State Board of Education shall report such flexibility with regard to statutes and
30 regulations contained in any projects or proposed changes to projects to the Joint
31 Legislative Commission on Governmental Operations.

32 (e) Local projects may include model accountability programs that meet the
33 needs of the project sites. To the extent that the State Board of Education finds that
34 these accountability programs provide sufficient data for oversight, they may be used
35 instead of other State-mandated programs.

36 (f) Local projects shall include plans to train and retrain teachers, administrators,
37 and school board members to implement the projects.

38 **"§ 115C-238.16. Approval and implementation of plans.**

39 (a) Between March 15, 1993, and June 1, 1993, the State Board of Education
40 shall receive plans for projects from the project sites and the comments of the
41 Department of Public Instruction regarding the projects.

42 (b) No later than June 15, 1993, the State Board of Education shall approve the
43 plans for the projects, approve the plans with modifications, or reject the plans.

1 (c) The project sites shall begin implementation immediately of projects
2 approved, or approved with modifications, by the State Board.

3 **"§ 115C-238.17. Annual assessment and reapproval of plans.**

4 (a) Between March 15 and May 15 of each subsequent year of the project, the
5 projects shall submit to the Department of Public Instruction any data requested by the
6 Department of Public Instruction or the State Board of Education and any proposed
7 changes in the projects. No later than May 30 each year, the Department shall review
8 the data and the proposed changes in the plans for the projects and shall work with the
9 project sites to assure that the plans carry out the provisions of this Part.

10 (b) Between March 15 and June 1 of each subsequent year, the State Board of
11 Education shall receive the data requested and the proposed changes in plans for
12 projects from the project sites and shall receive the comments of the Department of
13 Public Instruction regarding the data and the proposed changes in the projects. The
14 State Board shall also consider the results of audits and evaluations performed pursuant
15 to G.S. 115C-238.18.

16 (c) No later than June 15 of each subsequent year, the State Board of Education
17 shall reapprove the plans and any changes for the projects, reapprove the plans and any
18 changes with modifications, or reject the plans.

19 (d) The project sites shall begin implementation immediately of projects
20 reapproved, or reapproved with modifications, by the State Board.

21 **"§ 115C-238.18. Evaluation of program.**

22 (a) State-Level Program Evaluation Procedures. – A program audit shall be
23 conducted by the Office of the State Auditor following the first and second years of the
24 program. The audit shall certify that the State Board of Education and State Department
25 of Public Instruction have implemented procedures as specified by the General
26 Assembly. The audit shall focus on the autonomy and flexibility given to local school
27 administrative units in the development of outcome-based education models and plans
28 so as to determine if the appropriate amount of autonomy and flexibility was sought and
29 granted and if the autonomy and flexibility were used properly.

30 (b) Local-Level Program Evaluation Procedures. –

31 (1) The program audit conducted by the Office of the State Auditor
32 following the second year of the program shall include a local-level
33 procedures component. The audit shall certify that local plans contain
34 elements as specified by the General Assembly. The audit shall also
35 certify that teachers and building level administrators were involved in
36 the development of plans.

37 (2) The Department of Public Instruction shall conduct a process
38 evaluation of each pilot site following the second through sixth years
39 of the program. The evaluation shall determine how well plans have
40 been implemented. The evaluation shall focus on staff development,
41 organizational and instructional activities, and the involvement and
42 acceptance of the project by all concerned groups including the board
43 of education, administrators, teachers, parents, students, and the
44 business community.

1 (c) Student-Level Outcomes Evaluation. –

2 (1) Local pilot sites shall develop and implement accountability models
3 designed to measure student outcomes. The plans shall include the use
4 of tests available through the State's testing program. Accountability
5 models shall be part of the site plans submitted to the State Board for
6 approval.

7 (2) The State Department of Public Instruction shall audit the
8 implementation of accountability models. Audits shall be conducted
9 following the third, fourth, fifth, and sixth years of the program.

10 (3) The State Department of Public Instruction shall conduct a summative
11 evaluation following the sixth year of the program. Student outcomes
12 shall be the focus of the summative evaluation.

13 (d) Reports to the General Assembly. – The State Board of Education shall
14 submit a summative evaluation report on the projects to the General Assembly no later
15 than March 15, 1998.

16 **"§ 115C-238.19. Solicitation of private funds for additional sites.**

17 The State Board of Education shall design and implement a program for soliciting
18 private funds to support the outcome-based education pilot sites. As funds become
19 available, the State Board may request that the General Assembly authorize additional
20 sites to participate in the program."

21 (b) Of the funds appropriated to the Department of Public Education, the sum of
22 \$100,000 for the 1991-92 fiscal year shall be used for advance planning for the
23 outcome-based education program at four sites pursuant to subsection (a) of this section
24 and the sum of \$4,000,000 for the 1992-93 fiscal year shall be used to implement the
25 program at the four pilot sites. These funds shall be allocated on the basis of \$500.00
26 for each State-funded certificated employee participating in the program. These funds
27 shall be used (i) for staff development activities, including planning activities, for
28 teachers, administrators, and school board members, (ii) to pay substitute teachers while
29 teachers are engaged in staff development activities, and (iii) to pay 10-month
30 employees for participating in staff development activities, including planning activities
31 during the summer.

32 It is the intent of the General Assembly to appropriate an additional
33 \$4,000,000 each year for the 1993-94 through 1996-97 fiscal years to complete the
34 implementation of the outcome-based education program at the four sites.

35
36 Requested by: Representatives Diamont, Nesbitt

37 —SCHOOL ADMINISTRATOR TRAINING AND CERTIFICATION

38 Sec. 200. (a) G.S. 115C-284 reads as rewritten:

39 **"§ 115C-284. Method of selection and requirements.**

40 (a) Principals and supervisors shall be elected by the local boards of education
41 upon the recommendation of the superintendent, in accordance with the provisions of
42 G.S. 115C-276(j).

1 (b) In the city administrative units, principals shall be elected by the board of
2 education of such administrative unit upon the recommendation of the superintendent of
3 city schools.

4 (c) The State Board of Education shall have entire control of certifying all
5 applicants for supervisory and professional positions in all public elementary and high
6 schools of North Carolina; and it shall prescribe the rules and regulations for the
7 renewal and extension of all certificates, and shall determine and fix the salary for each
8 grade and type of certificate which it authorizes. Provided, that the State Board of
9 Education shall require each applicant for an initial certificate or graduate certificate to
10 demonstrate his academic and professional preparation by achieving a prescribed
11 minimum score at least equivalent to that required by the Board on November 30, 1972,
12 on a standard examination appropriate and adequate for that purpose: Provided, further,
13 that in the event the Board shall specify the National Teachers Examination for this
14 purpose, the required minimum score shall not be lower than that which the Board
15 required on November 30, ~~1972~~-1972: Provided, further, that the Board shall not issue
16 provisional certificates for principals and assistant principals.

17 (c1) It is the policy of the State of North Carolina to maintain the highest quality
18 principal and assistant principal education programs in order to enhance the competence
19 of professional personnel certified in North Carolina. To ensure that principal and
20 assistant principal preparation programs are upgraded to reflect a more rigorous course
21 of study, the State Board of Education shall submit to the General Assembly not later
22 than March 1, 1992, a plan to promote this policy. In developing this plan, the State
23 Board shall consider (i) requiring these programs to include additional preparation for
24 site-based decision making and for the additional autonomy being granted to local
25 schools units, (ii) enhancing program entrance requirements to include assessment of an
26 applicant's ability to complete the program and to perform as a principal, and (iii)
27 enhancing the overall content of the programs.

28 The State Board of Education, as lead agency in coordination and cooperation with
29 the University Board of Governors and such other public and private agencies as are
30 necessary, shall refine the several certification requirements, standards for approval of
31 institutions of principal and assistant principal education, standards for institution-based
32 innovative and experimental programs, and standards for improved efficiencies in the
33 administration of the approved programs.

34 (d) Repealed by Session Laws 1989, c. 385, s. 1.

35 (d1) It is the policy of the State of North Carolina that, subsequent to the adoption
36 of a system of classroom teacher differentiation and prerequisites to candidacy for
37 principal, a classroom teacher must have attained at least the second level of
38 differentiation, have at least four years of classroom teaching experience, and possess,
39 at least, a Masters Degree in Education Administration. This subsection shall not apply
40 to educational personnel certified as of July 1, 1984.

41 (e) It shall be unlawful for any board of education to employ or keep in service
42 any principal or supervisor who neither holds nor is qualified to hold a certificate in
43 compliance with the provision of the law or in accordance with the regulations of the
44 State Board of Education.

1 (f) The allotment of classified principals shall be one principal for each duly
2 constituted school with seven or more state-allotted teachers and shall be included in the
3 calculation of the allotment of general teachers set out in G.S. 115C-301(b)(i).

4 (g) Local boards of education shall have authority to employ supervisors in
5 addition to those that may be furnished by the State when, in the discretion of the board
6 of education, the schools of the local school administrative unit can thereby be more
7 efficiently and more economically operated and when funds for the same are provided
8 in the current expense fund budget. The duties of such supervisors shall be assigned by
9 the superintendent with the approval of the board of education.

10 (h) All principals and supervisors employed in the public schools of the State or
11 in schools receiving public funds, shall be required either to hold or be qualified to hold
12 a certificate in compliance with the provision of the law or in accordance with the
13 regulations of the State Board of Education: ~~Provided, that nothing herein shall prevent~~
14 ~~the employment of temporary personnel under such rules as the State Board of~~
15 ~~Education may prescribe. Education."~~

16 (b) G.S. 115C-289 reads as rewritten:

17 "**§ 115C-289. Assignment of principal's duties to assistant or acting principal;**
18 **duties of State-funded assistant principals.**

19 (a) Any duty or responsibility assigned to a principal by statute, State Board of
20 Education regulation, or by the superintendent may, with the approval of the local board
21 of education, be assigned by the principal to an assistant principal designated by the
22 local board of education or to an acting principal designated by a principal.

23 (b) ~~Except as provided in subsection (e), all~~ All persons employed as assistant
24 principals in State-allotted positions, or as assistant principals in full-time positions
25 regardless of funding source, in the public schools of the State or in schools receiving
26 public funds, shall, in addition to other applicable requirements, be required either to
27 hold or be qualified to hold a principal's certificate in compliance with applicable law
28 and in accordance with the regulations of the State Board of Education. ~~Except as~~
29 ~~provided in subsection (e), it~~ It shall be unlawful for any board of education to employ
30 or keep in service any assistant principal who neither holds nor is qualified to hold a
31 principal's certificate in compliance with applicable law and in accordance with the
32 regulations of the State Board of Education. ~~Nothing herein shall prevent the~~
33 ~~employment of temporary personnel under such rules as the State Board of Education~~
34 ~~may prescribe.~~

35 (c) ~~Subsection (b) shall not apply to any person who was employed as an~~
36 ~~assistant principal in either a full- or part time position during the 1986-87 school term~~
37 ~~until the first day of the 1990-91 school term. Such persons shall meet all other~~
38 ~~requirements which are applicable to teachers generally. In addition, the local board of~~
39 ~~education may in its discretion require that any person employed as an assistant~~
40 ~~principal make satisfactory progress, as determined by the local board, toward meeting~~
41 ~~the requirements for certification as a principal.~~

42 (d) Assistant principals paid from State funds shall not have regularly assigned
43 teaching duties."

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

3 **"§ 115C-12.1. Training of State Board members.**

4 The State Board of Education shall establish minimum training requirements for
5 members of the State Board of Education. All Board members shall participate in
6 training programs, as required by the State Board."

7 (d) Chapter 115C of the General Statutes is amended by adding a new section to
8 read:

9 **"§ 115C-50. Training of board members.**

10 All members of local boards of education shall receive a minimum of 12 clock hours
11 of training annually. The training shall include but not be limited to public school law,
12 public school finance, and duties and responsibilities of local boards of education. The
13 training may be provided by the North Carolina School Boards Association, the Institute
14 of Government, or other qualified sources at the choice of the local board of education."

15 (e) Chapter 116 of the General Statutes is amended by adding a new section
16 to read:

17 **"§ 116-11.2. Duties regarding programs in education administration.**

18 The Board of Governors shall direct the constituent institutions with programs in
19 education administration to revise the programs to reflect any increased standards
20 required for programs approved by the State Board of Education, including new
21 requirements for school-based leadership in the public schools. The Board of
22 Governors shall monitor the programs and devise an assessment plan for all programs
23 leading to certification in education administration."

24 (f) Of the funds appropriated to the Board of Governors of The University of
25 North Carolina for the 1991-93 fiscal biennium, the sum of \$150,000 for the 1991-92
26 fiscal year and the sum of \$570,000 for the 1992-93 fiscal year shall be used to expand
27 the Principals Executive Program operated by the Institute of Government. Of these
28 funds, the sum of \$150,000 for the 1991-92 fiscal year and the sum of \$150,000 for the
29 1992-93 fiscal year shall be used to expand the program at the Chapel Hill site; the sum
30 of \$420,000 for the 1992-93 fiscal year shall be used to provide the program at
31 additional sites throughout the State and to offer the program to assistant principals.

32
33 Requested by: Representative Holt

34 ---NO WAIVERS OF FUNDS FOR SCHOOL HEALTH COORDINATORS

35 Sec. 201. G.S. 115C-238.6(a) reads as rewritten:

36 "(a) Prior to June 30 each year, the State Superintendent shall review local school
37 improvement plans submitted by the local school administrative units in accordance
38 with policies and performance indicators adopted by the State Board of Education. If
39 the State Superintendent approves the plan for a local school administrative unit, that
40 unit shall participate in the Program for the next fiscal year.

41 If a local plan contains a request for a waiver of State laws, regulations, or policies,
42 in accordance with G.S. 115C-238.3(e), the State Superintendent shall determine
43 whether and to what extent the identified laws, regulations, or policies should be
44 waived. The State Superintendent shall present that plan and his determination to the

1 State Board of Education. If the State Board of Education deems it necessary to do so
2 to enable a local unit to reach its local accountability goals, the State Board, only upon
3 the recommendation of the State Superintendent, may grant waivers of:

- 4 (1) State laws pertaining to class size, teacher certification, assignment of
5 teacher assistants, the use of State-adopted textbooks, and the purposes
6 for which State funds for the public ~~schools~~-schools, except for funds
7 for school health coordinators, may be used, and
8 (2) All State regulations and policies, except those pertaining to State
9 salary schedules and employee benefits for school employees, the
10 instructional program that must be offered under the Basic Education
11 Program, the system of employment for public school teachers and
12 administrators set out in G.S. 115C-325, health and safety codes,
13 compulsory school attendance, the minimum lengths of the school day
14 and year, and the Uniform Education Reporting System."

15
16
17 PART 35.—DEPARTMENT OF COMMUNITY COLLEGES

18
19 Requested by: Representatives Fussell, Payne

20 —HOLD HARMLESS/COMMUNITY COLLEGES SERVING MILITARY BASES

21 Sec. 202. The State Board of Community Colleges may use funds available
22 to it for the 1991-92 fiscal year to allot funds at the 1990-91 budget level to institutions
23 whose enrollments were adversely affected by Operation Desert Storm so that those
24 institutions can serve the returning troops. If the institutions do not need these
25 additional funds to serve returning troops, the additional funds allotted pursuant to this
26 section shall revert at the end of the 1991-92 fiscal year.

27
28 Requested by: Representatives Fussell, Payne

29 —COMMUNITY COLLEGE TUITION INCREASE

30 Sec. 203. (a) The State Board of Community Colleges shall adopt tuition
31 rates beginning in the fall quarter of 1991 in the amount of eleven dollars (\$11.00) per
32 credit hour up to a cap of 14 credit hours for in-State students.

33 The State Board of Community Colleges shall adopt tuition rates beginning in
34 the fall quarter of 1991 in the amount of thirty dollars (\$30.00) a course for occupational
35 extension courses.

36 (b) The State Board of Community Colleges shall adopt tuition rates
37 beginning in the fall quarter of 1991 for out-of-State students that require the student to
38 pay the full cost to the State on a per FTE basis.

39
40
41 PART 36.—COLLEGES AND UNIVERSITIES

42
43 Requested by: Representatives Payne, Fussell

44 —CLINICAL FACULTY/NURSE MIDWIFERY EDUCATION PROGRAM

1 Sec. 204. Of the funds appropriated to the Board of Governors of The
2 University of North Carolina, the sum of \$95,000 for the 1991-92 fiscal year and the
3 sum of \$95,000 for the 1992-93 fiscal year shall be used to hire additional clinical
4 faculty to establish a nurse midwifery education program. The program shall offer
5 multiple track options for participating nurses; the multiple tracks shall take into
6 consideration the varying degrees of preparation, and the only professional prerequisite
7 shall be that applicants be licensed as registered nurses in the State of North Carolina,
8 regardless of their education preparation. The program shall prepare participants for
9 certification as nurse midwives; participants shall not be required to complete a
10 baccalaureate degree or masters degree, although this option may be offered to
11 interested participants. In order to maximize the impact of the training program on
12 service provision in medically underserved areas, a committee composed of a nurse
13 midwife and a physician providing obstetrical services to a medically underserved
14 population, two members of the Division of Maternal and Child Health and two
15 members of the Office of Rural Health and Resource Development shall be established.
16 This committee shall review all applicants to identify priority candidates who will meet
17 the needs of the State's underserved population. The applications of these priority
18 candidates shall then be forwarded to the admissions committee of the nurse midwifery
19 education program for consideration.

20
21 Requested by: Representatives Payne, Fussell

22 ——" OTHER" CATEGORY OF HEALTH AFFAIRS STUDENTS FUNDING LIMITS

23 Sec. 205. The Board of Governors of The University of North Carolina shall
24 not provide any additional enrollment increase funds for growth in the "Other" category
25 for continuing education in the Health Affairs budget code at the University of North
26 Carolina at Chapel Hill until the fees budgeted for this category are increased to cover a
27 greater proportion of the costs per contact hour.

28
29 Requested by: Representatives Nesbitt, Diamont

30 —-UNC ENROLLMENT/FACULTY

31 Sec. 206. In its allocation of the funds provided to the Board of Governors of
32 The University of North Carolina for enrollment increases, the Board shall consider the
33 impact of the changes in the student faculty ratio on each campus and shall use
34 sufficient resources to insure that no campus has to reduce the number of budgeted
35 teaching positions below the number budgeted for the 1990-91 academic year.

36
37
38 PART 37.—DEPARTMENT OF TRANSPORTATION

39
40 Requested by: Representative Nesbitt

41 —-LEGISLATIVE SERVICES COMMISSION TO PAY FOR CHAIRMEN OF
42 TRANSPORTATION SUBCOMMITTEE OF THE HOUSE APPROPRIATIONS
43 COMMITTEE TO ATTEND HIGHWAY OVERSIGHT COMMITTEE MEETINGS

1 Sec. 207. The Legislative Services Commission shall pay the costs of the
2 attendance of the Chairmen of the Transportation Subcommittee of the House
3 Appropriations Committee at all meetings of the Joint Legislative Highway Oversight
4 Committee. These subsistence and travel expenses shall be as provided in G.S. 120-3.1.

5
6 Requested by: Representative Holt

7 ~~—BIENNIAL BILLBOARD REPORT BY DEPARTMENT OF TRANSPORTATION~~

8 Sec. 208. The Department of Transportation shall make a biennial report to
9 the General Assembly beginning on January 1, 1993, on its Off-Premise Sign
10 Regulatory Program.

11 The report shall include:

- 12 (1) The number of off-premise signs (billboards) that conform with State
13 and local regulations and the number of off-premise signs that do not
14 conform with State and local regulations in each county along federal-
15 aid primary highways.
- 16 (2) The number of conforming and nonconforming off-premise signs on
17 State-owned railroad right-of-way.
- 18 (3) The number of nonconforming off-premise signs removed during the
19 fiscal year.
- 20 (4) The number of permitted tree cuttings and the number of illegal tree
21 cuttings in front of off-premise signs.
- 22 (5) Expenses incurred in regulating off-premise signs and receipts from
23 application and renewal permit fees.

24
25 Requested by: Representative McLaughlin

26 ~~—MAINTENANCE OF STATE HIGHWAY BRIDGES~~

27 Sec. 209. G.S. 136-97(b) reads as rewritten:

28 "(b) The Department of Transportation, as part of maintaining the highways,
29 bridges, and watercourses of this State, ~~shall~~ may haul all debris removed from on,
30 under, or around a bridge to an appropriate disposal site for solid waste, where the
31 debris shall be disposed of in accordance with law. ~~This requirement may be waived~~
32 ~~when bridge closure has an adverse impact on public safety or creates a significant~~
33 ~~hardship to the traveling public by restricting all access or necessitating a significant~~
34 ~~detour. In these instances, the minimum amount of debris which must be removed to~~
35 ~~restore service may be passed downstream."~~

36
37 Requested by: Representative McLaughlin

38 ~~—DEPARTMENT OF TRANSPORTATION FINANCIAL AND OPERATIONAL~~
39 ~~AUDIT~~

40 Sec. 210. (a) The State Auditor shall conduct a financial and operational audit of
41 two Highway Divisions. The audit shall:

- 42 (1) List the functions performed by the Division offices. Calculate the
43 percentage of time spent on each major category of maintenance and
44 construction work;

- 1 (2) Analyze the equipment used in the Highway Divisions, with an
2 emphasis on the amount of rental equipment utilized;
- 3 (3) Study the staffing levels for construction and maintenance operations.
4 Report on the ratio of workers to supervisors. Review Department of
5 Transportation procedures and criteria for establishing the size of
6 maintenance crews;
- 7 (4) Study whether construction and maintenance activities are being
8 properly charged to appropriate accounts; and
- 9 (5) Determine how maintenance workers are used during cold weather
10 months and periods of inclement weather.
- 11 (b) The Fiscal Research Division shall cooperate with and assist the State
12 Auditor in accomplishing this audit.
- 13 (c) The audit shall be completed by May 1, 1992.
- 14
15

16 **PART 38.—DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

17

18 Requested by: Representatives Redwine, Anderson

19 Sec. 211. Notwithstanding G.S. 20-187.83, the salary increase provided by
20 G.S. 20-187.23 is suspended for the 1991-92 fiscal year.

21
22

23 **PART 39.—JUDICIAL DEPARTMENT**

24

25 Requested by: Representatives Redwine, Anderson

26 **—SALARIES/ASSISTANT AND DEPUTY CLERKS OF SUPERIOR COURT**

27 Sec. 212. Notwithstanding the provisions of G.S.7A-102(c), assistant clerks
28 and deputy clerks of superior court shall not receive any automatic increment during the
29 1991-92 fiscal year.

30
31

32 **PART 40.—DEPARTMENT OF HUMAN RESOURCES**

33

34 Requested by: Representatives Nye, Easterling

35 **—MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE**
36 **ABUSE SERVICES FUNDS**

37 Sec. 213. (a) Of the funds appropriated in this Title to the Department of Human
38 Resources, Division of Mental Health, Developmental Disabilities, and Substance
39 Abuse Services, \$6,000,000 for the 1991-92 fiscal year and \$6,000,000 for the 1992-93
40 fiscal year shall be expended in accordance with the Mental Health Study Commission
41 Plans adopted by the General Assembly, in the following amounts:

- 42 (1) Services for the mentally ill; \$1,730,000
43 (2) Services for the developmentally
44 disabled; \$1,960,000

1 (3) Services for substance abusers.\$2,310,000.

2 (b) Of the funds allocated in subsection (a) of this section for Services for the
3 developmentally disabled, \$230,000 shall be transferred in the 1991-92 fiscal year and
4 \$230,000 in the 1992-93 fiscal year to the Department of Environment, Health, and
5 Natural Resources, Division of Maternal and Child Health, for the United Cerebral
6 Palsy therapeutic preschools.

7
8 Requested by: Representatives Nye, Easterling

9 —MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE
10 ABUSE SERVICES FUNDS/SUBSTANCE ABUSE TREATMENT PROGRAMS
11 FOR PREGNANT WOMEN

12 Sec. 214. (a) Effective January 1, 1992, of the funds appropriated in this Title
13 to the Department of Human Resources, Division of Mental Health, Developmental
14 Disabilities, and Substance Abuse Services, \$400,000 for the 1991-92 fiscal year and
15 \$800,000 for the 1992-93 fiscal year shall be used to set up two regional residential and
16 outpatient treatment programs for pregnant women who abuse drugs or alcohol. These
17 programs shall be operated by public or private nonprofit agencies and shall include
18 case management services, transportation, day care, prevention, residential placement,
19 outpatient services, and money for household start-up costs. Outpatient services shall
20 be located in a public health department, community, migrant or rural health center,
21 hospital, or other agency that provides prenatal care.

22 (b) Effective July 1, 1991, of the funds appropriated in this Title to the
23 Department of Human Resources, Division of Mental Health, Mental Retardation, and
24 Substance Abuse Services, \$220,000 for the 1991-92 fiscal year and \$220,000 for the
25 1992-93 fiscal year shall be used to continue support for the residential and outpatient
26 treatment center located in Robeson County.

27

28 Requested by: Representative McLaughlin

29 —STATE SUBSIDY/COUNTY DETENTION HOME

30 Sec. 215. (a) G.S. 134A-38 reads as rewritten:

31 "**§ 134A-38. State subsidy to county detention homes.**

32 The Department shall develop a State subsidy program to pay a county detention
33 home which provides ~~regional~~ juvenile detention services and meets State standards a
34 certain ~~portion of its operating cost and its per capita daily cost per diem per child for~~
35 any child cared for ~~from another county~~ as recommended in said report. In general, this
36 ~~subsidy per diem~~ should be fifty percent (50%) of the ~~operating costs of a county~~
37 ~~detention home and one hundred percent (100%) of the per capita daily cost total cost of~~
38 caring for a child ~~from another county; any county placing a child in the county~~
39 ~~detention home of another county providing regional juvenile detention services or a~~
40 ~~regional detention home should pay fifty percent (50%) of the per capita daily cost of~~
41 ~~earing for the child to the Department. from within the county and 100 percent (100%)~~
42 of the total cost of caring for a child from another county. Any county placing a child in
43 a detention home in another county shall pay fifty percent (50%) of the total cost of
44 caring for the child to the Department. The exact funding formulas may be varied by

1 the Department to operate within existing State appropriations or other funds that may
2 be available to pay for juvenile detention care."

3 (b) Of the funds appropriated to the Department of Human Resources, Division
4 of Youth Services in this Title, \$500,000 for the 1991-92 fiscal year and \$500,000 for
5 the 1992-93 fiscal year shall be used to implement this section.

6
7 Requested by: Representatives Easterling, Nye

8 —COUNTY PROTECTIVE SERVICES ALLOCATION

9 Sec. 216. Of the funds appropriated to the Department of Human Resources,
10 Division of Social Services, in this Title, \$3,250,000 for the 1991-92 fiscal year and
11 \$7,000,000 for the 1992-93 fiscal year shall be allocated to county departments of social
12 services beginning January 1, 1992, according to the following formula:

13 (1) All county departments shall receive a base allocation of \$10,000 for
14 the 1991-92 fiscal year and \$10,000 for the 1992-93 fiscal year.

15 (2) The balance of the funds each year of the fiscal biennium shall be
16 allocated to each county department based upon the percentage of the
17 number of child abuse and neglect reports in that county compared to
18 the total number of reports of child abuse and neglect statewide. These
19 percentages shall be computed from the reports received by the
20 Division of Social Services' Central Registry of Abuse and Neglect for
21 the last two fiscal years.

22 Funds allocated to county departments of social services pursuant to this
23 subsection shall be used to provide additional staff to carry out investigations of reports
24 of child abuse or neglect or to provide protective or preventive services in cases in
25 which the department confirms neglect, abuse, or dependency. However, if a county
26 demonstrates to the Division of Social Services that it has adequate protective services
27 staff, that county department may use these allocated funds to purchase or provide
28 treatment or other support services to children and their families in confirmed cases of
29 child abuse, neglect, or dependency. All expenditures made by any county department
30 of social services from funds allocated pursuant to this subsection shall be in direct
31 support of the department's program of protective services for children. These funds
32 shall not be used to supplant any Social Services Block Grant funds or county
33 appropriations budgeted for protective services for children.

34 The Department of Human Resources, Division of Social Services, shall
35 establish guidelines and criteria to assure that the allocations to county departments of
36 social services pursuant to this subsection are used in accordance with the intent and
37 purpose of this subsection.

38 (f) The Division of Social Services shall prepare a report on the progress
39 achieved in improving child protective services throughout the State. The report shall
40 include an analysis of county staffing patterns, future county staffing and funding
41 requirements needed to meet the Division's recommended guidelines, and analysis of
42 the barriers to recruitment and retention of county child protective services staff, and a
43 summary of the Division's progress in implementing improvements to the State's
44 training and oversight responsibilities. The Division shall present this report to the 1991

1 General Assembly, to the Fiscal Research Division, and to the North Carolina Child
2 Fatality Task Force established pursuant to Article 62 of Chapter 143 of the General
3 Statutes by March 15, 1992.

4
5 Requested by: Representatives Nye, Easterling

6 —MEDICAID ELIGIBLE PREGNANT WOMEN'S SERVICES

7 Sec. 217. (a) Effective October 1, 1991, the Department of Human Resources,
8 Division of Medical Assistance, shall provide medical coverage for nutritional
9 counseling, psychosocial counseling, and predelivery and postpartum home visits by
10 maternity care coordinators and public health nurses, for Medicaid eligible pregnant
11 women.

12 (b) Of the funds appropriated to the Department of Human Resources,
13 Division of Medical Assistance, in this Title, \$564,400 for the 1991-92 fiscal year and
14 \$664,520 for the 1992-93 fiscal year shall be used to provide the State share of the
15 increased coverage for the services mandated by subsection (a) of this section.

16
17 Requested by: Representative Nye

18 —DEPARTMENT OF HUMAN RESOURCES PHARMACY STUDY

19 Sec. 218. The Department of Human Resources shall contract for a survey
20 study to determine the cost of filling a prescription in North Carolina. The Department
21 shall consider the impact of refills on the dispensing fee and any other issues it
22 considers necessary and shall implement appropriate adjustments to the pharmacy
23 dispensing fee in the State Medicaid Plan based on the outcome of the study if the
24 Department identifies funds available to it sufficient for the implementation. The
25 Department shall include in its adjustments the adjustment of the fee annually to reflect
26 appropriate inflationary increases as established in nationally recognized pricing
27 indexes.

28
29 Requested by: Representative Nye

30 —PHARMACY DISPENSING FEE INCREASE

31 Sec. 219. Effective January 1, 1992, the professional limits fee for dispensing
32 drugs shall be \$5.60 per prescription, adjusted in accordance with subdivision (5) of
33 Section 93, Title 1, of this act.

34
35 Requested by: Representatives Diamont, Nye, Easterling

36 —PURCHASE TRANSPORTATION SERVICES FOR PREGNANT WOMEN AND
37 CHILDREN ON MEDICAID

38 Sec. 220. (a) Of the funds appropriated from the General Fund to the
39 Department of Human Resources, in this Title, \$300,000 for the 1991-92 fiscal year and
40 \$300,000 for the 1992-93 fiscal year shall be transferred to the Department of
41 Transportation, Public Transportation Division, to purchase transportation services for
42 pregnant women and children on Medicaid. All funds distributed by the Department,
43 under this section, to counties are intended to purchase additional transportation services
44 and not to supplant funds now being used by local governments for that purpose. These

1 funds are not to be used towards the purchase of transportation vehicles or equipment,
2 and may not be used to cover State administrative costs. Only those counties
3 maintaining Medicaid transportation services to pregnant women and children at a level
4 that is not reduced from the level of services in place during the 1989-90 fiscal year
5 shall be eligible for additional transportation assistance funds.

6 (b) The Public Transportation Division of the Department of Transportation shall
7 distribute these funds to the counties according to the following formula:

8 (1) Fifty percent (50%) divided equally among all eligible counties;

9 (2) Forty-five percent (45%) on the basis of the number of pregnant
10 women and children receiving Medicaid in the county as a percentage
11 of the total number of pregnant women and children receiving
12 Medicaid statewide; and

13 (3) Five percent (5%) based upon a population density factor that
14 recognizes the higher transportation costs in sparsely populated
15 counties.

16 The Department of Transportation shall develop appropriate procedures for the
17 distribution and use of these funds and shall adopt rules to implement these procedures.

18 (c) Funds distributed by the Department of Transportation under this section
19 shall be used by counties in a manner consistent with implemented transportation
20 development plans which have been approved by the Department of Transportation and
21 the board of county commissioners. To receive funds apportioned for a given fiscal
22 year, a county shall have an approved transportation plan. Funds that are not obligated
23 in a given fiscal year due to the lack of an approved transportation plan shall be
24 distributed to the eligible counties based on the distribution formula in subsection (b) of
25 this section.

26 (d) The Department of Transportation shall report to the Joint Legislative
27 Commission on Governmental Operations by March 15, 1992, on the amount of money
28 that has been received and spent by each county pursuant to this section and the new
29 transportation services provided in each county to pregnant women and children
30 receiving Medicaid pursuant to this section.

31
32 Requested by: Representative Nye

33 —DOMICILIARY RATE INCREASE

34 Sec. 221. (a) Effective July 1, 1991, the maximum monthly rate for
35 ambulatory residents in domiciliary care facilities shall be \$766.00 and the maximum
36 monthly rate for semiambulatory residents shall be \$803.00. Effective July 1, 1992, the
37 maximum monthly rates for ambulatory residents shall be increased to \$777.00 and for
38 semiambulatory residents to \$814.00.

39 (b) Effective only if there are funds appropriated in this act to fund the
40 increase authorized by this subsection, subsection (a) of this section reads as rewritten:

41 "(a) Effective July 1, 1991, the maximum monthly rate for ambulatory residents in
42 domiciliary care facilities shall be ~~\$766.00~~ \$832.00 and the maximum monthly rate for
43 semiambulatory residents shall be ~~\$803.00~~ \$871.00. Effective July 1, 1992, the

1 maximum monthly rates for ambulatory residents shall be increased to ~~\$777.00~~ \$843.00
2 and for semiambulatory residents to ~~\$814.00~~ \$882.00."

3
4 Requested by: Representatives Nesbitt, Diamont, Nye

5 ---WAKE COUNTY DETENTION FACILITY ALLOCATION

6 Sec. 221.1. Of the funds appropriated from the General Fund to the
7 Department of Human Resources, Division of Youth Services, the sum of \$400,000 for
8 the 1991-92 fiscal year and the sum of \$400,000 for the 1992-93 fiscal year shall be
9 used for the operation of the Wake County Detention facility as a regional detention
10 facility.

11
12 PART 41.—DEPARTMENT OF ECONOMIC AND COMMUNITY
13 DEVELOPMENT

14
15 Requested by: Representatives James, Redwine, Ethridge, Kimsey

16 ---VISITOR AND WELCOME CENTER FUNDS

17 Sec. 222. (a) Before any other transfers are made pursuant to G.S. 20-81.3(c)
18 or 20-81.3(g), the Secretary of Transportation shall allocate from the "Personalized
19 Registration Plate Fund" \$150,000 for the 1991-92 fiscal year and \$150,000 for the
20 1992-93 fiscal year for personnel to staff Visitor and Welcome Centers as follows:

- 21 (1) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal
22 year to the Albemarle Regional Planning and Development Office in
23 the Town of Hertford for the Visitor and Welcome Center on U.S.
24 Highway 17 in Camden County;
- 25 (2) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal
26 year to the Southeastern Welcome Center, Inc., for the Visitor and
27 Welcome Center on U.S. Highway 17 South in Brunswick County;
28 and
- 29 (3) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal
30 year to Smoky Mountain Hosts of North Carolina, Inc., for the Visitor
31 and Welcome Center on U.S. Highway 441 in Macon County.

32 (b) This section expires June 30, 1993.

33
34 Requested by: Representatives Ethridge, H. Hunter

35 ---PETROLEUM OVERCHARGE FUNDS ALLOCATION

36 Sec. 223. (a) The funds and interest thereon received from the case of United
37 States v. Exxon are deposited in the Special Reserve for Oil Overcharge Funds. There
38 is appropriated from the Special Reserve to the Department of Economic and
39 Community Development the sum of \$10,900,000 for the 1991-92 fiscal year and the
40 sum of \$6,001,511 for the 1992-93 fiscal year to be allocated as follows:

- 41 (1) The sum of \$2,200,000 for the 1991-92 fiscal year and the sum of
42 \$1,200,302 for the 1992-93 fiscal year shall be used for projects under
43 the State Energy Conservation Plan and Energy Extension Service
44 Program:

1 (2) The sum of \$2,500,000 for the 1991-92 fiscal year and the sum of
2 \$1,380,348 for the 1992-93 fiscal year shall be used for energy
3 conservation programs for hospitals and schools:

4 (3) The sum of \$3,200,000 for the 1991-92 fiscal year and the sum of
5 \$1,740,438 for the 1992-93 fiscal year shall be used for the Low
6 Income Weatherization Program:

7 (4) The sum of \$3,000,000 for the 1991-92 fiscal year and the sum of
8 \$1,680,423 for the 1992-93 fiscal year shall be used for the Low
9 Income Home Energy Assistance Program (LIHEAP).

10 (b) There is appropriated from the funds and interest thereon received from the
11 United States Department of Energy's Stripper Well Litigation (MDL378) which remain
12 in the Special Reserve for Oil Overcharge Funds to the Department of Economic and
13 Community Development the sum of \$4,898,489 for the 1992-93 fiscal year to be
14 allocated as follows:

15 (1) The sum of \$999,698 shall be used for projects under the State Energy
16 Conservation Plan and Energy Extension Service Program;

17 (2) The sum of \$1,119,652 shall be used for energy conservation programs
18 for hospitals and schools;

19 (3) The sum of \$1,459,562 shall be used for the Low Income
20 Weatherization Program; and

21 (4) The sum of \$1,319,577 shall be used for the Low Income Home
22 Energy Assistance Program (LIHEAP).

23 (c) Any funds remaining in the Special Reserve for Oil Overcharge Funds after
24 the allocations made pursuant to subsections (a) and (b) of this section may be expended
25 only as authorized by the General Assembly. All interest or income accruing from all
26 deposits or investments of cash balances shall be credited to the Special Reserve for Oil
27 Overcharge Funds.

28 (d) The funds and interest thereon received from the Diamond Shamrock
29 Settlement which remain in a reserve in the Office of State Budget and Management for
30 the Division of Energy to administer the petroleum overcharge funds pursuant to
31 Section 112 of Chapter 830 of the 1987 Session Laws shall continue to be available to
32 the Division of Energy in the Department of Economic and Community Development
33 on an as-needed basis.

34 (e) The Department of Economic and Community Development shall submit
35 comprehensive annual reports to the General Assembly by May 15, 1992, and January
36 31, 1993, which detail the use of all petroleum overcharge funds. Any State department
37 or agency that has received petroleum overcharge funds shall provide all information
38 requested by the Department of Economic and Community Development for the
39 purpose of preparing these reports.

40

41 Requested by: Representatives Ethridge, H. Hunter, Michaux

42 —ECONOMIC DEVELOPMENT FUNDS

43 Sec. 224. (a) Of the funds appropriated in this Title to the North Carolina
44 Rural Economic Development Center, Inc., \$1,500,000 for the 1991-92 fiscal year and

1 \$1,500,000 for the 1992-93 fiscal year, shall be allocated to local community
2 development corporations. These funds shall be used to support community economic
3 development projects and activities within the State's minority community.

4 Of these funds, \$750,000 for each fiscal year shall be used for direct grants
5 to local community development corporations to support operations and project
6 activities, \$500,000 for each fiscal year shall be used for direct grants to community
7 development corporations classified as being in the emerging or sustaining phase, and
8 \$250,000 for each fiscal year shall be used for matching funds for the North Carolina
9 Association of Community Development Corporations. If these matching funds are not
10 matched before the end of the 1991-92 fiscal year, they shall be used during the 1992-93
11 fiscal year for direct grants to local community development corporations classified as
12 being in the emerging or sustaining phase.

13 The North Carolina Rural Economic Development Center, Inc., shall report
14 quarterly to the Joint Legislative Commission on Governmental Operations on the use
15 of the funds allocated in this subsection.

16 For purposes of this subsection, the term "community development
17 corporation" means a nonprofit corporation, chartered pursuant to Chapter 55A of the
18 General Statutes and tax-exempt pursuant to section 501(c)(3) of the Internal Revenue
19 Code, whose primary mission is to develop and improve low-income communities and
20 neighborhoods through economic and related development, whose activities and
21 decisions are initiated, managed, and controlled by their constituencies, and whose
22 primary function is to act as deal maker and packager of projects and activities that will
23 increase their constituencies' opportunities to become owners, managers, and producers.

24 (b) Of the funds appropriated in this Title to the North Carolina Rural
25 Economic Development Center, Inc., \$500,000 for the 1991-92 fiscal year and \$500,000
26 for the 1992-93 fiscal year shall be used for Land Loss Prevention Project, Inc., to
27 provide free legal representation to low-income financially distressed small farmers.
28 The Land Loss Prevention Project, Inc., shall not use these funds to represent farmers
29 who have income and assets that would make them financially ineligible for legal
30 services pursuant to Title 45, Part 1611 of the Code of Federal Regulations. The North
31 Carolina Rural Economic Development Center, Inc., with the Land Loss Prevention
32 Project, Inc., shall report quarterly to the Joint Legislative Commission on
33 Governmental Operations on the use of these funds.

34 (c) Of the funds appropriated in this Title to the North Carolina Rural
35 Economic Development Center, Inc., \$500,000 for the 1991-92 fiscal year and \$500,000
36 for the 1992-93 fiscal year shall be used for the North Carolina Coalition of Farm and
37 Rural Families, Inc., for its Small Farm Economic Development Project. These funds
38 shall be used to foster economic development within the State's rural farm communities
39 by offering financial, marketing, and technical assistance to small and limited resource
40 farmers. Seventy-five percent (75%) of these funds shall be used for a revolving loan
41 fund, fifteen percent (15%) of these funds shall be used to establish an agricultural
42 market promotion matching fund program, and ten percent (10%) of these funds shall be
43 used for operational and administrative support. The North Carolina Rural Economic
44 Development Center, Inc., with the North Carolina Coalition of Farm and Rural

1 Families, Inc., shall report quarterly to the Joint Legislative Commission on
2 Governmental Operations on the use of these funds.

3 (d) Of the funds appropriated in this Title to the North Carolina Rural
4 Economic Development, Inc., \$300,000 for the 1991-92 fiscal year and \$300,000 for the
5 1992-93 fiscal year for the North Carolina Institute for Minority Economic
6 Development, Inc., shall be used to foster minority economic development within the
7 State through policy analysis, information and technical assistance, and resource
8 expansion. The North Carolina Rural Economic Development Center, Inc., and the
9 North Carolina Institute for Minority Economic Development, Inc., shall research and
10 identify key issues affecting the economic well-being of the State's ethnic minority
11 community and issue annual reports with appropriate recommendations; provide
12 information and technical assistance to organizations with minority economic
13 development-based projects in common areas of need and interests; develop a resource
14 bank of data and information to strengthen minority economic development initiatives;
15 and facilitate training in appropriate areas of need. The North Carolina Rural Economic
16 Development Center, Inc., with the North Carolina Institute for Minority Economic
17 Development, Inc., shall report quarterly to the Joint Legislative Commission on
18 Governmental Operations on the use of these funds.

19 (e) Of the funds appropriated in this Title to the North Carolina Rural
20 Economic Development Center, Inc., \$1,000,000 for the 1991-92 fiscal year and
21 \$1,000,000 for the 1992-93 fiscal year shall be allocated to local minority-owned and
22 operated credit unions and to the North Carolina Minority Credit Union Support Center,
23 Inc. These funds shall be used to foster minority economic development within the
24 State by increasing the lending capacity of minority-owned and operated credit unions.
25 Ninety percent (90%) of these funds shall be allocated to local minority-owned and
26 operated credit unions for capitalization of economic development and housing loans,
27 and ten percent (10%) of these funds shall be allocated to the North Carolina Minority
28 Credit Union Support Center, Inc., for operational and administrative support. The
29 North Carolina Rural Economic Development Center, Inc., shall report quarterly to the
30 Joint Legislative Commission on Governmental Operations on the use of these funds.

31 (f) Of the funds appropriated in this Title to the North Carolina Rural
32 Economic Development Center, Inc., \$650,000 for the 1991-92 fiscal year and \$650,000
33 for the 1992-93 fiscal year shall be used to expand the Microenterprise Loan Program.
34 Of these funds \$325,000 for each fiscal year shall be used as loan loss reserves and
35 \$325,000 for each fiscal year shall be used to cover operational costs. These funds are
36 to be matched on the basis of two dollars of non-State funds for every one dollar of
37 State funds. The North Carolina Rural Economic Development Center, Inc., shall report
38 quarterly to the Joint Legislative Commission on Governmental Operations on the use
39 of these funds.

40 (g) Of the funds appropriated in this Title to the North Carolina Rural
41 Economic Development Center, Inc., \$50,000 for the 1991-92 fiscal year and \$50,000
42 for the 1992-93 fiscal year shall be used for its expenses in administrating this section.

43
44 Requested by: Representatives Ethridge, H. Hunter

1 —HOME PROGRAM FUNDING LIMIT

2 Sec. 225. The Department of Economic and Community Development shall
3 not spend any funds appropriated in this Title for the State administration of the federal
4 HOME Program until Congress appropriates federal funds for the Program.

5

6

7 PART 42.—DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL
8 RESOURCES

9

10 Requested by: Representatives Ethridge, H. Hunter

11 —EHNHR USE OF FEES

12 Sec. 226. (a) If the revenues received pursuant to G.S. 113A-119.1 exceed the
13 amount in anticipated revenues from this source for the 1991-92 fiscal year or for the
14 1992-93 fiscal year, then the Department of Environment, Health, and Natural
15 Resources may use up to \$30,000 of this revenue for the 1991-92 fiscal year and up to
16 \$50,000 of this revenue for the 1992-93 fiscal year for permitting, education, and
17 compliance activities, including salaries and necessary support, in the Division of
18 Coastal Management. These funds are in addition to any other funds appropriated for
19 this purpose.

20 (b) If the revenues received pursuant to G.S. 113A-54.2 exceed the amount in
21 anticipated revenues from this source for the 1991-92 fiscal year or the 1992-93 fiscal
22 year, then the Department of Environment, Health, and Natural Resources may use up
23 to \$140,000 of this revenue for the 1991-92 fiscal year and up to \$160,000 of this
24 revenue for the 1992-93 fiscal year for education, erosion control plan approval, and
25 compliance activities in the Sedimentation Control Program, including salaries and
26 necessary support, in the Division of Land Resources. These funds are in addition to
27 any other funds appropriated for this purpose.

28 (c) If the revenues received pursuant to G.S. 143-215.28A exceed the amount in
29 anticipated revenues from this source for the 1991-92 fiscal year or the 1992-93 fiscal
30 year, then the Department of Environment, Health, and Natural Resources may use up
31 to \$20,000 of this revenue for the 1991-92 fiscal year and up to \$20,000 of this revenue
32 for the 1992-93 fiscal year for permitting, education, and compliance activities in the
33 Dam Safety Program, including salaries and necessary support, in the Division of Land
34 Resources. These funds are in addition to any other funds appropriated for this purpose.

35 (d) If the revenues received pursuant to G.S. 143B-290 exceed the amount in
36 anticipated revenues from this source for the 1991-92 fiscal year or for the 1992-93
37 fiscal year, then the Department of Environment, Health, and Natural Resources may
38 use up to \$40,000 of this revenue for the 1991-92 fiscal year and up to \$70,000 of this
39 revenue for the 1992-93 fiscal year for permitting, education, and compliance activities
40 in the Mining Program, including salaries and necessary support, in the Division of
41 Land Resources. These funds are in addition to any other funds appropriated for this
42 purpose.

43

44 Requested by: Representatives Ethridge, H. Hunter

1 —COMMUNITY WATER SYSTEMS PERMITS FEES

2 Sec. 227. If Senate Bill 449, 1991 Session, is ratified, then there is
3 appropriated from the General Fund to the Department of Environment, Health, and
4 Natural Resources the sum of \$258,938 for the 1991-92 fiscal year and the sum of
5 \$621,450 for the 1992-93 fiscal year to support the public water systems program;
6 provided, however, if the revenues raised from Senate Bill 449, 1991 Session, as
7 ratified, are less than \$258,938 for the 1991-92 fiscal year or are less than \$621,450 for
8 the 1992-93 fiscal year, then the appropriation is reduced accordingly.

9

10 Requested by: Representatives Ethridge, H. Hunter

11 —CLEAN AIR ACT PERMIT FEES

12 Sec. 228. If House Bill 551, 1991 Session, is ratified, then there is
13 appropriated from the Title IV nonreverting account established in G.S. 143-215.3A, as
14 written by House Bill 551, 1991 Session, to the Department of Environment, Health,
15 and Natural Resources the sum of \$999,855 for the 1991-92 fiscal year and the sum of
16 \$3,992,390 for the 1992-93 fiscal year to be used for the development and
17 implementation of the Title V program in accordance with G.S. 143-215.3A, as enacted
18 by House Bill 551, 1991 Session; provided, however, if the revenues raised from House
19 Bill 551, 1991 Session, as ratified, are less than \$999,855 for the 1991-92 fiscal year or
20 are less than \$3,992,390 for the 1992-93 fiscal year, then the appropriation is reduced
21 accordingly.

22

23 Requested by: Representatives Ethridge, H. Hunter

24 —HAZARDOUS WASTE INSPECTORS

25 Sec. 229. As industry is permitted that is subject to G.S. 130A-295.02
26 requiring the establishment of resident inspectors, the Department of Environment,
27 Health, and Natural Resources may request through the Office of State Budget and
28 Management the authorization to establish new positions and support costs necessary to
29 comply with G.S. 130A-295.02. The Department shall report these positions as a
30 continuation item in its next biennial budget request.

31

32 Requested by: Representatives Ethridge, H. Hunter

33 —VITAL RECORDS FEES

34 Sec. 230. If Senate Bill 341, 1991 Session, is ratified, then there is
35 appropriated from the Vital Records Automation Fund established under G.S. 130A-
36 93.1 as written in Senate Bill 341, to the Department of Environment, Health, and
37 Natural Resources the sum of \$800,000 for the 1991-92 fiscal year and the sum of
38 \$800,000 for the 1992-93 fiscal year, for defraying the cost of automating the vital
39 records system; provided, however, if the revenues raised from Senate Bill 341, 1991
40 Session, as ratified, are less than \$800,000 for the 1991-92 fiscal year or are less than
41 \$800,000 for the 1992-93 fiscal year, then the appropriation is reduced accordingly.

42

43 Requested by: Representatives Ethridge, H. Hunter

44 —ASBESTOSIS/SILICOSIS EXAMS FEES

1 Sec. 231. If Senate Bill 359, 1991 Session, is ratified, then there is
 2 appropriated from the General Fund to the Department of Environment, Health, and
 3 Natural Resources the sum of \$112,124 for the 1991-92 fiscal year and the sum of
 4 \$119,479 for the 1992-93 fiscal year for defraying the cost of examinations for
 5 screening for asbestosis or silicosis conducted by the Department; provided, however, if
 6 the revenues raised from Senate Bill 359, 1991 Session, as ratified, are less than
 7 \$112,124 for the 1991-92 fiscal year or are less than \$119,479 for the 1992-93 fiscal
 8 year, then the appropriation is reduced accordingly.

9
 10 Requested by: Representatives Ethridge, H. Hunter

11 —RURAL OBSTETRICAL CARE INCENTIVE PROGRAM

12 Sec. 232. Of the funds appropriated in this Title from the General Fund to the
 13 Department of Environment, Health, and Natural Resources, Division of Maternal and
 14 Child Health, the sum of \$300,000 for the 1991-92 fiscal year and the sum of \$500,000
 15 for the 1992-93 fiscal year shall be used to expand the Rural Obstetrical Care Incentive
 16 Program established under Section 39.3 of Chapter 1100, 1987 Session Laws, Regular
 17 Session 1988. The Rural Obstetrical Care Incentive Program will be used to assist with
 18 the cost of malpractice insurance for family physicians, obstetricians, and certified nurse
 19 midwives who agree to provide prenatal and obstetrical services in medically
 20 underserved areas of the State. General surgeons who provide cesarean section backup
 21 to family physicians in counties where there are no obstetricians or where there are no
 22 obstetricians willing or able to provide such backup are also eligible for the program.
 23 Physicians and certified nurse midwives covered under the Rural Obstetrical Care
 24 Incentive Program are required to participate in an obstetrical care coverage plan
 25 developed by their local health department or community, migrant, or rural health
 26 center, and must agree to provide services to pregnant women regardless of their ability
 27 to pay for the services.

28
 29 Requested by: Representatives Ethridge, H. Hunter

30 —NORTH CAROLINA CHILD FATALITY PREVENTION

31 Sec. 233. (a) Chapter 143 of the General Statutes is amended by adding a new
 32 Article to read:

33 **"ARTICLE 62.**

34 **"NORTH CAROLINA CHILD FATALITY REVIEW TEAM; NORTH**
 35 **CAROLINA**

36 **CHILD FATALITY TASK FORCE AND STUDY.**

37 **"§ 143-571. Declaration of public policy.**

38 The General Assembly finds that it is the public policy of this State to prevent child
 39 deaths. The General Assembly further finds that the prevention of child deaths is a
 40 community responsibility; that professionals from disparate disciplines have
 41 responsibilities for children and have expertise that can promote child safety and well-
 42 being; and that multidisciplinary reviews of child deaths can lead to a greater
 43 understanding of the causes and methods of preventing these deaths. It is, therefore, the
 44 intent of the General Assembly, through this Article, to establish a multidisciplinary

1 task force to study the incidence and causes of child deaths and to develop a mechanism
2 for multidisciplinary child death reviews. It is further the intent of the General
3 Assembly that the task force, based upon its study and its expertise, make
4 recommendations to the General Assembly and the Governor for changes to law, rule,
5 and policy that will support the safe and healthy development of our children. It is also
6 the intent of the General Assembly to establish a State Child Fatality Review Team to
7 review certain child deaths.

8 **"§ 143-572. Definitions.**

9 The following definitions apply in this Article:

- 10 (1) Local team. A local multidisciplinary child abuse and neglect review
11 team established for a county.
12 (2) State Team. The North Carolina Child Fatality Review Team.
13 (3) Task Force. The North Carolina Child Fatality Task Force.

14 **"§ 143-573. Task Force - creation; membership; vacancies.**

15 (a) There is created the North Carolina Child Fatality Task Force within the
16 Department of Environment, Health, and Natural Resources for budgetary purposes
17 only.

18 (b) The Task Force shall be composed of 24 members, 11 of whom shall be ex
19 officio members, three of whom shall be appointed by the Governor, and eight of whom
20 shall be appointed by the General Assembly, four upon recommendation of the Speaker
21 of the House of Representatives and four upon recommendation of the President Pro
22 Tempore of the Senate. The ex officio members other than the Chief Medical Examiner
23 may designate representatives from their particular departments, divisions, or offices to
24 represent them on the Task Force. The members shall be as follows:

- 25 (1) The Chief Medical Examiner;
26 (2) The Attorney General;
27 (3) The Director of the Division of Social Services;
28 (4) The Director of the State Bureau of Investigation;
29 (5) The Director of the Division of Maternal and Child Health of the
30 Department of Environment, Health, and Natural Resources;
31 (6) The Director of the Governor's Youth Advocacy and Involvement
32 Office;
33 (7) The Superintendent of Public Instruction;
34 (8) The President of the State Board of Education;
35 (9) The Director of the Division of Mental Health, Developmental
36 Disabilities, and Substance Abuse Services;
37 (10) The Secretary of the Department of Human Resources;
38 (11) The Secretary of the Department of Environment, Health, and Natural
39 Resources;
40 (12) A director of a county department of social services appointed by the
41 Governor upon recommendation of the President of the North Carolina
42 Association of County Directors of Social Services;
43 (13) A representative from a Sudden Infant Death Syndrome counseling
44 and education program appointed by the Governor upon

1 recommendation of the Director of the Division of Maternal and Child
2 Health of the Department of Environment, Health, and Natural
3 Resources;

4 (14) A representative from the North Carolina Child Advocacy Institute
5 appointed by the Governor upon recommendation of the President of
6 the Institute;

7 (15) A representative from a private group, other than the North Carolina
8 Child Advocacy Institute, that advocates for children, appointed by the
9 General Assembly upon recommendation of the Speaker of the House
10 of Representatives upon recommendation of private child advocacy
11 organizations;

12 (16) A pediatrician, licensed to practice medicine in North Carolina,
13 appointed by the General Assembly upon recommendation of the
14 Speaker of the House of Representatives upon recommendation of the
15 North Carolina Pediatric Society;

16 (17) A representative from the North Carolina League of Municipalities
17 appointed by the General Assembly upon recommendation of the
18 Speaker of the House of Representatives upon recommendation of the
19 League;

20 (18) Two public members appointed by the General Assembly upon
21 recommendation of the Speaker of the House of Representatives;

22 (19) A county or municipal law enforcement officer appointed by the
23 General Assembly upon recommendation of the President Pro
24 Tempore of the Senate upon recommendation of organizations that
25 represent local law enforcement officers;

26 (20) A district attorney appointed by the General Assembly upon the
27 recommendation of the President Pro Tempore of the Senate upon
28 recommendation of the President of the North Carolina Conference of
29 District Attorneys;

30 (21) A representative from the North Carolina Association of County
31 Commissioners appointed by the General Assembly upon
32 recommendation of the President Pro Tempore of the Senate upon
33 recommendation of the Association; and

34 (22) Two public members appointed by the General Assembly upon
35 recommendation of the President Pro Tempore of the Senate;

36 (c) All members of the Task Force are voting members. Vacancies in the
37 appointed membership shall be filled by the appointing officer who made the initial
38 appointment. The Speaker of the House of Representatives shall call the first meeting
39 no later than October 1, 1991. At the first meeting the members shall elect a chair who
40 shall preside for the duration of the Task Force.

41 **"§ 143-574. Task Force - duties.**

42 The Task Force shall:

43 (1) Undertake a statistical study of the incidence and causes of child
44 deaths in this State during 1988 and 1989, and establish a profile of

1 child deaths. The study shall include (i) an analysis of all community
2 and private and public agency involvement with the decedents and
3 their families prior to death, and (ii) an analysis of child deaths by age,
4 cause, and geographic distribution;

5 (2) Develop a system for multidisciplinary review of child deaths. In
6 developing such a system, the Task Force shall study the operation of
7 existing local teams. The Task Force shall also consider the feasibility
8 and desirability of local or regional review teams and, should it
9 determine such teams to be feasible and desirable, develop guidelines
10 for the operation of the teams. The Task Force shall also examine the
11 laws, rules, and policies relating to confidentiality of and access to
12 information that affect those agencies with responsibilities for
13 children, including State and local health, mental health, social
14 services, education, and law enforcement agencies, to determine
15 whether those laws, rules, and policies inappropriately impede the
16 exchange of information necessary to protect children from
17 preventable deaths, and, if so, recommend changes to them;

18 (3) Receive and consider reports from the State Team; and

19 (4) Perform any other studies, evaluations, or determinations the Task
20 Force considers necessary to carry out its mandate.

21 **§ 143-575. State Team - creation; membership; vacancies.**

22 (a) There is created the North Carolina Child Fatality Review Team within the
23 Department of Environment, Health, and Natural Resources for budgetary purposes
24 only.

25 (b) The State Team shall be composed of eight members of whom seven
26 members are ex officio and one is appointed. The ex officio members other than the
27 Chief Medical Examiner may designate a representative from their departments,
28 divisions, or offices to represent them on the State Team.

29 (1) The Chief Medical Examiner, who shall chair the State Team;

30 (2) The Attorney General;

31 (3) The Director of the Division of Social Services;

32 (4) The Director of the State Bureau of Investigation;

33 (5) The Director of the Maternal and Child Health Division of the
34 Department of Environment, Health, and Natural Resources;

35 (6) The Superintendent of Public Instruction;

36 (7) The Director of the Division of Mental Health, Developmental
37 Disabilities, and Substance Abuse Services; and

38 (8) The pediatrician appointed pursuant to G.S. 143-573(b)(16) to the
39 Task Force.

40 (c) All members of the State Team are voting members. Vacancies in the
41 appointed membership shall be filled by the appointing officer who made the initial
42 appointment.

43 **§ 143-576. State Team - duties.**

44 The State Team shall:

- 1 (1) Review current deaths of children when those deaths are attributed to
2 child abuse or neglect or when the decedent was reported as an abused
3 or neglected juvenile pursuant to G.S. 7A-543 at any time before
4 death; and
- 5 (2) Report to the Task Force during the existence of the Task Force, in the
6 format and at the time required by the Task Force, on the State Team's
7 activities and its recommendations for changes to any law, rule, and
8 policy that would promote the safety and well-being of children; and
- 9 (3) Upon request of a local team, provide technical assistance to the team.

10 **"§ 143-577. Task Force - reports.**

11 (a) The Task Force shall provide a preliminary report to the Governor and
12 General Assembly, within the first week of the convening of the 1992 Session of the
13 1991 General Assembly. This preliminary report shall contain at least a summary of
14 preliminary conclusions and recommendations for each of the Task Force's duties, as
15 well as any other recommendations for changes to any law, rule, and policy that it has
16 determined will promote the safety and well-being of children. Any recommendations
17 of changes to law, rule, or policy shall be accompanied by specific legislative or policy
18 proposals and detailed fiscal notes setting forth the costs to the State.

19 (b) The Task Force shall provide a final report to the Governor and General
20 Assembly within the first week of the convening of the 1993 General Assembly. The
21 final report shall include final conclusions and recommendations for each of the Task
22 Force's duties, as well as any other recommendations for changes to any law, rule, and
23 policy that it has determined will promote the safety and well-being of children. Any
24 recommendations of changes to law, rule, or policy shall be accompanied by specific
25 legislative or policy proposals and detailed fiscal notes setting forth the costs to the
26 State.

27 (c) After the Task Force provides its final report to the Governor and General
28 Assembly, the Task Force shall cease to be in existence.

29 **"§ 143-578. Access to records.**

30 The Task Force and State Team shall have access to all medical records, hospital
31 records, and records maintained by this State, any county, or any local agency as
32 necessary to carry out the purposes of this Article, including police investigations data,
33 medical examiner investigative data, health records, mental health records, and social
34 services records. Task Force and State Team meetings are not subject to the provisions
35 of Article 33C of Chapter 143 of the General Statutes. All otherwise confidential
36 information and records acquired by the Task Force or State Team in the exercise of
37 their duties are confidential; are not subject to discovery or introduction into evidence in
38 any proceedings; and may only be disclosed as necessary to carry out the purposes of
39 the Task Force. No member of the Task Force, State Team, or person who attends such
40 a meeting may testify in any proceeding about what transpired at the meeting, about
41 information presented at the meeting, or about opinions formed by the person as a result
42 of the meetings. This section does not, however, prohibit a person from testifying in a
43 civil or criminal action about matters within that person's independent knowledge.

44 **"§ 143-579. Administration; funding.**

1 (a) To the extent of funds available, the Chairs of the Task Force and State Team
2 may hire staff or consultants to assist the Task Force and the State Team in completing
3 their duties.

4 (b) Members, staff, and consultants of the Task Force or State Team shall receive
5 travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S.
6 138-6, as the case may be, paid from funds appropriated to implement this Article and
7 within the limits of those funds.

8 (c) With the approval of the Legislative Services Commission, legislative staff
9 and space in the Legislative Building and the Legislative Office Building may be made
10 available to the Task Force."

11 (b) The Department of Environment, Health, and Natural Resources, the
12 Department of Human Resources, the Department of Justice, and the State Board of
13 Education shall adopt joint rules to ensure full cooperation of these departments and
14 related local agencies with the work of the North Carolina Child Fatality Task Force and
15 the North Carolina Child Fatality Review Team.

16 (c) Of the funds appropriated in this Title to the Department of Environment,
17 Health, and Natural Resources, \$158,000 for the 1991-92 fiscal year and \$165,000 for
18 the 1992-93 fiscal year shall be used to implement this section. Of these funds, \$83,200
19 for the 1991-92 fiscal year and \$75,000 for the 1992-93 fiscal year shall be allocated to
20 the North Carolina Child Fatality Task Force and \$74,800 for the 1991-92 fiscal year
21 and \$90,000 for the 1992-93 fiscal year shall be allocated to the North Carolina Child
22 Fatality Review Team.

23
24 Requested by: Representative Redwine

25 —DWI TEST CHANGES

26 Sec. 233.1. (a) G.S. 20-16.5(j) reads as rewritten:

27 "(j) Costs. – Unless the magistrate or judge orders the revocation rescinded, a
28 person whose license is revoked under this section must pay a fee of ~~twenty five dollars~~
29 ~~(\$25.00)~~ fifty dollars (\$50.00) as costs for the action before ~~his~~ the person's license may
30 be returned under subsection (h). The costs collected under this section ~~go to the State.~~
31 shall be credited to the General Fund. Fifty percent (50%) of the costs collected shall be
32 used to fund a statewide chemical alcohol testing program administered by the Injury
33 Control Section of the Department of Environment, Health, and Natural Resources."

34 (b) G.S. 20-139.1(b1) reads as rewritten:

35 "(b1) ~~When Arresting or Charging Officer May Not Perform Chemical Analysis. –~~
36 ~~A-Except as provided in this subsection, a chemical analysis is not valid in any case in~~
37 ~~which it is performed by an arresting officer or by a charging officer under the terms of~~
38 ~~G.S. 20-16.2. A chemical analysis of the breath may be performed by an arresting~~
39 ~~officer or by a charging officer when both of the following apply:~~

40 (1) The officer possesses a current permit issued by the Department of
41 Environment, Health, and Natural Resources for the type of chemical
42 analysis.

43 (2) The officer performs the chemical analysis by using an automated
44 instrument that prints the results of the analysis."

1 (c) G.S. 20-16.2(a) reads as rewritten:

2 "(a) Basis for Charging Officer to Require Chemical Analysis; Notification of
3 Rights. – Any person who drives a vehicle on a highway or public vehicular area
4 thereby gives consent to a chemical analysis if ~~he is~~ charged with an implied-consent
5 offense. The charging officer must designate the type of chemical analysis to be
6 administered, and it may be administered when ~~he~~ the officer has reasonable grounds to
7 believe that the person charged has committed the implied-consent offense.

8 Except as provided in this subsection or subsection (b), before any type of chemical
9 analysis is administered the person charged must be taken before a chemical analyst
10 authorized to administer a test of a person's breath, who must inform the person orally
11 and also give ~~him~~ the person a notice in writing that:

12 (1) He has a right to refuse to be tested.

13 (2) Refusal to take any required test or tests will result in an immediate
14 revocation of his driving privilege for at least 10 days and an
15 additional 12-month revocation by the Division of Motor Vehicles.

16 (3) The test results, or the fact of his refusal, will be admissible in
17 evidence at trial on the offense charged.

18 (4) His driving privilege will be revoked immediately for at least 10 days
19 if:

20 a. The test reveals an alcohol concentration of 0.10 or more; or

21 b. He was driving a commercial motor vehicle and the test reveals
22 an alcohol concentration of 0.04 or more.

23 (5) He may have a qualified person of his own choosing administer a
24 chemical test or tests in addition to any test administered at the
25 direction of the charging officer.

26 (6) He has the right to call an attorney and select a witness to view for him
27 the testing procedures, but the testing may not be delayed for these
28 purposes longer than 30 minutes from the time he is notified of his
29 rights.

30 If the charging officer or an arresting officer is authorized to administer a chemical
31 analysis of a person's breath and the charging officer designates a chemical analysis of
32 the blood of the person charged, the charging officer or the arresting officer may give
33 the person charged the oral and written notice of rights required by this subsection."

34 (d) Amounts collected under G.S. 20-16.5(j) for fiscal years 1991-92 and 1992-
35 93 and designated for the alcohol testing program of the Injury Control Section of the
36 Department of Environment, Health, and Natural Resources shall not revert to the
37 General Fund. The amount of funds collected under G.S. 20-16.5(j) that are designated
38 for this alcohol testing program and have not been spent or obligated as of June 30,
39 1994, shall revert to the Highway Fund.

40 Beginning with the 1994-95 fiscal year, any funds collected under G.S. 20-
41 16.5(j) that are designated for the alcohol testing program of the Injury Control Section
42 of the Department of Environment, Health, and Natural Resources and are not needed
43 for that program shall be transferred quarterly to the Governor's Highway Safety
44 Program for grants to local law enforcement agencies for training concerning

1 enforcement of the laws on driving while impaired. Except for amounts transferred
2 during the fourth quarter of a fiscal year, the Governor's Highway Safety Program shall
3 expend funds transferred to it under this section in the fiscal year in which they are
4 received. Amounts received by the Governor's Highway Safety Program during the
5 fourth quarter of a fiscal year shall not revert and shall be expended by the following
6 September 30.

7 (e) There is appropriated from the General Fund to the Department of
8 Environment, Health, and Natural Resources the sum of \$1,433,822 for the 1991-92
9 fiscal year and the sum of \$1,433,264 for the 1992-93 fiscal year to fund the statewide
10 chemical alcohol testing program administered by the Injury Control Section of the
11 Department; provided, however, if the revenues raised under this section are less than
12 \$1,433,822 for the 1991-92 fiscal year and \$1,433,264 for the 1992-93 fiscal year, the
13 appropriation is reduced accordingly.

14 (f) Subsection (a) of this section becomes effective July 1, 1991, and applies
15 to revocation orders issued under G.S. 20-16.5 on or after that date. Subsection (b) of
16 this section becomes effective January 1, 1993, and applies to chemical analyses
17 performed on or after that date.

18 19 TITLE III. - CAPITAL IMPROVEMENTS 20 21

22 Sec. 234. The appropriations made by the 1991 General Assembly for capital
23 improvements are for constructing, repairing, or renovating State buildings, utilities, and
24 other capital facilities, for acquiring sites for them where necessary, and for acquiring
25 buildings and land for State government purposes.
26
27

28 PART 43.—PROCEDURES FOR DISBURSEMENTS 29

30 Sec. 235. The appropriations made by the 1991 General Assembly for capital
31 improvements shall be disbursed for the purposes provided by this act. Expenditure of
32 funds shall not be made by any State department, institution, or agency, until an
33 allotment has been approved by the Governor as Director of the Budget. The allotment
34 shall be approved only after full compliance with the Executive Budget Act, Article 1 of
35 Chapter 143 of the General Statutes. Prior to the award of construction contracts for
36 projects to be financed in whole or in part with self-liquidating appropriations, the
37 Director of the Budget shall approve the elements of the method of financing of those
38 projects including the source of funds, interest rate, and liquidation period. Provided,
39 however, that if the Director of the Budget approves the method of financing a project,
40 he shall report that action to the Joint Legislative Commission on Governmental
41 Operations at its next meeting.

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

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

4 Capital improvement projects authorized by the 1989 General Assembly shall
 5 be completed, including fixed and movable equipment and furnishings, within the limits
 6 of the amounts of the direct or self-liquidating appropriations provided, except as
 7 otherwise provided in this act.

8

9

10 PART 44.—CAPITAL IMPROVEMENTS/GENERAL FUND

11 Sec. 236. Allocations are made from The State Capital Facilities Legislative
 12 Bond Fund of 1991 for the 1991-92 fiscal year to provide for capital improvement
 13 projects according to the following schedule:

14

15 State Capital Facilities Legislative

16 Bond Fund of 1991

1991-92

17 Department of Human Resources:

- 18 01. John Umstead Hospital:
 19 Alum Sludge Treatment Facility \$1,100,000
 20 02. Murdoch Center
 21 Renovations of Parkview Cottage
 22 (restores 1990-91 funds) 1,400,000
 23 03. Black Mountain Center
 24 Renovations 1,300,000
 25 04. Head Start Program-Grant equivalent to
 26 one modular classroom for unit 1,600,000

27

28 Department of Environment, Health, and
 29 Natural Resources

- 30 01. Park Improvement Plan
 31 Initial Phase 2,000,000
 32
 33 02. Water Resources Development Projects 2,055,000

34

35 Department of Cultural Resources

- 36 01. Fort Fisher/Highway 421 Erosion Control
 37 Matching Funds 250,000

38

39 Department of Administration

- 40 01. New Central Steam Plant
 41 (restores 1990-91 funds) 6,594,500
 42 02. Mall Improvements 675,000

43

44 General Assembly

1	01.	Buildings/Offices Repairs and	
2		Renovations	4,600,000
3			
4		Department of Crime Control	
5		and Public Safety	
6	01.	National Guard-Replace underground storage	
7		tanks to comply with EPA requirements	92,000
8			
9		Office of State Budget and Management	
10	01.	Reserve for Repairs/Renovations	4,033,500
11			
12		University of North Carolina	
13	01.	Reserve for Repairs/Renovations	14,300,000
14			
15		GRAND TOTAL/GENERAL FUND	\$40,000,000
16		Appropriations made by this section are contingent upon the enactment of the	
17		State Capital Facilities Legislative Bond Act.	
18			

19 **PART 44(A).—CAPITAL IMPROVEMENTS/HIGHWAY FUND**

20
 21 Sec. 236.1. Appropriations are made from the Highway Fund for the 1991-92
 22 fiscal year and the 1992-93 fiscal year for use of the Department of Transportation to
 23 provide for capital improvement projects according to the following schedule:

24
 25 **DIVISION OF HIGHWAYS**

26
 27 1991-92 1992-93

29	01.	Bridge Maintenance Office Complex	
30		Supplemental - Brunswick County	\$ 224,000 \$ -
31			
32	02.	Equipment Shop - Carthage	- 2,247,000
33			
34	03.	Bridge Maintenance Complex -	
35		Wadesboro	26,000 439,000
36			
37	04.	Gas Pump Canopies - Statewide	398,000 311,000
38			
39	05.	Fencing - Statewide	171,000 -
40			
41	06.	Land Acquisition - Siler City	54,000 -
42			
43	07.	Land Acquisition/Maintenance	
44		Yard - Halifax	13,000 -

1			
2	08.	Land Acquisition/Maintenance	
3		Yard - Trenton	27,000 -
4			
5	09.	Water and Sewer Connections	
6		- Statewide	308,000 -
7			
8	10.	Division Office Complex Phase	
9		II - Fayetteville	- 1,688,000
10			
11	11.	Division Office Addition	
12		- Greensboro	
13		Requirements	589,000
14		Less Receipts (Sale of Land)	<u>-589,000</u>
15		Appropriation	- -
16			
17	12.	Landscape Office, Warehouse	
18		and Truck Shed - Asheville	
19		Requirements	472,000
20		Less Receipts (Sale of Land)	<u>-472,000</u>
21		Appropriation	- -
22			
23	13.	Salt Storage Buildings	
24		- Statewide	405,000 67,000
25			
26	14.	Equipment Shop - Mocksville	511,000 -
27			
28	15.	District Office Building	
29		- Albemarle	49,000 247,000
30			
31	16.	Division of Highways/Division	
32		of Motor Vehicles Office	
33		Complex - Graham	67,000 -
34			
35	17.	Sign Shop - Union County	- 725,000
36			
37	18.	Design Equipment Shop - Meadows	- 41,000
38			
39	19.	Design Equipment Shop - Spindale	- 24,000
40			
41	20.	Design Equipment Shop - Washington	- 40,000
42			
43	21.	Design Equipment Shop - Wentworth	- 44,000
44			

1	22.	Bridge Maintenance Warehouse/Shed		
2		- Union County - 81,000		
3				
4	23.	Design Sign Shop - Carthage - 33,000		
5				
6	24.	Design Resident Engineer Office		
7		- Marion - 18,000		
8				
9	25.	Design Equipment Shop - Kinston - 43,000		
10				
11	TOTAL DIVISION OF HIGHWAYS			\$2,253,000 \$6,048,000

DIVISION OF MOTOR VEHICLES

1991-92 1992-93

18	01.	Upgrade Electrical Power, Communication and Computer Circuits - Raleigh Division of Motor Vehicles Building	\$ 216,200	\$ -
19				
20				
21				
22				
23	02.	Building Addition - Wilmington	221,900	-
24				
25	03.	Building Addition - Statesville	170,075	-
26				
27	04.	New Office Building - Asheville	635,100	-
28				
29	05.	Roof Replacement (7 Locations)	100,500	-
30				
31	06.	Resurface Parking Lots (6 Locations)	107,500	-
32				
33				
34	07.	Roof Replacement (7 Locations)	- 103,100	
35				
36	08.	Resurface Parking Lots (6 Locations)	- 111,900	
37				
38	09.	Building Addition - Goldsboro	- 167,630	
39				
40	10.	Building Addition - Whiteville	- 164,770	
41				
42	11.	Building Addition - Hillsborough	- 179,200	
43				
44	12.	Building Addition - Kinston	- 179,200	

1			
2	13.	Building Addition - Jacksonville	- 174,800
3			
4	14.	Reserve to Make Restrooms	
5		Handicapped Accessible in DMV	
6		Facilities 50,000 50,000	
7		_____	
8			
9		TOTAL DIVISION OF MOTOR VEHICLES	\$1,501,275 \$1,130,600
10			
11		CRIME CONTROL AND PUBLIC SAFETY	
12			
13	01.	State Highway Patrol - Troop H	
14		Headquarters - New Building	<u>- \$190,000</u>
15			
16		TOTAL CRIME CONTROL AND	
17		PUBLIC SAFETY	- \$190,000
18			
19		GRAND TOTAL HIGHWAY FUND	\$3,754,275 \$7,368,600
20			

21 PART 45.—SPECIAL PROVISIONS

22
23
24 Requested by: Representative Diamont
25 ——UNC CAPITAL PROJECTS/FEES

26 Sec. 237. (a) All capital improvement projects proposed by the Board of
27 Governors of The University of North Carolina as self-liquidating projects shall include
28 plans for financing the projects, including estimates of the impact on student fees and
29 other charges.

30 (b) The Board of Governors of The University of North Carolina shall adopt
31 rules which limit the amount of student fees which may be charged to retire debt at each
32 campus. These limitations may be phased in to accommodate these campuses whose
33 fees already exceed the proposed limits.

34 (c) The Board of Governors of The University of North Carolina shall review
35 annually the amounts and purposes for all student fees charged by each campus, in an
36 effort to keep these nonacademic fees as low as possible.

37
38 Requested by: Representative Holt
39 ——REALLOCATE DMV FUNDS-ASHEVILLE

40 Sec. 238. Funds remaining from the appropriation to the Department of
41 Transportation, Division of Motor Vehicles, in Section 8 of Chapter 1074 of the 1989
42 Session Laws, Regular Session 1990, for land purchase and building design-Asheville,
43 are reallocated to the Division for land and building purchase-Asheville, including
44 appraisal and other costs incidental to such purchase.

1

2 Requested by: Representatives N.J. Crawford, Ethridge, Foster, DeVane, J.W.
3 Crawford, H. Hunter

4 ---PARK IMPROVEMENT PLAN/CAPITAL IMPROVEMENT PROJECTS AT
5 STATE PARKS/INITIAL PHASE

6 Sec. 238.1. (a) The General Assembly finds that the creation of a "Park
7 Improvement Plan" to provide for capital improvement projects at State Parks and
8 Recreation Areas is in keeping with the highest purposes of public policy and in concert
9 with Constitutional provisions and State law.

10 (b) The funds appropriated to the Department of Environment, Health, and
11 Natural Resources, Division of Parks and Recreation, for the 1991-92 fiscal year in this
12 Title, shall be used to begin the initial phase of capital projects under the Park
13 Improvement Plan. The initial phase of the capital projects shall be based on a priority
14 list as compiled by the Division of Parks and Recreation.

15

16 Requested by: Representative Payne

17 ---WATER RESOURCES DEVELOPMENT PROJECTS

18 Sec. 238.2. (a) Of the funds appropriated to the Department of Environment,
19 Health, and Natural Resources for the 1991-92 fiscal year, the sum of \$1,405,000 shall
20 be used for water resources development projects. The Department shall fund the
21 following projects, whose estimated costs are as indicated:

- 22 (1) Wilmington Harbor
23 Maintenance and Dredging \$ 475,000
24 (2) Morehead City Harbor 50,000
25 (3) Northeast Cape Fear
26 River Navigation 280,000
27 (4) Stumpy Point Bay
28 Maintenance Dredging 220,000
29 (5) Great Coharie Creek
30 Clearing & Snagging
31 (Sampson County) 26,000
32 (6) Wilmington Harbor
33 Comprehensive Study 270,000
34 (7) Corps of Engineers
35 Feasibility Studies 75,000
36 (8) Planning Assistance to
37 State Corps of Engineers 9,000
38 (9) Town Fork Flood
39 Central and Water Supply
40 (Stokes County) 650,000

41 (b) Where the actual costs are different from the estimated costs under subsection
42 (a) of this section, the Department may adjust the allocations among projects as needed.
43 If any projects listed in subsection (a) of this section are delayed and the budgeted State
44 funds cannot be used during the 1991-92 fiscal year, or if the projects listed in

1 subsection (a) are accomplished at a lower cost, the Department may use the resulting
2 fund availability to fund:

- 3 (1) Corps of Engineers project feasibility studies, or
- 4 (2) Corps of Engineers projects whose schedules have advanced and
5 require State matching funds in fiscal year 1991-92.

6 Funds not expended or encumbered for these purposes shall revert to the General Fund
7 at the end of the 1992-93 fiscal year.

8 (c) Beginning October 1, 1991, the Department shall make quarterly reports on
9 the use of these funds to the Joint Legislative Commission on Governmental
10 Operations, the Director of the Fiscal Research Division, and the Office of State Budget
11 and Management. Each report shall include:

- 12 (1) All projects listed in subsection (a) of this section;
- 13 (2) The estimated cost of each project;
- 14 (3) The date work on each project began or is expected to begin;
- 15 (4) The date work on each project was completed or is expected to be
16 completed; and
- 17 (5) The actual cost of each project.

18 The quarterly reports shall also show those projects advanced in schedule, those projects
19 delayed in schedule, and an estimate of the amount of funds expected to revert to the
20 General Fund.

21

22 Requested by: Representatives Barnes, Anderson, Redwine

23 —PRISON BOND APPROPRIATIONS

24 Sec. 239. (a) **General Purposes.** The appropriations made by the 1991 General
25 Assembly for capital improvements from the proceeds of the \$200,000,000 State of
26 North Carolina Prison and Youth Services Facilities Bonds authorized by Chapter 935
27 of the 1989 Session Laws (the "bond act") and approved by the qualified voters of the
28 State who voted thereon on November 6, 1990, as said bonds may be issued from time
29 to time (the "bonds"), are for the purposes of financing the cost of \$105,000,000 of
30 State prison facilities and youth services facilities, including, without limitation, the cost
31 of constructing capital facilities, renovating or reconstructing existing facilities,
32 acquiring equipment related thereto, purchasing land, paying costs of issuance of bonds
33 and notes and paying contractual services necessary for the partial implementation of
34 the purposes of the bond act, all as defined in and authorized by the bond act and as
35 more particularly described in this section.

36 The particular projects within the purposes under the bond act to be financed
37 by the \$95,000,000 balance of the \$200,000,000 bond authorization may, as authorized
38 by the bond act, be determined by legislative action of the General Assembly during the
39 1991 Session or any subsequent session.

40 (b) **Appropriation Procedures.** The appropriations hereby made by the 1991
41 General Assembly for the purposes under the bond act shall be disbursed for the
42 particular projects authorized by this section. Expenditure of funds shall not be made
43 by any State department, institution or agency, until an allotment has been approved by
44 the Governor as Director of the Budget. The allotment shall be approved only after full

1 compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General
2 Statutes.

3 Where direct capital improvement appropriations include furnishing fixed and
4 movable equipment for any project, funds for equipment shall not be subject to transfer
5 into construction accounts except as authorized by the Director of the Budget. The
6 expenditure of funds for fixed and movable equipment and furnishings shall be
7 reviewed and approved by the Director of the Budget prior to commitment of funds.

8 Capital improvement projects authorized by this section shall be completed,
9 including fixed and movable equipment and furnishings, within the limits of the
10 amounts of the appropriations provided, except as otherwise provided in this section.

11 **(c) Descriptions, Custodial Levels, Beds, Projected Allocations.**
12 Appropriations are made from bond proceeds for use by the Departments of Correction
13 and Human Resources to provide for capital improvement projects as herein provided.

14 The proceeds of bonds and notes shall be expended for paying the cost, as
15 defined in the bond act, of prison and youth services facilities, to the extent and as
16 provided in this section and subject to change as herein provided, for the following
17 projects:

18

19 DEPARTMENT OF CORRECTION

20

<u>Project Description</u>	<u>Custodial</u>	<u>Beds</u>
<u>Level</u>		
Nash Correctional Institution	Med	128
Marion Correctional Center	Med	906
Cherry Correctional Center	Min	500
Central Prison	Close	144
Pasquotank Youth Institution	Med	440
Robeson Correctional Center	Min	100
NCCIW	Close/Med	256
Lumberton Correctional Center	Med	312
Eastern Youth Center	Min	300
Fountain Correctional Center	Min	100
Brown Creek Sewing Plant		
Pender Furniture Refurbishing		
Facility		
Columbus Sewing Facility		
Caswell Sewing and Tailoring		
Equipment		
Harnett Dining Hall		
Subtotal	3,186	\$91,413,514
Contingencies		<u>\$4,466,796</u>
Total	\$95,880,310	

44

1 The Eastern Youth Center shall be located in Craven County, provided the county
2 provides a suitable site.

3
4 DEPARTMENT OF HUMAN RESOURCES-DIVISION OF YOUTH SERVICES

5
6 7 Secure/nonsecure group homes
7 9 beds added to Pitt Detention Ctr.
8 Renovate unused dorms & upgrade
9 to meet American Correctional
10 Association Standards
11 Dillon secure unit, counseling
12 space, & fencing at 5 facilities
13 Conversion of dorms to individual
14 rooms
15 Increase number of transition
16 beds - step down & independent
17 living for Training Schools

18 \$9,119,690

19
20 (d) **Increases in Projected Allocations.** Projected allocations set forth above
21 may be increased to reflect the availability of other funds, including, without limitation,
22 contingency funds, income earned on the investment of bond and note proceeds, funds
23 provided by the issuance of bonds under the remaining \$95,000,000 authorization, and
24 the proceeds of any grants.

25 (e) **Contingency Funds.** The amount allocated for contingencies set forth
26 above shall be placed by the State Treasurer in a special account in the State Prison and
27 Youth Services Facilities Bond Fund to be designated the "State Prison and Youth
28 Services Facilities Contingency Account." The funds in the State Prison and Youth
29 Services Facilities Contingency Account shall be disbursed in accordance with the
30 procedures herein established for disbursements from the State Prison and Youth
31 Services Facilities Bond Fund. The funds in the State Prison and Youth Services
32 Facilities Contingency Account shall be expended for paying the cost of projects,
33 including, without limitation, the costs of issuance of bonds and notes, increased project
34 costs resulting from construction costs exceeding projected costs, inflationary factors
35 and changes in projects and allocations. Any balance in the State Prison and Youth
36 Services Facilities Contingency Account may be used for the particular projects to be
37 financed by the issuance of bonds under the remaining \$95,000,000 authorization.

38 (f) **Administration.** With respect to facilities authorized for the Department
39 of Correction, the Office of State Budget and Management may contract for and
40 supervise all aspects of administration, technical assistance, design, construction or
41 demolition of prison facilities in order to implement the providing of prison facilities
42 under the provisions of this act without being subject to the requirements of the
43 following statutes and rules implementing those statutes: G.S. 143-135.26(1), 143-128,
44 143-129, 143-131, 143-132, 143-134, 143-135.26, 143-64.10 through 143-64.13, 113A-

1 1 through 113A-10, 113A-50 through 113-66, 133-1.1(b), 133-1.1(g), and 143-408.1;
2 provided, however, of the funds allocated under the provisions of this act for the
3 construction of prison facilities, the Office of State Budget and Management shall have
4 a verifiable ten percent (10%) goal for participation by minority and women-owned
5 businesses. All contracts for the design, construction, or demolition of prison facilities
6 shall include a penalty for failure to complete the work by a specified date.

7 The proposals for prison facilities authorized in this section shall be invited by
8 advertisement in newspapers having general circulation in the State. The form of
9 advertisement shall be prepared in the form of Section 301 of the State Construction
10 Manual of the Department of Administration, and shall be published in one issue of the
11 newspaper. A minimum of at least seven full days shall lapse between the date of
12 publication and the date of the opening of bids. Initiation of the advertisement shall be
13 by the Office of State Budget and Management.

14 (g) **Changes.** To the extent that funds are not required to be expended for
15 the specific projects described in this section, appropriations authorized herein may be
16 used to construct, reconstruct or renovate prison industrial and forestry enterprises
17 facilities, as mentioned in G.S. 148-2, at prison facilities statewide, as replacement
18 projects, but no such funds may be used for operating expenditures. Prior to taking any
19 action under subsection (g), the Governor may consult with the Advisory Budget
20 Commission. In considering taking any action under subsection (g) in respect to funds
21 not required to be expended for specific projects described in this act, the Governor may
22 consider the particular projects to be financed by the issuance of bonds under the
23 remaining \$95,000,000 bond authorization and may use any such funds for the cost of
24 any such particular projects to be financed.

25 (h) **Quarterly Reports.** The Office of State Budget and Management in
26 respect to prison facilities and the Department of Human Resources in respect to youth
27 services facilities shall provide quarterly reports to the Chairman of the Appropriations
28 Committee and the Base Budget Committee in the Senate, the Chairman of the
29 Appropriations Committee in the House, the Joint Legislative Commission on
30 Governmental Operations, and the Fiscal Research Division as to any changes in
31 projects and allocations made under this section.

32
33 Requested by: Representatives Barnes, Anderson, Redwine

34 —RESERVE FOR ADMINISTRATION AND OPERATION OF NEW UNITS

35 Sec. 240. Of the funds appropriated to the Department of Correction for the
36 1992-93 fiscal year in Title 2 of this act, a reserve of \$6,902,493 shall be used to
37 administer and operate the new prison units being constructed with the bond proceeds
38 appropriated in this Title. The positions shall not become effective more than 90 days
39 prior to the completion date of the facilities with the exception of Department of
40 Correction administrative staff, Division of Prisons administrative staff,
41 superintendents, assistant superintendents, administrative services managers, plant
42 maintenance supervisors, and secretaries at the Marion Correctional Institution, Cherry
43 Correctional Center, Pasquotank Youth Institution, Lumberton Correctional Center, and
44 Eastern Youth Center.

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Requested by: Representatives Barnes, Anderson, Redwine

—PITT COUNTY DETENTION CENTER ADDITION/RESERVE FUND

Sec. 241. Of the funds appropriated to the Department of Human Resources for the 1992-93 fiscal year in Title 2 of this act, a reserve of \$60,000 shall be used to administer and operate the addition to the Pitt County Detention Center being constructed with the bond proceeds appropriated in this Title.

Requested by: Representative Barnes

—UNC REMOVAL OF HANDICAPPED BARRIERS

Sec. 242. (a) Of the funds appropriated in this Title to the Board of Governors of The University of North Carolina, \$2,000,000 shall be used for the elimination of man-made barriers that make the programs or activities of the constituent institutions of the University inaccessible to or unusable by handicapped persons.

(b) Prior to allocating funds for barrier removal, the Board of Governors shall adopt a comprehensive plan, to be completed by no later than January 1, 1992, which shall include:

- (1) A survey of facilities at each constituent institution, to determine which facilities must be modified to insure that institutional programs or activities, when viewed in their entirety, are readily accessible to handicapped persons. The institutional surveys shall be conducted in accordance with definitions and standards adopted by the U.S. Department of Education, under the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and shall incorporate any findings made by the Office for Civil Rights of the U.S. Department of Education pursuant to either complaint investigations or technical assistance surveys conducted at constituent institutions of the University. In conducting the survey, each institution shall establish and enlist the assistance of an advisory committee, which shall include handicapped members of the institutional community or their representatives.
- (2) A description of the nature and estimated cost of each facility modification identified in the institutional surveys.
- (3) A schedule for addressing adjustments and modifications designed to insure accessibility, based on the following priorities:
 - a. Nonstructural adjustments. If a program or activity of a constituent institution can be made readily accessible to handicapped persons without structural adjustments, as through reassignment of classes or other services to accessible facilities or making aides available to handicapped persons, such modifications shall be made within 60 days of the date of their identification by the institutional surveys, without regard to the schedule for facility modifications.

- 1 b. Facility modifications which can be accomplished within one
2 year after their starting date.
- 3 c. Facility modifications which cannot be accomplished within
4 one year but can be accomplished within three years after their
5 starting date.
- 6 d. Other facility modifications.
- 7 (4) A system for insuring that future facilities are accessible.
- 8 (c) The Board of Governors may allocate up to \$200,000 of the bond proceeds to
9 conduct the surveys and complete the plan required by this section.

10
11 Requested by: Representatives Nesbitt, Diamont

12 ---RESERVE FOR ADVANCE PLANNING

13 Sec. 243. The Office of State Budget and Management shall report to the
14 Joint Legislative Commission on Governmental Operations and to the Fiscal Research
15 Division on how it intends to spend funds from the Reserve for Advance Planning at
16 least 45 days before it spends the funds.

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

21
22 Requested by: Representatives Nesbitt, Diamont

23 ---ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

24 Sec. 244. When each capital improvement project appropriated by the 1991
25 General Assembly, other than those projects under the Board of Governors of The
26 University of North Carolina, is placed under construction contract, direct
27 appropriations shall be encumbered to include all costs for construction, design,
28 investigation, administration, movable equipment, and a reasonable contingency.
29 Unencumbered direct appropriations remaining in the project budget shall be placed in a
30 project reserve fund credited to the Office of State Budget and Management. Funds in
31 the project reserve may be used for emergency repair and renovation projects at State
32 facilities with the approval of the Director of the Budget. The project reserve fund may
33 be used, at the discretion of the Director of the Budget, to allow for award of contracts
34 where bids exceed appropriated funds, if those projects supplemented were designed
35 within the scope intended by the applicable appropriation or any authorized change in it,
36 and if, in the opinion of the Director of the Budget, all means to award contracts within
37 the appropriation were reasonably attempted. At the discretion of the Director of the
38 Budget, any balances in the project reserve fund shall revert to the original source.

39
40 Requested by: Representatives Nesbitt, Diamont

41 ---PROJECT COST INCREASE

42 Sec. 245. Upon the request of the administration of a State department or
43 institution, the Director of the Budget may, when in his opinion it is in the best interest
44 of the State to do so, increase the cost of a capital improvement project. Provided,

1 however, that if the Director of the Budget increases the cost of a project, he shall report
2 that action to the Joint Legislative Commission on Governmental Operations at its next
3 meeting. The increase may be funded from gifts, federal or private grants, special fund
4 receipts, excess patient receipts above those budgeted at University of North Carolina
5 Hospitals at Chapel Hill, or direct capital improvement appropriations to that
6 department or institution.

7
8 Requested by: Representatives Nesbitt, Diamont

9 —NEW PROJECT AUTHORIZATION

10 Sec. 246. Upon the request of the administration of any State department or
11 institution, the Governor may authorize the construction of a capital improvement
12 project not specifically authorized by the General Assembly if such project is to be
13 funded by gifts, federal or private grants, special fund receipts, excess patient receipts
14 above those budgeted at University of North Carolina Hospitals at Chapel Hill, or self-
15 liquidating indebtedness. Provided, however, that if the Director of the Budget
16 authorizes the construction of such a capital improvement project, he shall report that
17 action to the Joint Legislative Commission on Governmental Operations at its next
18 meeting.

19
20 Requested by: Representatives Nesbitt, Diamont

21 —ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

22 Sec. 247. Funds which become available by gifts, excess patient receipts
23 above those budgeted at University of North Carolina Hospitals at Chapel Hill, federal
24 or private grants, receipts becoming a part of special funds by act of the General
25 Assembly or any other funds available to a State department or institution may be
26 utilized for advance planning through the working drawing phase of capital
27 improvement projects, upon approval of the Director of the Budget. The Director of the
28 Budget may make allocations from the Advance Planning Fund for advance planning
29 through the working drawing phase of capital improvement projects, except that this
30 revolving fund may not be utilized by the Board of Governors of The University of
31 North Carolina or the State Board of Community Colleges.

32
33 Requested by: Representatives Nesbitt, Diamont

34 —APPROPRIATIONS LIMITS/REVERSION OR LAPSE

35 Sec. 248. Except as permitted in previous sections of this act, the
36 appropriations for capital improvements made by the 1991 General Assembly may be
37 expended only for specific projects set out by the 1991 General Assembly and for no
38 other purpose. Construction of all capital improvement projects enumerated by the
39 1991 General Assembly shall be commenced, or self-liquidating indebtedness with
40 respect to them shall be incurred, within 12 months following the first day of the fiscal
41 year in which the funds are available. If construction contracts on those projects have
42 not been awarded or self-liquidating indebtedness has not been incurred within that
43 period, the direct appropriation for those projects shall revert to the original source, and
44 the self-liquidating appropriation shall lapse; except that direct appropriations may be

1 placed in a reserve fund as authorized in this act. This deadline with respect to both
2 direct and self-liquidating appropriations may be extended up to an additional 12
3 months if circumstances and conditions warrant such extension.

6 TITLE IV. - REVENUE RECONCILIATION

9 PART 46.—CORPORATE INCOME TAX CHANGES

10 Sec. 249. G.S. 105-130.2 reads as rewritten:

11 "§ 105-130.2. Definitions.

12 ~~For the purpose of this Division, and unless otherwise required by the context: The~~
13 following definitions apply in this Division:

- 14 (1) ~~'Code' means the Code. – The Internal Revenue Code as enacted as of~~
15 January 1, 1990, and includes 1991, including any provisions enacted
16 as of that date which become effective either before or after that date.
- 17 (1a) ~~The word 'corporation' – Corporation. – This term includes joint-stock~~
18 companies or associations and insurance companies.
- 19 (1b) C Corporation. – A corporation that is not an S Corporation.
- 20 (1c) Department. – The Department of Revenue.
- 21 (2) ~~The words 'domestic corporation' mean any Domestic corporation. – A~~
22 corporation organized under the laws of this State.
- 23 (3) ~~The words 'fiscal year' mean an Fiscal year. – An income year, ending~~
24 on the last day of any month other than December. A corporation
25 which pursuant to the provisions of the Code has elected to compute
26 its income tax liability to the United States on the basis of an annual
27 period varying from 52 to 53 weeks shall compute its taxable income
28 for the purposes of this division on the basis of the same period used
29 by such the corporation in accordance with the Code in computing its
30 tax liability to the United States for such income year.
- 31 (4) ~~The words 'foreign corporation' mean any Foreign corporation. – Any~~
32 corporation other than a domestic corporation.
- 33 (5) ~~The words 'income year' or 'taxable year' mean the Income year. – The~~
34 calendar year or the fiscal year upon the basis of which the net income
35 is computed under this division; provided, that if Division. If no fiscal
36 year has been established, they mean the income year is the calendar
37 year. year, except that in In the case of a return made for a fractional
38 part of a year under the provisions of this Division or under rules or
39 regulations prescribed by the Secretary of Revenue, the words 'income
40 year' or 'taxable year' mean Secretary, the income year is the period for
41 which such the return is made.
- 42 (5a) S Corporation. – Defined in G.S. 105-131(b).
- 43 (5b) Secretary. – The Secretary of Revenue.

1 (5c) State net income. – Federal taxable income adjusted as provided in
2 G.S. 105-130.5 and, in the case of a corporation that has income from
3 business activity that is taxable both within and without this State,
4 allocated and apportioned to this State as provided in G.S. 105-130.4.

5 (5d) Taxable year. – Income year.

6 (6) ~~The word 'taxpayer' includes any Taxpayer. – A corporation subject to~~
7 ~~the tax imposed by this Division."~~

8 Sec. 250. G.S. 105-130.3 reads as rewritten:

9 **"§ 105-130.3. Corporations.**

10 A tax is imposed on the State net income of every C Corporation doing business in
11 this State at eight percent (8%) of the corporation's State net income. An S Corporation
12 is not subject to the tax levied in this section.

13 ~~Every corporation doing business in this State shall pay annually an income tax~~
14 ~~equivalent to seven percent (7%) of its net income or the portion thereof allocated and~~
15 ~~apportioned to this State, except that an S Corporation subject to the provisions of~~
16 ~~Division I-S of this Article shall not be subject to the tax levied by this section.~~

17 ~~The net income or net loss of such corporation shall be the same as 'taxable income'~~
18 ~~as defined in the Code subject to the adjustments provided in G.S. 105-130.5.~~

19 ~~If the entire business of the corporation is done within this State or if the corporation~~
20 ~~is not taxable in another state within the meaning of subsection (b) of G.S. 105-130.4,~~
21 ~~the tax shall be measured by the entire net income of the corporation for the income~~
22 ~~year.~~

23 ~~If the business of the corporation is taxable both within and without this State, its~~
24 ~~entire net income or net loss shall be allocated and apportioned in accordance with the~~
25 ~~provisions of G.S. 105-130.4."~~

26 Sec. 251. G.S. 105-130.4(l) reads as rewritten:

27 "(l) (1) The sales factor is a fraction, the numerator of which is the
28 total sales of the corporation in this State during the income year,
29 and the denominator of which is the total sales of the corporation
30 everywhere during the income year. Notwithstanding any other
31 provision under this Division, the receipts from any casual sale of
32 property shall be excluded from both the numerator and the
33 denominator of the sales factor. Where a corporation is not taxable
34 in another state on its business income but is taxable in another state
35 only because of nonbusiness income, all sales shall be treated as
36 having been made in this State.

37 (2) Sales of tangible personal property are in this State if (i) the property is
38 received in this State by ~~the purchaser. a purchaser other than the~~
39 United States government or (ii) the property is shipped from a place
40 in this State and the purchaser is the United States government or the
41 taxpayer is not taxable in the state of the purchaser. In the case of
42 delivery of goods by common carrier or by other means of
43 transportation, including transportation by the purchaser, the place at
44 which the goods are ultimately received after all transportation has

1 been completed shall be considered as the place at which the goods are
2 received by the purchaser. Direct delivery into this State by the
3 taxpayer to a person or firm designated by a purchaser from within or
4 without the State shall constitute delivery to the purchaser in this State.

5 (3) Other sales are in this State if:

- 6 a. The receipts are from real or tangible personal property located
7 in this State; or
8 b. The receipts are from intangible property and are received from
9 sources within this State; or
10 c. The receipts are from services and the income-producing
11 activities are in this State."

12 Sec. 252. G.S. 115C-546.1, as in effect on July 1, 1991, reads as rewritten:

13 "**§ 115C-546.1. Creation of Fund; administration.**

14 (a) There is created the Public School Building Capital Fund. The Fund shall be
15 used to assist county governments in meeting their public school building capital needs.

16 (b) ~~Beginning October 1, 1987, and each month thereafter through July 31, 1988,~~
17 ~~the Secretary of Revenue shall deposit with the State Treasurer in the Public School~~
18 ~~Building Capital Fund one-seventh (1/7) of the corporate income tax net collections~~
19 ~~received during the previous month by the Department of Revenue under Division I of~~
20 ~~Article 4 of Chapter 105 of the General Statutes. Beginning July 1, 1988, the~~ The
21 Secretary of Revenue shall, on a quarterly basis, deposit with remit to the State
22 Treasurer in for credit to the Public School Building Capital Fund an amount equal to
23 one-sixteenth of the net collections received during the previous quarter by the
24 Department of Revenue under G.S. 105-130.3 minus two million five hundred thousand
25 dollars (\$2,500,000). (\$2,500,000) less than one-fourteenth (1/14) of the corporate
26 income tax net collections received during the previous quarter by the Department of
27 Revenue under Division I of Article 4 of Chapter 105 of the General Statutes. All funds
28 deposited in the Public School Building Capital Fund shall be invested as provided in
29 G.S. 147-69.2 and G.S. 147-69.3.

30 (c) The Fund shall be administered by the Office of State Budget and
31 Management."

32 Sec. 253. Notwithstanding G.S. 105-163.41, no addition to tax may be made
33 under that statute for a taxable year beginning on or after January 1, 1991, and before
34 January 1, 1992, with respect to an underpayment of corporation income surtax to the
35 extent the underpayment was created or increased by this Part.

36
37 PART 47.—INDIVIDUAL INCOME TAX CHANGES

38
39 Sec. 254. G.S. 105-134.2(a) reads as rewritten:

40 "(a) A tax is imposed upon the North Carolina taxable income of every individual.
41 The tax shall be levied, collected, and paid annually and shall be computed at the
42 following percentages of the taxpayer's North Carolina taxable income.

- 43 (1) For married individuals who file a joint return under G.S. 105-152.1
44 and for surviving spouses, as defined in section 2(a) of the Code:

1 On the North Carolina taxable income up to twenty-one
 2 thousand two hundred fifty dollars (\$21,250), six percent (~~6%~~);
 3 ~~and (6%)~~.

4 On the ~~excess amount~~ over twenty-one thousand two
 5 hundred fifty dollars (~~\$21,250~~), ~~(\$21,250)~~ and up to one
 6 hundred thousand dollars (\$100,000), seven percent (7%).

7 On the amount over one hundred thousand dollars
 8 (\$100,000), eight percent (8%).

- 9 (2) For heads of households, as defined in section 2(b) of the Code:

10 On the North Carolina taxable income up to seventeen
 11 thousand dollars (\$17,000), six percent (~~6%~~); ~~and (6%)~~.

12 On the ~~excess amount~~ over seventeen thousand dollars
 13 (~~\$17,000~~), ~~(\$17,000)~~ and up to eighty thousand dollars
 14 (~~\$80,000~~), seven percent (7%).

15 On the amount over eighty thousand dollars (\$80,000),
 16 eight percent (8%).

- 17 (3) For unmarried individuals other than surviving spouses and heads of
 18 households:

19 On the North Carolina taxable income up to twelve
 20 thousand seven hundred fifty dollars (\$12,750), six percent
 21 (~~6%~~); ~~and (6%)~~.

22 On the ~~excess amount~~ over twelve thousand seven
 23 hundred fifty dollars (~~\$12,750~~), ~~(\$12,750)~~ and up to sixty
 24 thousand dollars (\$60,000), seven percent (7%).

25 On the amount over sixty thousand dollars (\$60,000),
 26 eight percent (8%).

- 27 (4) For married individuals who do not file a joint return under G.S. 105-
 28 152.1:

29 On the North Carolina taxable income up to ten thousand
 30 six hundred twenty-five dollars (\$10,625), six percent (~~6%~~);
 31 ~~and (6%)~~.

32 On the ~~excess amount~~ over ten thousand six hundred
 33 twenty-five dollars (~~\$10,625~~), ~~(\$10,625)~~ and up to fifty
 34 thousand dollars (\$50,000), seven percent (7%).

35 On the amount over fifty thousand dollars (\$50,000),
 36 eight percent (8%)."

- 37 Sec. 255. G.S. 105-131.7(c) reads as rewritten:

38 "(c) An S Corporation shall file with the Department, on a form prescribed by the
 39 Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a
 40 return and make timely payment of all taxes imposed by this State on the shareholder
 41 with respect to the income of the S Corporation, and (ii) to be subject to personal
 42 jurisdiction in this State for purposes of the collection of any unpaid income tax,
 43 together with related interest and penalties, owed by the nonresident shareholder. If the
 44 corporation fails to timely file an agreement required by this subsection on behalf of any

1 of its nonresident shareholders, then the corporation shall at the time specified in
2 subsection (d) of this section pay to the Department on behalf of each nonresident
3 shareholder with respect to whom an agreement has not been timely filed ~~an amount~~
4 ~~equal to seven percent (7%) of the tax levied under G.S. 105-134.2(a)(3) on the~~
5 shareholder's pro rata share of the S Corporation's income attributable to the State
6 reflected on the corporation's return for the taxable period. An S Corporation may
7 recover a payment made pursuant to the preceding sentence from the shareholder on
8 whose behalf the payment was made."

9 Sec. 256. G.S. 105-160.2 reads as rewritten:

10 **§ 105-160.2. Imposition of tax.**

11 The tax imposed by this Division shall apply to the taxable income of estates and
12 trusts as determined under the provisions of the Code except as otherwise provided in
13 this Division. The taxable income of an estate or trust shall be the same as taxable
14 income for such an estate or trust under the provisions of the Code, adjusted as provided
15 in G.S. 105-134.6 and G.S. 105-134.7, except that the adjustments provided in G.S.
16 105-134.6 and G.S. 105-134.7 shall be apportioned between the estate or trust and the
17 beneficiaries based on the distributions made during the taxable year. The tax shall be
18 computed ~~at the following percentages of~~ on the amount of the taxable income of an
19 estate or trust which is for the benefit of a resident of this State, or for the benefit of a
20 nonresident to the extent that the income (i) is derived from North Carolina sources
21 and is attributable to the ownership of any interest in real or tangible personal property
22 in this State or (ii) is derived from a business, trade, profession, or occupation carried on
23 in this State. For purposes of the preceding sentence, taxable income and gross income
24 shall be computed subject to the adjustments provided in G.S. 105-134.6 and G.S. 105-
25 134.7. ~~The tax on the amount computed above shall be at the rates levied in G.S. 105-~~
26 ~~134.2(a)(3). shall be at six percent (6%) on the first twelve thousand seven hundred fifty~~
27 ~~dollars (\$12,750) of the amount computed above; and at seven percent (7%) of the~~
28 ~~excess of the amount computed above over twelve thousand seven hundred fifty dollars~~
29 ~~(\$12,750).~~ The tax computed under the provisions of this Division shall be paid by the
30 fiduciary responsible for administering the estate or trust."

31 Sec. 257. Notwithstanding G.S. 105-163.15, no addition to tax may be made
32 under that statute for a taxable year beginning on or after January 1, 1991, and before
33 January 1, 1992, with respect to an underpayment of individual income tax to the extent
34 the underpayment was created or increased by this Part.

35
36 PART 48.—CIGARETTE TAX CHANGES

37
38 Sec. 258. G.S. 105-113.5 reads as rewritten:

39 **"§ 105-113.5. Privilege tax levied.**

40 In addition to all other taxes and fees, a tax is hereby levied upon the sale or
41 possession for sale within this State, by distributors, of all cigarettes at the rate of ~~one~~
42 ~~mill three and one-half mills~~ per individual cigarette.

43 The tax hereby levied shall not apply to free distribution of sample cigarettes in
44 packages containing five or fewer cigarettes nor to any package of cigarettes

1 customarily donated free of charge by manufacturers of cigarettes to employees in
2 factories where cigarettes are manufactured in this State where such packages of
3 cigarettes are not taxed by the federal government."

4 Sec. 259. G.S. 105-113.7 reads as rewritten:

5 "**§ 105-113.7. Tax with respect to inventory on effective date of ~~Article.~~ tax**
6 **increase.**

7 Every person subject to the taxes levied in ~~G.S. 105-113.5 and G.S. 105-113.6~~ this
8 Article who, on the effective date of a tax increase under this Article, has on hand any
9 cigarettes shall file a complete inventory ~~thereof~~ of the cigarettes within 20 days
10 ~~thereafter, after the effective date of the increase,~~ and shall pay an additional tax to the
11 Secretary ~~at the time of when~~ filing such inventory a tax with respect thereto computed
12 at the rate set forth in G.S. 105-113.5 and G.S. 105-113.6. All provisions of this Article
13 ~~relative to the collection, verification and administration of the tax herein imposed shall,~~
14 ~~insofar as pertinent, be applicable to the tax imposed by this section, but the affixing of~~
15 ~~stamps as evidence of the payment of such tax by persons subject to the taxes levied in~~
16 ~~G.S. 105-113.6 shall not be necessary except as the Secretary by regulation or~~
17 ~~administrative rule may require.~~ the inventory. The amount of tax due is the amount
18 due based on the difference between the former tax rate and the increased tax rate."

19 Sec. 260. The Legislative Research Commission may study the advisability
20 of amending the cigarette tax to provide cigarette tax payment based on monthly
21 reporting rather than on tax stamps. The Legislative Research Commission shall report
22 to the 1992 Session of the 1991 General Assembly.

23
24 PART 49.—OTHER TOBACCO TAX CHANGES

25
26 Sec. 261. The heading to Article 2A of Chapter 105 of the General Statutes
27 reads as rewritten:

28 "**SCHEDULE B-A. CIGARETTE-TOBACCO PRODUCTS TAX.**"

29 Sec. 262. Article 2A of Chapter 105 of the General Statutes is amended as
30 follows:

- 31 (1) By designating G.S. 105-113.2 through G.S. 105-113.4 as Part 1 with
32 the heading "General Provisions."
- 33 (2) By designating G.S. 105-113.5 through G.S. 105-113.34 as Part 2 with
34 the heading "Cigarette Tax."
- 35 (3) By designating G.S. 105-113.35 through G.S. 105-113.40 as Part 3
36 with the heading "Tax on Other Tobacco Products."

37 Sec. 263. G.S. 105-113.2 reads as rewritten:

38 "**§ 105-113.2. Short title.**

39 This Article may be cited as the 'Cigarette-Tobacco Products Tax Act' or 'Cigarette
40 Tobacco Products Tax Article.'"

41 Sec. 4.3. G.S. 105-113.4 reads as rewritten:

42 "**§ 105-113.4. Definitions.**

1 The following words, terms, and phrases when used in this Article have the
2 meanings ascribed to them in this section, except where the context clearly indicates a
3 different meaning: definitions apply in this Article:

4 (1) Cigar. – A a roll of tobacco wrapped in a substance that contains
5 tobacco, other than a cigarette.

6 (1)(1a) 'Cigarette' means—Cigarette. – Any of the following:

7 a. Any A roll of tobacco wrapped in paper or in any a substance
8 that does not containing tobacco, and contain tobacco.

9 b. Any A roll of tobacco wrapped in any a substance containing
10 that contains tobacco which, and that, because of its
11 appearance, the type of tobacco used in the filler, or its
12 packaging and labeling, is likely to be offered to, to or
13 purchased by, consumers by a consumer as a cigarette described
14 in subparagraph subpart (1) a above. of this subdivision.

15 (2) 'Secretary' means Secretary of Revenue of the State of North
16 Carolina. Cost price. – The price a person liable for the tax on
17 tobacco products imposed by Part 3 of this Article paid for the
18 products, before any discount, rebate, or allowance or the tax
19 imposed by that Part.

20 (3) 'Distributor' means any Distributor. – Any person, wherever
21 resident or located, who purchases unstamped cigarettes directly
22 from the manufacturer thereof and stores, sells or otherwise disposes
23 of the same; and also any person who manufactures or produces
24 cigarettes or causes them to be manufactured or produced.

25 (4) 'In this State' or 'within this State' means within the exterior limits
26 of the State of North Carolina, and includes all territory within such
27 limits owned by, leased by or ceded to the United States of America.

28 (5) 'Licensed distributor' means any distributor, as defined in
29 this Article, Licensed distributor. – A distributor licensed under the
30 provisions Part 2 of this Article.

31 (6) 'Manufacturer' means any Manufacturer. – A person engaged in the
32 manufacture or production of cigarettes. who manufactures or
33 produces tobacco products.

34 (7) 'Package' means the Package. – The individual packet, can, box box, or
35 other container used to contain and to convey cigarettes tobacco
36 products to the consumer.

37 (8) 'Person' means and includes any Person. – An individual, a
38 firm, copartnership, joint venture, a partnership, an association, a
39 corporation, estate, trust, business trust, receiver, syndicate, or any
40 other organization or group or combination acting as a unit, the State
41 or any of its political subdivisions, and the plural as well as the
42 singular number. unit.

43 (9) 'Retail dealer' means any Retail dealer. – A person other
44 than a distributor engaged in this State in the business of selling

1 ~~eigarettes at retail.~~ who sells a tobacco product to the ultimate
 2 consumer of the product.

3 (10) ~~'Selling' or 'sale' means any sale, transfer, exchange, barter,~~
 4 ~~gift, or offer for sale and distribution, in any manner or by any~~
 5 ~~means whatsoever.~~ Sale. – A transfer, a trade, an exchange, or a
 6 barter, in any manner or by any means, with or without
 7 consideration.

8 (11) ~~'Stamp' means any Stamp. – Any impression, device, stamp, label~~
 9 ~~label, or print manufactured, printed printed, or made as prescribed~~
 10 ~~by the Secretary under Part 2 of this Article.~~

11 (11a) Secretary. – The Secretary of Revenue.

12 (11b) Smokeless tobacco product. – A tobacco product other than a cigar
 13 or a cigarette.

14 (12) ~~'Unstamped' means not Unstamped. Not bearing a North~~
 15 ~~Carolina cigarette tax stamp prescribed by the Secretary under this~~
 16 ~~Article. stamp.~~

17 (13) ~~'Use' means the Use. – The exercise of any right or power over~~
 18 ~~cigarettes, incident to the ownership or possession thereof, other~~
 19 ~~than the making of a sale thereof in the course of engaging in a~~
 20 ~~business of selling eigarettes and shall include cigarettes. The term~~
 21 ~~includes the keeping or retention of cigarettes for use.~~

22 (14) Tobacco product. – A product that contains tobacco and is intended
 23 for inhalation or oral use.

24 (15) Wholesale dealer. – A person who makes tobacco products other
 25 than cigarettes or who acquires tobacco products other than
 26 cigarettes for sale to another wholesale dealer or to a retail dealer."

27 Sec. 264. G.S. 105-113.3 reads as rewritten:

28 "**§ 105-113.3. Purpose. Scope of tax; administration.**

29 ~~It is hereby declared to be the intent and purpose of this Article that the incidence of~~
 30 ~~the tax herein provided for shall rest upon the ultimate consumer and not upon the~~
 31 ~~grower or processor of leaf tobacco or upon the manufacturer of cigarettes. This tax~~
 32 ~~shall be paid to the State only once, regardless of the number of times the cigarettes may~~
 33 ~~be sold in this State, but it is the intent of this Article that such tax shall be added to the~~
 34 ~~sales price and passed on from successive sellers to successive purchasers so that it may~~
 35 ~~be included in the ultimate purchase price of the final or last purchaser. The amount of~~
 36 ~~the tax may be stated separately from the price of cigarettes on all price display signs,~~
 37 ~~sales or delivery slips, bills and statements which advertise or indicate the price, but it is~~
 38 ~~not required that it be stated in such manner or in any other manner. The provisions of~~
 39 ~~this section shall in no way affect the assessment, levy or collection of the taxes~~
 40 ~~provided for by this Article, as the same may be more specifically provided herein with~~
 41 ~~respect to activities hereinafter described, but merely states the general intent with~~
 42 ~~respect to this Article. (a) Scope. – The taxes imposed by this Article shall be collected~~
 43 only once on the same tobacco product. Except as permitted by Article 2 of this

1 Chapter, a city or county may not levy a privilege license tax on the sale of tobacco
2 products.

3 (b) Administration. – Except as provided in this section, Article 9 of this Chapter
4 applies to this Article. If a person fails or refuses to pay a tax due under this Article, a
5 penalty shall be added to the tax due in an amount equal to fifty percent (50%) of the tax
6 due."

7 Sec. 265. G.S. 105-113.35 reads as rewritten:

8 "**§ 105-113.35. Interest and penalty. Tax on tobacco products other than cigarettes.**

9 If any person shall neglect, fail or refuse to pay any tax due under this Article,
10 interest shall be added thereto at the rate established pursuant to G.S. 105-241.1(i) from
11 the date due until paid and there shall also be added to said tax an amount equal to fifty
12 percent (50%) thereof. (a) Tax. – An excise tax is levied on tobacco products other than
13 cigarettes at the rate of three percent (3%) of the cost price of the products. This tax
14 does not apply to the following:

15 (1) A tobacco product sold outside the State.

16 (2) A tobacco product sold to the federal government.

17 (b) Primary Liability. – The wholesale dealer who first acquires or otherwise
18 handles tobacco products subject to the tax imposed by this section is liable for the tax
19 imposed by this section. A distributor who brings into this State a tobacco product
20 made outside the State is the first person to handle the tobacco product in this State. A
21 distributor who is the original consignee of a tobacco product that is made outside the
22 State and is shipped into the State is the first person to handle the tobacco product in
23 this State.

24 (c) Secondary Liability. – A retail dealer who acquires non-tax-paid tobacco
25 products subject to the tax imposed by this section from a wholesale dealer is liable for
26 any tax due on the tobacco products. A retail dealer who is liable for tax under this
27 subsection may not deduct a discount from the amount of tax due when reporting the
28 tax."

29 Sec. 266. G.S. 105-113.36 reads as rewritten:

30 "**§ 105-113.36. General administrative provisions of Revenue Act applicable.**
31 **Wholesale dealer and retail dealer must obtain license.**

32 All provisions not inconsistent with this Article contained in Article 9 entitled
33 "General Administration; Penalties and Remedies" of Subchapter I of Chapter 105 of
34 the General Statutes, including but not limited to administration, auditing, making
35 returns, promulgation of administrative rules and regulations by the Secretary,
36 additional taxes, assessment procedure, imposition and collection of taxes of the lien
37 thereof, assessments, refunds and penalties are hereby made a part of this Article and
38 shall be applicable thereto.

39 A wholesale dealer shall obtain for each place of business a continuing tobacco
40 products license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A
41 retail dealer shall obtain for each place of business a continuing tobacco products
42 license and shall pay a fee of ten dollars (\$10.00) for the license. A 'place of business' is
43 a place where a wholesale dealer makes tobacco products other than cigarettes or a

1 wholesale dealer or a retail dealer receives or stores non-tax-paid tobacco products other
2 than cigarettes."

3 Sec. 267. G.S. 105-113.37 reads as rewritten:

4 **"§ 105-113.37. Secretary to make rules and regulations. Payment of tax.**

5 ~~Subject to the provisions of G.S. 105-262, the Secretary is hereby authorized and~~
6 ~~empowered to make all reasonable regulations and administrative rules necessary for~~
7 ~~the efficient administration and enforcement of this Article not inconsistent with the~~
8 ~~provisions of this Article. Upon request, he shall furnish any taxpayer with a copy of~~
9 ~~such rules and regulations. All provisions with respect to reviews and appeals from the~~
10 ~~Secretary's decisions as provided by G.S. 105-241.2, 105-241.3 and 105-241.4 of the~~
11 ~~General Statutes shall be applicable to this Article.~~

12 (a) Monthly Report. – Except for tax on a designated sale under subsection (b),
13 the taxes levied by this Article are payable when a report is required to be filed. A
14 report is due on a monthly basis. A monthly report covers sales and other activities
15 occurring in a calendar month and is due within 20 days after the end of the month
16 covered by the report. A report shall be filed on a form provided by the Secretary and
17 shall contain the information required by the Secretary.

18 (b) Designation of Exempt Sale. – A wholesale dealer who sells a tobacco
19 product to a person who has notified the wholesale dealer in writing that the person
20 intends to resell the item in a transaction that is exempt from tax under G.S. 105-
21 113.35(1) or (2) may, when filing a monthly report under subsection (a), designate the
22 quantity of tobacco products sold to the person for resale. A wholesale dealer shall
23 report a designated sale on a form provided by the Secretary.

24 A wholesale dealer is not required to pay tax on a designated sale when filing a
25 monthly report. The wholesale dealer shall pay the tax due on all other sales in
26 accordance with this section. A wholesale dealer or a customer of a wholesale dealer
27 may not delay payment of the tax due on a tobacco product by failing to pay tax on a
28 sale that is not a designated sale or by overstating the quantity of tobacco products that
29 will be resold in a transaction exempt under G.S. 105-113.35(1) or (2).

30 A person who does not sell a tobacco product in a transaction exempt under G.S.
31 105-113.35(1) or (2) after a wholesale dealer has failed to pay the tax due on the
32 sale of the item to the person in reliance on the person's written notification of intent is
33 liable for the tax and any penalties and interest due on the designated sale. If the
34 Secretary determines that a tobacco product reported as a designated sale is not sold as
35 reported, the Secretary shall assess the person who notified the wholesale dealer of an
36 intention to resell the item in an exempt transaction for the tax due on the sale and any
37 applicable penalties and interest. A wholesale dealer who does not pay tax on a tobacco
38 product in reliance on a person's written notification of intent to resell the item in an
39 exempt transaction is not liable for any tax assessed on the item.

40 (c) Refund. – A wholesale dealer who pays tax on a tobacco product that is
41 exempt from the tax may obtain a refund for the amount of tax paid by filing an
42 application for refund with the Secretary on a form provided by the Secretary. A refund
43 for tax paid in the first six months of a calendar year must be submitted by July 15, and

1 a refund for tax paid in the second six months of a calendar year must be submitted by
2 January 15."

3 Sec. 268. G.S. 105-113.38 reads as rewritten:

4 **"§ 105-113.38. Tax to be paid only once. Bond.**

5 ~~Whenever the tax levied by this Article has been computed and paid to the State~~
6 ~~with respect to any cigarettes as provided by this Article, and appropriate stamps~~
7 ~~affixed, the same shall not be required to be paid again to the State regardless of how~~
8 ~~many times such cigarettes may thereafter be sold or resold, but the seller may add to~~
9 ~~his sales price thereafter the amount of such tax.~~ Bond. – The Secretary may require a
10 wholesale dealer to furnish a bond in an amount that adequately protects the State from
11 loss if the wholesale dealer fails to pay taxes due under this Part. A bond shall be
12 conditioned on compliance with this Part, shall be payable to the State, and shall be in
13 the form required by the Secretary. The Secretary shall proportion a bond amount to the
14 anticipated tax liability of the wholesale dealer. The Secretary shall periodically review
15 the sufficiency of bonds required of wholesale dealers and shall increase the amount of
16 a required bond when the amount of the bond furnished no longer covers the anticipated
17 tax liability of the wholesale dealer."

18 Sec. 269. G.S. 105-113.39 reads as rewritten:

19 **"§ 105-113.39. Local units prohibited to tax. Discount.**

20 ~~No city, town or county shall levy any privilege license tax with respect to the sale~~
21 ~~of cigarettes other than as permitted by Article 2 of Subchapter I of Chapter 105 of the~~
22 ~~General Statutes.~~

23 A wholesale dealer who is liable for the excise taxes imposed by this Part and who
24 files a timely report under G.S. 105-113.37 may deduct from the amount due with the
25 report a discount of four percent (4%). This discount covers losses due to damage to
26 tobacco products, expenses incurred in preparing the records and reports required by
27 this Part, and the expense of furnishing a bond."

28 Sec. 270. G.S. 105-113.40 reads as rewritten:

29 **"§ 105-113.40. Effective date of this Article. Records of sales, inventories, and**
30 **purchases to be kept.**

31 ~~This Article shall be in full force and effect on and after July 1, 1969, or on the first~~
32 ~~day of the month next after the ninetieth day from its ratification, whichever is the later~~
33 ~~date. However, the Secretary is authorized, prior to that time, to do all things necessary~~
34 ~~to the implementation of the provisions of this Article, including making regulations~~
35 ~~and administrative rules, procuring the manufacture of stamps, and providing for sale of~~
36 ~~the same, in order to secure effective administration of this Article on and after its~~
37 ~~effective date.~~ Every wholesale dealer and retail dealer shall keep accurate records of
38 the dealer's purchases, inventories, and sales of tobacco products. These records shall
39 be open at all times for inspection by the Secretary or an authorized representative of
40 the Secretary."

41 Sec. 271. A wholesale dealer who has tobacco products other than cigarettes
42 on hand on the effective date of the tax imposed by this Part shall file a complete
43 inventory of the products with the Secretary of Revenue within 20 days after the

1 effective date of the tax and shall pay the tax imposed by this Part on the products when
2 filing the inventory.

3
4 PART 50.—HIGHWAY TAX CHANGES

5
6 Sec. 272. G.S. 105-187.6, as amended by Section 4 of Chapter 193 of the
7 1991 Session Laws, reads as rewritten:

8 **"§ 105-187.6. Exemptions from highway use tax.**

9 (a) Full Exemptions. – The tax imposed by this Article does not apply when a
10 certificate of title is issued as the result of a transfer of a motor vehicle:

- 11 (1) To the insurer of the motor vehicle under G.S. 20-109.1 because
12 the vehicle is a salvage vehicle.
13 (2) To either a manufacturer, as defined in G.S. 20-286, or a motor
14 vehicle retailer for the purpose of ~~resale other than lease or rental-~~
15 resale.
16 (3) To the same owner to reflect a change or correction in the owner's
17 name.
18 (4) By will or intestacy.
19 (5) By a conveyance between a husband and wife or a parent and child.
20 (6) By a distribution of marital property as a result of a divorce.

21 (b) Partial Exemptions. – Only the minimum tax imposed by this Article applies
22 when a certificate of title is issued as the result of a transfer of a motor vehicle:

- 23 (1) ~~By a gift between a husband and wife or a parent and child.~~
24 (2) ~~By will or intestacy.~~
25 (3) ~~By a distribution of marital property as a result of a divorce.~~
26 (4)(1) To a secured party who has a perfected security interest in the motor
27 vehicle.
28 (5)(2) To a partnership or corporation as an incident to the formation of the
29 partnership or corporation and no gain or loss arises on the transfer
30 under section 351 or section 721 of the Internal Revenue Code, or to a
31 corporation by merger or consolidation in accordance with G.S. 55-11-
32 06.

33 (6) ~~To the same owner to reflect a change in the owner's name.~~

34 (c) Out-of-state Vehicles. – A maximum tax of one hundred fifty dollars
35 ~~(\$100.00)-(\$150.00)~~ applies when a certificate of title is issued for a motor vehicle that,
36 at the time of applying for a certificate of title, is and has been titled in another state for
37 at least 90 days."

38 Sec. 273. G.S. 20-85.1(c) reads as rewritten:

39 "(c) ~~All funds collected under this section shall be deposited in the Highway~~
40 ~~Fund.~~ The fee collected under subsection (a) shall be credited to the Highway Fund.
41 The fee collected under subsection (b) shall be credited to the Highway Trust Fund."

42 Sec. 274. G.S. 20-7(l) reads as rewritten:

43 "(l) Any person who except for lack of instruction in operating a motor vehicle
44 would be qualified to obtain an operator's a drivers license under this Article may apply

1 ~~for obtain a temporary learner's permit, permit. A learner's permit authorizes and the~~
2 ~~Division shall issue such permit, entitling the applicant, while having such permit in his~~
3 ~~immediate possession, permit holder to drive a specified type or class of motor vehicle~~
4 ~~upon the highways for a period of 18 months, while in possession of the permit. A~~
5 ~~learner's permit is valid for a period of 18 months after it is issued. The fee for issuancee~~
6 ~~of a temporary learner's permit shall be five dollars (\$5.00), is ten dollars (\$10.00).~~
7 ~~Any such A learner's permit may be renewed, or a second learner's permit may be~~
8 ~~issued, for an additional period of 18 months. The permittee permit holder must, while~~
9 ~~operating a motor vehicle over the highways, be accompanied by a person who is~~
10 ~~licensed to operate the class or type of vehicle being operated and who is seated in the~~
11 ~~seat beside the permittee permit holder.~~

12 ~~The fee for the issuance of a renewal or a second temporary learner's permit shall be~~
13 ~~five dollars (\$5.00)."~~

14 Sec. 275. G.S. 20-11(b) reads as rewritten:

15 "(b) ~~The Division may grant an application for issue a limited learner's permit of~~
16 ~~any to a minor under the age of 16, who is at least 15 years old but is less than 16 years~~
17 ~~old and who otherwise meets the requirements of licensing under this section, when~~
18 ~~such section. An application is for a limited learner's permit must be signed by both the~~
19 ~~applicant and his or her the applicant's parent or guardian or some other responsible~~
20 ~~adult with whom the applicant resides and is approved by the Division of Motor~~
21 ~~Vehicles. Division. The A limited learner's permit shall entitle the applicant, while~~
22 ~~having the permit in his immediate possession, authorizes the permit holder to drive a~~
23 ~~specified type or class of motor vehicle of the specified type or class upon the highways~~
24 ~~while in possession of the permit and accompanied by a parent, guardian, or other~~
25 ~~person approved by the Division, Division who is licensed under this Chapter to operate~~
26 ~~a motor vehicle (of the type or class being operated by the permittee) and who is~~
27 ~~actually occupying a seat to operate the motor vehicle driven and is seated beside the~~
28 ~~driver. The permit holder. A limited learner's permit shall be is valid for a period of 18~~
29 ~~months and the The fee for issuance of a limited learner's permit shall be five dollars~~
30 ~~(\$5.00), is ten dollars (\$10.00). Provided, however, a limited learner's permit as herein~~
31 ~~provided shall be issued only to those applicants who have reached the age of 15 years.~~
32 ~~In the event a minor who has been issued a limited learner's permit under this subsection~~
33 ~~operates drives a motor vehicle in violation of any provision herein, law, the permit~~
34 ~~shall be canceled.~~

35 ~~Provided a A driver who holds a limited learner's permit only shall not be deemed a~~
36 ~~male operator under age 25 for the purpose of determining the insurance premium rate~~
37 ~~for persons insured under automobile property damage and bodily injury liability~~
38 ~~insurance policies."~~

39 Sec. 276. G.S. 20-14 reads as rewritten:

40 "**§ 20-14. Duplicate licenses.**

41 ~~A licensee may obtain a duplicate license, upon payment of a fee of five dollars~~
42 ~~(\$5.00), if he furnishes to license by paying a fee of ten dollars (\$10.00) and giving the~~
43 ~~Division satisfactory proof that that any of the following has occurred:~~

44 (1) ~~He The license has been lost or destroyed his license; or destroyed.~~

1 (2) It is necessary to change the name or address on the ~~license;~~
2 ~~or license.~~

3 (3) ~~He has reached the age wherein he~~ Because of the licensee's age,
4 the licensee is entitled to a license with a different color
5 photographic background."

6 Sec. 277. G.S. 20-37.7(d) reads as rewritten:

7 "(d) A special identification card issued under this section shall expire on the birth
8 date of the holder in the fourth year of issuance. The fee for the issuance or reissuance
9 of a special identification card ~~shall be five dollars (\$5.00) which shall be placed in the~~
10 ~~Highway Fund; provided that a~~ is the same as the fee set in G.S. 20-14 for issuing a
11 duplicate license. A special identification card may be issued without fee to a resident
12 of North Carolina who is legally blind or has attained the age of ~~70 years; provided~~
13 ~~further that the~~ 70. The fees collected for the issuance of special identification cards to
14 persons under the age of 16 shall be placed in a reserve fund to cover the cost of the
15 operation of the program required by this Article."

16 Sec. 278. G.S. 20-37.9 reads as rewritten:

17 **"§ 20-37.9. Notification of change of address.**

18 Whenever the holder of a special identification card issued under ~~the provisions of~~
19 G.S. 20-37.7 has a change in the address as shown on ~~such the~~ special identification
20 card, he or she shall apply for reissuance of a special identification card within 60 days
21 after the address has been changed. The fee for reissuance of ~~the a~~ special identification
22 card ~~shall be five dollars (\$5.00). is the same as the fee set in G.S. 20-37.7 for issuing a~~
23 special identification card. Provided that in those instances in which the If a change of
24 address is through the result of governmental action and there is no actual change of
25 geographical location, no change of address on the holder of the card shall be required
26 until the expiration thereof or reissuance is applied for by the holder thereof. is not
27 required to change the address on the card until the Division issues the holder another
28 card."

29 Sec. 279. G.S. 20-26(c) reads as rewritten:

30 "(c) The Division shall furnish copies of license records required to be kept by
31 subsection (a) of this section to other ~~persons, firms and corporations~~ persons for uses
32 other than official upon prepayment of the ~~fee therefor, according to the following~~
33 ~~schedule:~~ following fees:

34 (1) Limited extract copy of license record,
35 for period up to three years ~~\$4.00~~ \$5.00

36 (2) Complete extract copy of license record ~~4.00~~ 5.00

37 (3) Certified true copy of complete license

38 record 7.00. All fees received by the Division under the provisions of
39 this subsection shall be paid into and become a part of the 'Highway Fund.' credited to
40 the Highway Fund."

41 Sec. 280. G.S. 20-42(b) reads as rewritten:

42 "(b) The Commissioner and ~~such~~ officers of the Division as ~~he may designate~~ are
43 hereby authorized to designated by the Commissioner may prepare under the seal of the
44 Division and deliver upon request a certified copy of any ~~record~~ document of the

1 Division, charging a fee of ~~four dollars (\$4.00)~~ five dollars (\$5.00) for each document
2 ~~so certified, and every such certified.~~ A certified copy shall be admissible in any
3 proceeding in any court in like manner as the original thereof, without further
4 certification. ~~Provided that any copy of any record of the Division~~ The certification fee
5 does not apply to a document furnished to State, county, municipal and court officials of
6 this State for official use shall be furnished without charge. ~~use."~~

7 Sec. 281. G.S. 20-73 reads as rewritten:

8 **"§ 20-73. New owner to secure must get new certificate of title.**

9 ~~The transferee, within 20 days after the purchase of any vehicle, shall present the~~
10 ~~certificate of title endorsed and assigned as hereinbefore provided, to the Division and~~
11 ~~make application for a new certificate of title for such vehicle except as otherwise~~
12 ~~permitted in G.S. 20-75 and 20-76. Any transferee willfully failing or refusing to make~~
13 ~~application for title shall be guilty of a misdemeanor.~~ (a) Time Limit. – A person to
14 whom a vehicle is transferred, whether by purchase or otherwise, must apply to the
15 Division for a new certificate of title. An application for a certificate of title must be
16 submitted within 28 days after the vehicle is transferred.

17 A person may apply directly for a certificate of title or may allow another person,
18 such as the person from whom the vehicle is transferred or a person who has a lien on
19 the vehicle, to apply for a certificate of title on that person's behalf. A person to whom
20 a vehicle is transferred is responsible for getting a certificate of title within the time
21 limit regardless of whether the person allowed another to apply for a certificate of title
22 on the person's behalf.

23 (b) Exceptions. – This section does not apply to a dealer or an insurance
24 company to whom a vehicle is transferred when the transfer meets the requirements of
25 G.S. 20-75. A person who must follow the procedure in G.S. 20-76 to get a certificate
26 of title and who applies for a title within the required 20-day time limit is considered to
27 have complied with this section even when the Division issues a certificate of title to the
28 person after the time limit has elapsed.

29 (c) Penalties. – A person to whom a vehicle is transferred who fails to apply for a
30 certificate of title within the required time is subject to a civil penalty of ten dollars
31 (\$10.00) and is guilty of a misdemeanor. A person who undertakes to apply for a
32 certificate of title on behalf of another person and who fails to apply for a title within
33 the required time is subject to a civil penalty of ten dollars (\$10.00). When a person to
34 whom a vehicle is transferred fails to obtain a title within the required time because a
35 person who undertook to apply for the certificate of title did not do so within the
36 required time, the Division may impose a civil penalty only on the person who
37 undertook to apply for the title. Civil penalties collected under this subsection shall be
38 credited to the Highway Fund."

39 Sec. 282. G.S. 20-74 reads as rewritten:

40 **"§ 20-74. ~~Penalty for failure to make application for transfer within the time~~**
41 **~~specified by law.~~ making false statement about transfer of vehicle.**

42 ~~It is the intent and purpose of this Article that every new owner or purchaser of a~~
43 ~~vehicle previously registered shall make application for transfer of title within 20 days~~
44 ~~after acquiring same, or see that such application is sent in by the lienholder with proper~~

1 fees, and responsibility for such transfer shall rest on the purchaser. Any person, firm or
 2 corporation failing to do so shall pay a penalty of four dollars (\$4.00) in addition to the
 3 fees otherwise provided in this Article. It is further provided that any dealer or owner
 4 who shall knowingly make any ~~A dealer or another person~~ who, in an application
 5 required by this Division, knowingly makes a false statement in any application
 6 required by this Division as to about the date a vehicle was sold or acquired shall be
 7 guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars
 8 (\$50.00) or imprisoned not more than 30 days. ~~All moneys collected under this section~~
 9 ~~shall go to the State Highway Fund."~~

10 Sec. 283. G.S. 20-119(b) reads as rewritten:

11 "(b) Upon the issuance of a special permit for an oversize or overweight vehicle
 12 by the Department of Transportation in accordance with this section, the applicant shall
 13 pay to the Department a fee of ~~five dollars (\$5.00)~~ ten dollars (\$10.00) for a single trip
 14 permit ~~or twenty five dollars (\$25.00) and fifty dollars (\$50.00)~~ for an annual permit
 15 issued for a single vehicle. Any ~~person, firm or corporation~~ person who operates more
 16 than one vehicle may apply for, and the Department may issue, obtain an annual permit
 17 for all oversize or overweight vehicles operated by ~~said person, firm or corporation,~~ and
 18 ~~said applicant shall pay to the Department~~ the person upon payment of an annual fee
 19 based on the following schedule:

20 No. of Vehicles Annual Permit Rate per Vehicle

21			
22	First 50	\$25.00	<u>\$50.00</u>
23	51 to 100	20.00	<u>40.00</u>
24	101 to 150	15.00	<u>30.00</u>
25	Over 150	10.00	<u>20.00</u>

26 Any vehicle required to obtain an overweight permit shall not be charged an
 27 additional fee for oversize. Any vehicle required to obtain an oversize permit shall not
 28 be charged an additional fee for overweight. This subsection shall not apply to farm
 29 equipment or machinery being used at the time for agricultural purposes, nor to the
 30 moving of a house as provided for by the license and permit requirements of Article 16
 31 of this Chapter. Fees will not be assessed for permits for oversize and overweight
 32 vehicles issued to any agency of the United States Government or the State of North
 33 Carolina, its agencies, institutions, subdivisions or ~~municipalities,~~ provided
 34 municipalities if the vehicle is registered in the name of ~~such governmental body.~~ the
 35 agency."

36 Sec. 284. G.S. 20-289(a) reads as rewritten:

37 "(a) The license fee for each fiscal year, or part thereof, shall be as follows:

- 38 (1) For motor vehicle dealers, distributors, and wholesalers, ~~thirty dollars~~
 39 ~~(\$30.00)~~ fifty dollars (\$50.00) for each principal place of business,
 40 plus eight dollars (\$8.00) for a supplementary license for each car lot
 41 not immediately adjacent thereto;
 42 (2) For manufacturers, ~~seventy five dollars (\$75.00),~~ one
 43 hundred dollars (\$100.00), and for each factory branch in this State,
 44 ~~forty five dollars (\$45.00);~~ seventy dollars (\$70.00);

- 1 (3) For motor vehicle salesmen, ~~five dollars (\$5.00);~~ ten dollars
2 (\$10.00);
3 (4) For factory representatives, or distributor branch
4 representatives, ~~six dollars (\$6.00);~~ ten dollars (\$10.00);
5 (5) Manufacturers, wholesalers, and distributors may operate as
6 a motor vehicle dealer, without any additional fee or license."

7 Sec. 285. G.S. 20-291 reads as rewritten:

8 **"§ 20-291. Salesman, etc., Salesman and other representatives to carry license and**
9 **display it on request; license to name employer.**

10 Every salesman, factory representative and distributor representative shall carry his
11 license when engaged in his business, and shall display ~~the same~~ it upon request. ~~The~~
12 ~~licensee shall name his employer, and in the event of a change of employer, he shall~~
13 ~~immediately mail his license to the Division, which shall endorse such change on the~~
14 ~~license without charge. The license of a salesman, a factory representative, or a~~
15 ~~distributor representative shall state the name of the licensee's employer. A licensee~~
16 ~~who changes employers shall immediately apply to the Division for a license that states~~
17 ~~the licensee's new employer. The fee for issuing a license stating the name of a new~~
18 ~~employer is one-half the fee set in G.S. 20-289 for an annual license."~~

19
20 PART 51.—ALCOHOL TAX CHANGES

21
22 Sec. 286. G.S. 18B-804 reads as rewritten:

23 **"§ 18B-804. Alcoholic beverage pricing.**

24 (a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor
25 sold in ABC stores shall be uniform throughout the State, unless otherwise provided by
26 the ABC law.

27 (b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor sold at the
28 uniform State price shall consist of the following components:

29 (1) The distiller's ~~price;~~ price.

30 (2) The freight and bailment charges of the State warehouse as determined
31 by the ~~Commission;~~ Commission.

32 (3) A markup for local boards as determined by the ~~Commission;~~
33 Commission.

34 (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the
35 sum of subdivisions (1), (2), and ~~(3);~~ (3).

36 (5) An additional markup for local boards equal to three and one-half
37 percent (31/2%) of the sum of subdivisions (1), (2), and ~~(3);~~ (3).

38 (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters
39 or less and five cents (5¢) on each bottle containing more than 50
40 ~~milliliters;~~ milliliters.

41 (6a) The bailment ~~surcharge;~~ surcharge.

42 (6b) An additional bottle charge for local boards of one cent (1¢) on each
43 bottle containing 50 milliliters or less and five cents (5¢) on each
44 bottle containing more than 50 ~~milliliters[;]~~ milliliters.

- 1 (7) A rounding adjustment, the formula of which may be determined by
2 the Commission, so that the sale price will be divisible by ~~five~~; and
3 five.
- 4 (8) If the spirituous liquor is sold to a mixed beverage permittee for resale
5 in mixed beverages, a charge of ~~fifteen dollars (\$15.00)~~ twenty dollars
6 (\$20.00) on each four liters and a proportional sum on lesser
7 quantities.
- 8 (c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include
9 the tax levied by G.S. 105-113.80(b), as well as State and local sales taxes.
- 10 (d) Repealed by Session Laws 1985, c. 59, s. 2."
11 Sec. 287. G.S. 18B-805(b) reads as rewritten:
- 12 "(b) Primary Distribution. – Before making any other distribution, a local board
13 shall first pay the following from its gross receipts:
- 14 (1) The board shall pay the expenses, including salaries, of operating the
15 local ABC system.
- 16 (2) Each month the local board shall pay to the Department of Revenue
17 the taxes due the Department. In addition to the taxes levied under
18 Chapter 105 of the General Statutes, the local board shall pay to the
19 Department ~~one-third~~ one-half of the mixed beverages surcharge
20 required by G.S. 18B-804(b)(8).
- 21 (3) Each month the local board shall pay to the Department of Human
22 Resources ~~six and two-thirds percent (62/3%)~~ five percent (5%) of the
23 mixed beverages surcharge required by G.S. 18B-804(b)(8). The
24 Department of Human Resources shall spend those funds for the
25 treatment of alcoholism or substance abuse, or for research or
26 education on alcohol or substance abuse.
- 27 (4) Each month the local board shall pay to the county commissioners of
28 the county where the charge is collected the proceeds from the bottle
29 charge required by G.S. 18B-804(b)(6), to be spent by the county
30 commissioners for the purposes stated in subsection (h) of this
31 section."
- 32 Sec. 288. G.S. 18B-902(d) reads as rewritten:
- 33 "(d) Fees. – An application for an ABC permit shall be accompanied by payment
34 of the following application fee:
- 35 (1) On-premises malt beverage permit – ~~\$100.00.~~ \$200.00.
36 (2) Off-premises malt beverage permit – ~~\$100.00.~~ \$200.00.
37 (3) On-premises unfortified wine permit – ~~\$100.00.~~ \$200.00.
38 (4) Off-premises unfortified wine permit – ~~\$100.00.~~ \$200.00.
39 (5) On-premises fortified wine permit – ~~\$100.00.~~ \$200.00.
40 (6) Off-premises fortified wine permit – ~~\$100.00.~~ \$200.00.
41 (7) Brown-bagging permit – \$200.00, unless the application is for a
42 restaurant seating less than 50, in which case the fee shall be \$100.00.
43 (8) Special occasion permit – \$200.00.
44 (9) Limited special occasion permit – \$25.00.

- 1 (10) Mixed beverages permit – \$750.00.
- 2 (11) Culinary permit – \$100.00.
- 3 (12) Unfortified winery permit – \$100.00.
- 4 (13) Fortified winery permit – \$100.00.
- 5 (14) Limited winery permit – \$100.00.
- 6 (15) Brewery permit – \$100.00.
- 7 (16) Distillery permit – \$100.00.
- 8 (17) Fuel alcohol permit – \$10.00.
- 9 (18) Wine importer permit – \$100.00.
- 10 (19) Wine wholesaler permit – \$100.00.
- 11 (20) Malt beverage importer permit – \$100.00.
- 12 (21) Malt beverage wholesaler permit – \$100.00.
- 13 (22) Bottler permit – \$100.00.
- 14 (23) Salesman permit – \$25.00.
- 15 (24) Vendor representative permit – \$25.00.
- 16 (25) Nonresident malt beverage vendor permit – \$25.00.
- 17 (26) Nonresident wine vendor permit – \$25.00.
- 18 (27) Any special one-time permit under G.S. 18B-1002 – \$25.00.
- 19 (28) Winery special show permit – \$100.00."

20 Sec. 289. G.S. 18B-902(e) reads as rewritten:

21 "(e) Fee for Combined Applications. – If application is made at the same time for
 22 retail malt beverage, unfortified wine and fortified wine permits for a single business
 23 location, the total fee for those applications shall be ~~one hundred dollars (\$100.00)~~ two
 24 hundred dollars (\$200.00). If application is made at the same time for brown-bagging
 25 and special occasion permits for a single business location, the total fee for those
 26 applications shall be three hundred dollars (\$300.00). If application is made at the same
 27 time for wine and malt beverage importer permits, the total fee for those applications
 28 shall be one hundred dollars (\$100.00). If application is made at the same time for wine
 29 and malt beverage wholesaler permits, the total fee for those applications shall be one
 30 hundred dollars (\$100.00). If application is made in the same year for vendor
 31 representative permits to represent more than one vendor, only one fee shall be paid. If
 32 application is made at the same time for nonresident malt beverage vendor and
 33 nonresident wine vendor permits, the total fee for those applications shall be twenty-five
 34 dollars (\$25.00)."

35 Sec. 290. G.S. 105-113.75 reads as rewritten:

36 "**§ 105-113.75. State beer and wine retail licenses.**

37 A person holding any of the following retail ABC permits shall obtain a State license
 38 for the activity authorized by the permit. The annual tax for each license is as stated.

ABC Permit	Corresponding State License	Tax
41		
42 On-premises malt beverage,	Retail malt beverage	\$20.00
43 off-premises malt beverage,	<u>\$100.00</u>	
44 or both		

1			
2	On-premises unfortified	Retail wine: on-	25.00
3	wine, on-premises fortified premises	<u>100.00</u>	
4	wine, or both		
5			
6	Off-premises unfortified	Retail wine: off-	20.00
7	wine, off-premises fortified	premises <u>100.00</u>	
8	wine, or both".		
9			

10 PART 52.—SOFT DRINK TAX ADMINISTRATIVE CHANGES

11
12 Sec. 291. G.S. 105-113.44 reads as rewritten:

13 **"§ 105-113.44. Definitions.**

14 ~~As used in this Article, unless the context otherwise requires: The following~~
15 ~~definitions apply in this Article:~~

- 16 (1) ~~'Base products' means hot chocolate flavored drink mix, flavored milk~~
17 ~~shake bases, concentrate products to which milk or other liquid is~~
18 ~~added to complete a soft drink, and all like items or products as herein~~
19 ~~defined which will be taxed as syrups. Base product. The compound~~
20 ~~mixture or basic ingredients to which liquid milk or another liquid is~~
21 ~~added to complete a soft drink. The term includes a powder, a simple~~
22 ~~syrup, a chocolate syrup, other syrups, and a concentrate.~~
- 23 (2) ~~'Bottled' means enclosed in any closed or sealed glass, metal, paper or~~
24 ~~other type of bottle, can, carton or container, regardless of the size of~~
25 ~~such container. Bottled. In a closed container of any kind.~~
- 26 (3) ~~'Soft drink' means any complete, finished, ready to use, nonalcoholic~~
27 ~~drink, whether carbonated or not, such as soda water, ginger ale, Nu-~~
28 ~~Grape, Coca Cola, lime cola, Pepsi Cola, bud wine, near beer, fruit~~
29 ~~juice, vegetable juice, milk drinks when any flavoring or syrup is~~
30 ~~added, cider, carbonated water and all preparations commonly referred~~
31 ~~to as soft drinks of whatever kind or description.~~
- 32 (4) ~~'Secretary' means the North Carolina Secretary of Revenue.~~
- 33 (5) ~~'Crowns' means crowns, caps and lids bearing any tax indicia other~~
34 ~~than stamps evidencing the payment of the excise tax levied under this~~
35 ~~Article. 'Crowns' shall also include waxed paper or plastic containers~~
36 ~~used by dairies upon which the tax indicia has been imprinted by the~~
37 ~~manufacturer thereof.~~
- 38 (6) ~~'Distributor' includes any person who manufactures, bottles,~~
39 ~~compounds, mixes or purchases for sale to retail dealers or wholesale~~
40 ~~dealers any bottled soft drink, soft drink syrup or powder, or base~~
41 ~~product for mixing, making or compounding soft drinks. Distributor.~~
42 ~~A person who makes bottled soft drinks or base products or who~~
43 ~~acquires bottled soft drinks or base products for sale to a wholesale~~
44 ~~dealer or a retail dealer.~~

- 1 (7) ~~'Excise tax' means the soft drink tax levied under G.S. 105-113.45.~~
2 Juice. Any of the following:
3 a. The liquid that results from pressing fresh fruit or fresh
4 vegetables.
5 b. The concentrate produced by dehydrating a liquid described in
6 subpart a.
7 c. The liquid that results from adding water to a concentrate
8 described in subpart b.
9 (8) ~~'In this State' or 'within this State' means within the exterior limits of~~
10 ~~the State of North Carolina and includes all territory within such limits~~
11 ~~owned by, leased by or ceded to the United States of America. Milk.~~
12 Any of the following:
13 a. Liquid milk, regardless of butterfat content.
14 b. The powder produced by dehydrating liquid milk.
15 c. The liquid that results from adding water to dehydrated liquid
16 milk.
17 (9) ~~'Natural fruit juice' means the natural liquid which results from the~~
18 ~~pressing of sound ripe fruit, and the liquid which results from the~~
19 ~~reconstitution of natural fruit juice concentrate by the restoration of~~
20 ~~water to dehydrated natural fruit juice. Natural. Without added~~
21 ~~ingredients of any kind other than vitamins. Added ingredients include~~
22 ~~sugar, salt, preservatives, artificial flavoring, coloring, and~~
23 ~~carbonation.~~
24 (10) ~~'Natural liquid milk' means natural liquid milk regardless of butterfat~~
25 ~~content, and the liquid milk product which results from the~~
26 ~~reconstitution of natural milk concentrate, regardless of butterfat~~
27 ~~content, by the restoration of water to dehydrated or evaporated natural~~
28 ~~milk.~~
29 (11) ~~'Natural vegetable juice' means the natural liquid which results from~~
30 ~~the pressing of sound ripe vegetables or the liquid which results from~~
31 ~~the reconstitution of natural vegetable juice concentrate by the~~
32 ~~restoration of water to dehydrated natural vegetable juice.~~
33 (12) ~~'Person' includes any Person. An individual, a firm, a partnership,~~
34 ~~joint venture, an association, a corporation, estate, trust, receiver,~~
35 ~~syndicate or any other organization or group or combination acting as~~
36 ~~a unit, the State or any of its political subdivisions, and the plural as~~
37 ~~well as the singular number. unit.~~
38 (13) ~~'Powders' means compressed powders, crystals, granules or tablets~~
39 ~~from which soft drinks can be made. Powder. Crystals, granules,~~
40 ~~tablets, and other dry products.~~
41 (14) ~~'Retail dealer' includes every person, other than a distributor or~~
42 ~~wholesale dealer, who makes, mixes, compounds or manufactures any~~
43 ~~drink from a soft drink syrup or powder or base product, and sells or~~
44 ~~otherwise dispenses the same to the ultimate consumer, and every~~

1 person, other than a distributor or wholesale dealer, who sells or
 2 otherwise dispenses any bottled soft drink to the ultimate consumer.
 3 Retail dealer. A person who sells bottled soft drinks or base products
 4 to the ultimate consumer or who makes soft drinks from base products
 5 and sells the soft drinks to the ultimate consumer.

6 (15) ~~'Selling' or 'sale' means any sale, transfer, exchange, barter, gift or~~
 7 ~~offer for sale and distribution, in any manner or by any means~~
 8 ~~whatsoever. Sale. A transfer, a trade, an exchange, or a barter, in any~~
 9 ~~manner or by any means, with or without consideration.~~

10 (16) ~~'Simple syrup' means the product resulting from the making, mixing,~~
 11 ~~compounding or manufacturing by dissolving sugar and water or any~~
 12 ~~other mixture that will create syrup to which may be added~~
 13 ~~concentrates or extracts. Secretary. The Secretary of Revenue.~~

14 (17) ~~'Soda fountain' includes all places where soft drinks are compounded~~
 15 ~~for sale, including automatic vending machines. Soft drink. A~~
 16 ~~beverage that is not an alcoholic beverage, as defined in G.S. 105-~~
 17 ~~113.68.~~

18 (18) ~~'Soft drink syrups and powders' includes the compound mixture or the~~
 19 ~~basic ingredients, whether dry or liquid, practically and commercially~~
 20 ~~usable in making, mixing or compounding soft drinks by the mixing~~
 21 ~~thereof with carbonated or plain water, ice, fruit juice, milk or any~~
 22 ~~other product suitable to make soft drinks, among such syrups being~~
 23 ~~such products as Coca Cola syrup, Chero Cola syrup, Pepsi Cola~~
 24 ~~syrup, Dr. Pepper syrup, root beer syrup, Nu Grape syrup, lemon~~
 25 ~~syrup, vanilla syrup, chocolate syrup, cherry smash syrup, rock candy~~
 26 ~~syrup, simple syrup, chocolate drink powder, malt drink powder, or~~
 27 ~~any other prepared syrups or powders sold or used for the purpose of~~
 28 ~~mixing soft drinks commercially at soda fountains, restaurants or~~
 29 ~~similar places as well as those powder bases prepared for the purpose~~
 30 ~~of domestically mixing soft drinks such as kool aid, oh boy drink, tip-~~
 31 ~~top, miracle aid and all other similar products. Concentrated natural~~
 32 ~~frozen or unfrozen fruit juices or vegetable juices when used~~
 33 ~~domestically are specifically excluded from this definition.~~

34 (19) ~~'Stamp' means the North Carolina taxpaid stamp evidencing the~~
 35 ~~payment of the excise tax levied by this Article, and which may be~~
 36 ~~used as permitted by the Secretary in lieu of taxpaid crowns.~~

37 (20) ~~'Wholesale dealer' includes any person who sells bottled soft drinks,~~
 38 ~~soft drink syrups or powders, or base products for mixing,~~
 39 ~~compounding or making soft drinks to retail dealers or other wholesale~~
 40 ~~dealers for resale purposes. Wholesale dealer. A person who sells~~
 41 ~~bottled soft drinks or base products to another for resale."~~

42 Sec. 292. G.S. 105-113.45 reads as rewritten:

43 **"§ 105-113.45. Taxation rate. Excise taxes on soft drinks and base products.**

1 (a) Bottled Soft Drinks. – A soft drink excise tax is hereby levied and imposed
2 on and after midnight, September 30, 1969, upon the sale, use, handling and distribution
3 of all soft drinks, soft drink syrups and powders, base products and other items referred
4 to in this section. An excise tax of one cent (1¢) is levied on each bottled soft drink.

5 (b) The rate of tax on each bottled soft drink shall be one cent (1¢).

6 (c) Liquid Base Products. – The rate of tax on each gallon of soft drink syrup or
7 simple syrup shall be one dollar (\$1.00), and on a fraction of a gallon the rate shall be an
8 amount which represents one dollar (\$1.00) multiplied by the same fraction of a gallon.
9 The rate of a tax on each ounce or fraction of an ounce of soft drink syrup or simple
10 syrup shall be four fifths of a cent (4/5¢), and no exemption or refund shall be allowed
11 on such syrup even though it may subsequently be diverted to some purpose other than
12 the making of soft drinks. An excise tax of one dollar (\$1.00) a gallon, or four-fifths of
13 a cent (4/5¢) an ounce or fraction of an ounce, is levied on a liquid base product. The
14 tax applies regardless whether the liquid base product is diverted to and used for a
15 purpose other than making a soft drink.

16 (d) Dry Base Products. – The rate of tax on dry soft drink powders and base
17 products which are used to make soft drinks without being converted into syrup shall be
18 one cent (1¢) per ounce or fraction thereof of the dry powder or base product weight.
19 However, the tax on dry soft drink powder or base product which is to be converted into
20 syrup shall be the same as that which would be due upon the syrup produced, if the
21 syrup were being taxed according to the rates set out in subsection (c) above. An excise
22 tax is levied on a dry base product at the rate:

23 (1) Of one cent (1¢) an ounce or fraction of an ounce if the dry base
24 product is not converted into a syrup or other liquid base product
25 before it is used to make a soft drink.

26 (2) That would apply under subsection (c) to the resulting liquid base
27 product if the dry base product is converted into a liquid base product
28 before it is used to make a soft drink.

29 (e) The excise tax herein levied on syrups, powders and base products shall not
30 apply to syrups, powders and base products used by persons in the manufacture of
31 bottled soft drinks which are otherwise subject to tax under this Article. The Secretary
32 may by administrative rules or regulation, provide for the storage of such syrups,
33 powders and base products when they are not for use in the manufacture of bottled soft
34 drinks."

35 Sec. 293. G.S. 105-113.46 reads as rewritten:

36 "**§ 105-113.46. Exemption of certain milk drinks. Exemptions.**

37 The taxes imposed by this Article do not apply to an item that is listed in this section
38 and, if the item is a bottled soft drink or a juice concentrate included in subdivisions (2)
39 or (3), is registered with the Secretary in accordance with G.S. 105-113.47:

40 (1) A natural liquid milk drink produced by a farmer or a dairy.

41 (2) A bottled soft drink that contains at least thirty-five percent (35%)
42 natural milk measured by volume and is not exempt under subdivision
43 (1).

44 (3) Natural juice.

- 1 (4) Natural water.
 2 (5) A base product used to make a bottled soft drink subject to tax under
 3 this Article.
 4 (6) Coffee or tea in any form.
 5 (7) A bottled soft drink or base product sold outside the State.
 6 (8) A bottled soft drink or base product sold to the federal government.
 7 (9) A base product for domestic rather than commercial use, except a base
 8 product that does not contain any natural milk and to which natural
 9 water is added to make a soft drink.

10 All natural liquid milk drinks produced by farmers or dairies shall be exempt from
 11 the payment of the soft drink excise tax. Where a product other than the above is
 12 produced, such product is subject to the tax unless otherwise exempt under this Article."

13 Sec. 294. G.S. 105-113.47 reads as rewritten:

14 **"§ 105-113.47. Natural fruit or vegetable juice or natural liquid milk drinks**
 15 **exempted from tax. Registration of certain exempt bottled soft drinks**
 16 **and juice concentrates.**

17 (a) Requirement. ~~All bottled soft drinks containing thirty five percent (35%) or~~
 18 ~~more of natural fruit or vegetable juice and all bottled natural liquid milk drinks~~
 19 ~~containing thirty five percent (35%) or more of natural liquid milk, are exempt from the~~
 20 ~~excise tax imposed by this Article, except that this exemption shall not apply to any fruit~~
 21 ~~or vegetable juice drink to which has been added any coloring, artificial flavoring or~~
 22 ~~preservative. Sugar, salt or vitamins shall not be construed to be an artificial flavor or~~
 23 ~~preservative. To be exempt from the tax imposed by this Article, the following items~~
 24 ~~must be registered with the Secretary as an exempt item:~~

- 25 (1) A natural milk bottled soft drink that contains at least thirty-five
 26 percent (35%) natural milk measured by volume and is not exempt
 27 under G.S. 105-113.46(1).
 28 (2) A natural juice bottled soft drink.
 29 (3) A natural juice concentrate.

30 To register an item as exempt, the person who controls the brand name or formula of
 31 the item must file an application for registration with the Secretary on a form provided
 32 by the Secretary. An application must include an affidavit stating the complete and
 33 itemized formula by volume of the bottled soft drink or juice concentrate that is the
 34 subject of the application.

35 (b) Determination. ~~Any bottled soft drink for which exemption is claimed under~~
 36 ~~this section must be registered with the Secretary. No bottled soft drink shall be entitled~~
 37 ~~to the exemption until registration has been accomplished by the filing of an application~~
 38 ~~for exemption on such form as may be prescribed by the Secretary, which form shall~~
 39 ~~include an affidavit setting forth the complete and itemized formula by volume of the~~
 40 ~~drink therein referred to, and the failure to submit such affidavit shall be prima facie~~
 41 ~~evidence that such bottled soft drink is not exempt. All bottled soft drinks which are not~~
 42 ~~so registered and do not have affixed thereto the proper stamps or crowns shall be~~
 43 ~~subject to confiscation. The Secretary or his duly authorized representative may at any~~
 44 ~~time check the formulas or the manufacturing of such bottled soft drinks for which~~

1 exemption is claimed under this section and in addition thereto, the Secretary or his duly
2 authorized representative may at any time take samples of any product for which
3 exemption has been claimed, from any and all persons offering such product for sale for
4 the purpose of ascertaining by analysis the contents thereof. The sample shall be clearly
5 marked for identification and such sample may be turned over to any registered chemist
6 designated by the Secretary for the purpose of analysis. If such investigation establishes
7 that such bottled soft drink contains less than thirty five percent (35%) by volume of
8 natural fruit juice, natural vegetable juice or natural liquid milk, or if any person
9 engaged in selling, manufacturing, purchasing, consigning, using, shipping or
10 distributing for the purpose of sale within this State who has applied for an exemption
11 hereunder fails or refuses to allow the Secretary or his duly authorized representative to
12 check the formulas or inspect the manufacturing of such bottled soft drinks, the excise
13 tax imposed by this Article shall apply to all sales of such products and all such
14 products offered for sale and not properly stamped shall be subject to confiscation until
15 such person permits the Secretary to examine the formulas or inspect the manufacturing
16 of such bottled soft drinks. The Secretary shall determine whether a bottled soft drink or
17 a juice concentrate for which an application for registration is filed meets the criteria for
18 exemption. To make the determination, the Secretary or a representative of the
19 Secretary may require the person who filed the registration application for the item or
20 anyone who sells the item in this State to provide a sample of the item and may have the
21 sample analyzed by a chemist to verify the accuracy of the submitted formula.

22 (c) No Disclosure. — Except as required by law or allowed under this subsection,
23 in accordance with proper judicial order or as otherwise provided by law, it shall be
24 unlawful for the Secretary or any deputy, agent, clerk or other officer or employee or
25 any other person acting in a confidential relationship with an agent or employee of the
26 Secretary to divulge or make known in any manner any formula or any particulars of
27 any may not disclose part or all of the formula of an item pertaining to any drink
28 hereinabove referred to, for which an application for registration is filed. However, such
29 prohibition shall not be construed to prohibit the publication of whether or not such
30 bottled soft drinks contain thirty five percent (35%) or more of natural fruit or vegetable
31 juice or thirty five percent (35%) or more of natural liquid milk, nor shall it be
32 construed to prohibit the inspection by the Attorney General or other legal
33 representative of the State of the formula of any taxpayer who shall bring action to set
34 aside or review the tax base thereon or against whom an action or proceeding has been
35 instituted to recover any tax imposed by this Article. — The Secretary may disclose
36 whether an item meets the exemption criteria and the Attorney General or other legal
37 representative of the State may examine the formula for an item if the grant or denial of
38 an exemption for the item is challenged.

39 (d) Effect. — Where any product for which exemption is claimed under this
40 section is found to contain less than thirty five percent (35%) by volume of natural fruit
41 juice, natural vegetable juice, or natural liquid milk, the excise tax imposed by this
42 Article shall apply to all sales of such product, and all such products offered for sale and
43 not properly stamped shall be subject to confiscation. Registration as an exempt item
44 applies prospectively to sales of the registered bottled soft drink or registered juice

1 concentrate made on or after the date of registration. Registration does not relieve a
2 person of liability for taxes due on sales made before the date an item is registered."

3 Sec. 295. G.S. 105-113.50 reads as rewritten:

4 **"§ 105-113.50. Soft drink licenses required.**

5 (a) Distributors and Wholesale Dealers. – Distributors and wholesale dealers
6 shall obtain for each place of business a continuing soft drink license for which a fee of
7 twenty-five dollars (\$25.00) shall be paid. For the purpose of this section, subsection,
8 'place of business' means any place where a distributor makes bottled soft drinks or base
9 products are manufactured by a distributor, or any place where unstamped bottled soft
10 drinks, soft drink syrups and powders, base products and other items taxed under this
11 Article are received or stored by a distributor or wholesale dealer. a distributor or a
12 wholesale dealer receives or stores non-tax-paid bottled soft drinks or non-tax-paid base
13 products.

14 (b) ~~Out of state distributors and wholesale dealers may obtain appropriate~~
15 ~~distributors' or wholesale dealers' licenses upon compliance with the provisions of this~~
16 ~~Article and such regulations and administrative rules as may be issued by the Secretary~~
17 ~~hereunder, for which a fee of twenty five dollars (\$25.00) shall be paid for each such~~
18 ~~soft drink license.~~

19 (c) Retail Dealers. – Each retail dealer manufacturing or purchasing not
20 previously taxed syrups, powders or base products shall secure Retail dealers shall
21 obtain for each place of business a continuing soft drink license for which a fee of five
22 dollars (\$5.00) shall be paid for each place of business at which such unstamped syrups,
23 powders or base products are received or at which place such retail dealer manufactures
24 them. paid. For the purpose of this subsection, 'place of business' means any place
25 where a retail dealer receives non-tax-paid bottled soft drinks or non-tax-paid base
26 products.

27 (d) ~~Distributors, wholesale dealers and retail dealers licensed under this section~~
28 ~~shall file such reports with the Secretary as he may require not later than the fifteenth~~
29 ~~day of each month showing transactions for the preceding month."~~

30 Sec. 296. G.S. 105-113.50A reads as rewritten:

31 **"§ 105-113.50A. Local taxation.**

32 ~~Except as authorized by G.S. 105-79, no county, city or town shall levy any 105-~~
33 ~~102.5(e), a county or city may not levy a privilege license tax upon the business of~~
34 ~~bottling, manufacturing, producing, purchasing, selling at wholesale or retail, jobbing,~~
35 ~~consigning, using, shipping shipping, or distributing for the purpose of sale within this~~
36 ~~State bottled soft drinks in bottles or other closed containers. drinks or base products."~~

37 Sec. 297. G.S. 105-113.51 reads as rewritten:

38 **"§ 105-113.51. ~~Affixing of crowns and stamps to containers; crowns and stamps not~~**
39 **transferable. Liability for and payment of excise taxes.**

40 (a) ~~Any bottled soft drink offered for sale shall within 24 hours of its~~
41 ~~manufacture or receipt in this State have affixed to it a North Carolina taxpaid stamp or~~
42 ~~a North Carolina taxpaid crown at the rate provided for in this Article, unless the tax has~~
43 ~~been or will be paid according to some other method available under the provisions of~~
44 ~~this Article.~~

~~(b) The distributor or dealer who first distributes, sells, uses, consumes or handles bottled soft drinks, syrups, powders, base products and other items subject to the soft drink excise tax is subject to the tax unless taxpaid stamps or crowns have previously been affixed. The distributor, wholesale dealer or retail dealer, or any person who is the original consignee of any bottled soft drink, soft drink syrup, powder, base product or other item subject to the soft drink excise tax manufactured or produced outside this State, or who brings such into this State, shall pay the excise tax.~~

~~(c) Taxpaid stamps shall be affixed to each individual container of soft drink syrups, powders, and base products by wholesale dealers or distributors within 48 hours after such syrups, powders, or base products are received or made by them and by retail dealers within 24 hours after such syrups, powders or base products are received by them, and in any event the containers must be stamped before such products are used in the preparation of soft drinks.~~

~~(d) The payment of the excise tax provided for in this Article shall be evidenced by the affixing of taxpaid stamps or crowns to the original containers and the stamps and crowns provided for in this Article shall not be transferable to any person other than their original purchaser.~~

~~(e) Notwithstanding any other provision of this Article, the excise tax levied upon powders, as herein defined, may be made and evidenced in accordance with rules and regulations of the Secretary.~~

(a) Primary Liability. – The distributor, wholesale dealer, or retail dealer who first distributes, sells, consumes, or otherwise handles bottled soft drinks or base products in this State is liable for the tax imposed by this Article. A distributor, wholesale dealer, or retail dealer who brings into this State a bottled soft drink or base product made outside the State is the first person to handle the bottled soft drink or base product in this State. A distributor, wholesale dealer, or retail dealer who is the original consignee of a bottled soft drink or base product that is made outside the State and is shipped into the State is the first person to handle the bottled soft drink or base product in this State.

(b) Secondary Liability. – A retail dealer who acquires non-tax-paid bottled soft drinks or non-tax-paid base products from a distributor or a wholesale dealer is liable for any tax due on the bottled soft drinks or base products. A retail dealer who is liable for tax under this subsection may not deduct a discount from the amount of tax due when reporting the tax.

(c) Monthly Report. – Except for tax on a designated sale under subsection (d), the taxes levied by this Article are payable when a report is required to be filed. A report is due on a monthly basis. A monthly report covers sales and other activities occurring in a calendar month and is due within 15 days after the end of the month covered by the report. A report shall be filed on a form provided by the Secretary and shall contain the information required by the Secretary.

(d) Designation of Exempt Sale. – A distributor or a wholesale dealer who sells a bottled soft drink or a base product to a person who has notified the distributor or wholesale dealer in writing that the person intends to resell the item in a transaction that is exempt from tax under G.S. 105-113.46(7) or (8) may, when filing a monthly report

1 under subsection (c), designate the quantity of bottled soft drinks or base products sold
2 to the person for resale. A distributor or wholesale dealer shall report a designated sale
3 on a form provided by the Secretary.

4 A distributor or a wholesale dealer is not required to pay tax on a designated sale
5 when filing a monthly report. The distributor or wholesale dealer shall pay the tax due
6 on all other sales in accordance with this section. A distributor, a wholesale dealer, or a
7 customer of a distributor or wholesale dealer may not delay payment of the tax due on a
8 bottled soft drink or base product by failing to pay tax on a sale that is not a designated
9 sale or by overstating the quantity of bottled soft drinks or base products that will be
10 resold in a transaction exempt under G.S. 105-113.46(7) or (8).

11 A person who does not sell a bottled soft drink or base product in a transaction
12 exempt under G.S. 105-113.46(7) or (8) after a distributor or a wholesale dealer has
13 failed to pay the tax due on the sale of the item to the person in reliance on the person's
14 written notification of intent is liable for the tax and any penalties and interest due on
15 the designated sale. If the Secretary determines that a bottled soft drink or a base
16 product reported as a designated sale is not sold as reported, the Secretary shall assess
17 the person who notified the distributor or wholesale dealer of an intention to resell the
18 item in an exempt transaction for the tax due on the sale and any applicable penalties
19 and interest. A distributor or a wholesale dealer who does not pay tax on a bottled soft
20 drink or base product in reliance on a person's written notification of intent to resell the
21 item in an exempt transaction is not liable for any tax assessed on the item.

22 (e) Refund. – A distributor, a wholesale dealer, or a retail dealer who pays tax on
23 a bottled soft drink or a base product that is exempt from the tax may obtain a refund for
24 the amount of tax paid by filing an application for refund with the Secretary on a form
25 provided by the Secretary. A refund for tax paid in the first six months of a calendar
26 year must be submitted by July 15, and a refund for tax paid in the second six months of
27 a calendar year must be submitted by January 15."

28 Sec. 298. G.S. 105-113.52 reads as rewritten:

29 **"§ 105-113.52. Taxpaid stamps; rules and regulations; cancellation; discount. Tax**
30 **reduction and discount.**

31 ~~(a) The Secretary shall make arrangements with some manufacturer to~~
32 ~~manufacture the taxpaid stamps provided for in this Article. The Secretary shall~~
33 ~~prescribe the form, design, denominations and such other matters as may be necessary~~
34 ~~with respect to said stamps. The Secretary may sell such stamps directly to taxpayers~~
35 ~~and may also make arrangements for release of taxpaid stamps to taxpayers by the~~
36 ~~manufacturer. Said manufacturer shall furnish such bond as the Secretary may deem~~
37 ~~advisable, in such penalty and upon such conditions as in the opinion of the Secretary~~
38 ~~will adequately protect the State in the collection of the excise tax imposed by this~~
39 ~~Article. Such bond shall be executed by the manufacturer as principal and by an~~
40 ~~indemnity company licensed to do business under the insurance laws of this State, as~~
41 ~~surety. The costs of manufacture, transportation and distribution of said stamps shall be~~
42 ~~computed in accordance with administrative rules or regulations of the Secretary and~~
43 ~~payment thereof pursuant to such rules and regulations of the Secretary may be required~~
44 ~~in addition to the amount of taxes which said stamps evidence regardless of whether~~

1 said stamps are released or distributed by the Secretary or by the manufacturer pursuant
2 to authorization from the Secretary.

3 (b) Upon the sale of taxpaid stamps, the Secretary shall allow a discount of five
4 percent (5%) of the entire amount of any sale of fifty dollars (\$50.00) or more of said
5 stamps. On sales of stamps of less than fifty dollars (\$50.00), no discount shall be
6 allowed. Such discount shall apply only to the tax and not the manufacturer's price or
7 transportation or distribution costs.

8 (c) When stamps are attached to bottled soft drinks, or to containers of soft drink
9 powders or base products, no cancellation or obliteration of them shall be required, but
10 stamps affixed to containers of syrup to be used at soda fountains shall be canceled by
11 the person affixing them by writing or stamping with ink or indelible pencil across the
12 stamps his initials or name and the date on which the stamps were affixed. When the
13 container to which the stamp has been affixed has been emptied, the stamp must be
14 obliterated by making at least three incisions crisscross through the stamp with a knife
15 or other sharp instrument.

16 (d) Any person who makes use of any stamp to denote the payment of the tax
17 imposed by this Article without canceling or obliterating such stamps if required to do
18 so by this section shall be guilty of a misdemeanor and, upon conviction, shall be fined
19 not more than one hundred dollars (\$100.00) or be imprisoned for not more than 30
20 days for each offense.

21 (a) Tax Reduction. – The tax on the first 15,000 gross of bottled soft drinks sold
22 at wholesale on or after October 1 of each year by a distributor or wholesale dealer is
23 seventy-two cents (72¢) a gross rather than the amount stated in G.S. 105-113.45.
24 When reporting tax due on bottled soft drinks to which this reduced rate applies, a
25 distributor or wholesale dealer shall pay the reduced amount.

26 (b) Discount. – A distributor, a wholesale dealer, or a retail dealer who is liable
27 for the excise taxes on bottled soft drinks or base products and who files a timely report
28 under G.S. 105-113.51 may deduct from the amount due with the report a discount of
29 four percent (4%). This discount covers losses due to spoilage and breakage, expenses
30 incurred in preparing the records and reports required by this Article, and the expense of
31 furnishing a bond. The discount does not apply to taxes paid at the rate set in subsection
32 (a)."

33 Sec. 299. G.S. 105-113.53 reads as rewritten:

34 "**§ 105-113.53. Stamps not required when crowns used. Bonds.**

35 If a distributor of bottled soft drinks either within or without the State shall use
36 taxpaid crowns as hereinafter provided, such distributor shall be relieved of the duty of
37 affixing taxpaid stamps to each individual bottle. Whenever the Secretary deems it to be
38 advantageous for the effective and efficient enforcement of this Article, he may require
39 that such crowns be used in lieu of stamps. The Secretary may require a distributor, a
40 wholesale dealer, or a retail dealer to furnish a bond in an amount that adequately
41 protects the State from loss if the distributor or dealer fails to pay taxes due under this
42 Article. A bond shall be conditioned on compliance with this Article, shall be payable
43 to the State, and shall be in the form required by the Secretary. The Secretary shall
44 proportion a bond amount to the anticipated tax liability of the distributor, wholesale

1 dealer, or retail dealer. The Secretary shall periodically review the sufficiency of bonds
2 required of distributors, wholesale dealers, and retail dealers and shall increase the
3 amount of a required bond when the amount of the bond furnished no longer covers the
4 anticipated tax liability of the distributor or dealer."

5 Sec. 300. G.S. 105-113.57 reads as rewritten:

6 **"§ 105-113.57. Records required of ingredients received.**

7 ~~Every person engaged in the business of making, mixing or compounding bottled~~
8 ~~soft drinks, soft drink syrups and powders, base products and other items taxed under~~
9 ~~this Article shall keep a distinct, legible and permanent record of all extracts, flavoring,~~
10 ~~sugar, syrup or other ingredients except water received by him that may be useful in~~
11 ~~making, mixing or compounding soft drinks, and he~~ making bottled soft drinks or base
12 products shall keep a record of the ingredients purchased to make the bottled soft drinks
13 or base products and shall retain invoices on all such the purchases for a period of not
14 less than three years from the date thereof. Such records shall show the quantity of such
15 commodities received, the date of receipt thereof at least three years. The records shall
16 show the quantity of ingredients purchased, the date received, and the name of the
17 person from whom they were secured or received and shall be open at all times for
18 inspection by the Secretary or his duly authorized representative. ~~received. The records~~
19 ~~shall be open at all times for inspection by the Secretary or a representative of the~~
20 Secretary."

21 Sec. 301. G.S. 105-113.58 reads as rewritten:

22 **"§ 105-113.58. Records of ~~sale~~ sales, inventories, and purchases to be kept.**

23 ~~Every distributor, wholesale dealer~~ dealer, and retail dealer shall keep ~~an accurate~~
24 ~~account of all daily sales, sales slips, bills, invoices, delivery slips, statements, bills of~~
25 ~~lading, freight bills, credit memoranda and similar documents for a period of not less~~
26 ~~than three years from the date shown thereon. All such records of the distributor's or~~
27 ~~dealer's purchases, inventories, and sales of bottled soft drinks and base products.~~
28 These records shall be open at all times for inspection by the Secretary or his duly an
29 authorized representative. ~~representative of the Secretary."~~

30 Sec. 302. G.S. 105-113.43, 105-113.48, 105-113.49, 105-113.54 through
31 105-113.56C, 105-113.59 through 105-113.62, 105-113.66, and 105-113.67 are
32 repealed.

33 Sec. 303. The Secretary of Revenue shall redeem any unused or mutilated
34 but identifiable tax stamps or crowns purchased pursuant to Article 2B of Chapter 105
35 of the General Statutes that a taxpayer presents for redemption and shall refund the face
36 value of the stamps or crowns, less the discount allowed at the time of the purchase of
37 the stamps or crowns by the taxpayer.

38 Sec. 304. The Secretary of Revenue shall review the registrations of bottled
39 soft drinks and juice concentrates made under G.S. 105-113.47 before the effective date
40 of this Part. The Secretary shall notify those registrants who no longer appear to meet
41 the exemption criteria that, for the bottled soft drink or juice concentrate to continue to
42 be exempt from the excise tax imposed by Article 2B of Chapter 105 of the General
43 Statutes, a new registration application must be submitted. The excise tax imposed by
44 Article 2B of Chapter 105 of the General Statutes applies to a previously registered

1 bottled soft drink or juice concentrate unless the Secretary determines from the new
2 application that the bottled soft drink or juice concentrate continues to meet the
3 exemption criteria.

4
5 PART 53.—SALES TAX CHANGES
6

7 Sec. 305. G.S. 105-164.3 is amended by adding a new subdivision to read:

8 "(16b) 'State agency' means a unit of the executive, legislative, or judicial
9 branch of State government, such as a department, a commission, a
10 board, a council, or a constituent institution of The University of North
11 Carolina. The term does not include a local board of education."

12 Sec. 306. G.S. 105-164.4 reads as rewritten:

13 **"§ 105-164.4. Tax imposed on retailers.**

14 (a) A privilege tax is imposed on a retailer at the following percentage rates of
15 the retailer's net taxable sales, ~~or gross receipts from the lease or rental of tangible~~
16 ~~personal property, as appropriate: sales or gross receipts, as appropriate.~~ The general
17 rate of tax is three and five-tenths percent (3.5%).

18 (1) ~~At the rate of three percent (3%) of~~ The general rate of tax applies to
19 the sales price of each item or article of tangible personal property that
20 is sold at retail and is not subject to tax under another subdivision in
21 this section.

22 (1a) ~~At the rate of two percent (2%) of~~ The rate of two percent (2%) applies
23 to the sales price of each manufactured home sold at retail, including
24 all accessories attached to the manufactured home when it is delivered
25 to the purchaser, not to exceed three hundred dollars (\$300.00).
26 purchaser. The maximum tax is three hundred dollars (\$300.00) per
27 article. Each section of a manufactured home that is transported
28 separately to the site where it is to be erected is a separate article.

29 (1b) ~~At the rate of two percent (2%) of~~ The rate of three percent (3%)
30 applies to the sales price of each aircraft, boat, railway car, or
31 locomotive sold at retail, including all accessories attached to the item
32 when it is delivered to the purchaser, not to exceed one thousand five
33 hundred dollars (\$1,500). purchaser. The maximum tax is one
34 thousand five hundred dollars (\$1,500) per article.

35 (1c) ~~At the rate of one percent (1%) of~~ The rate of two percent (2%) applies
36 to the sales price on of the following items: articles:

37 a. Horses or mules by whomsoever sold.

38 b. Semen to be used in the artificial insemination of animals.

39 c. Sales of fuel, other than electricity or piped natural gas, to
40 farmers to be used by them for any farm purposes other than
41 preparing food, heating dwellings and other household
42 purposes. The quantity of fuel purchased or used at any one
43 time shall not in any manner be a determinative factor as to

1 whether any sale or use of fuel is or is not subject to the one
2 percent (1%) rate of tax imposed herein.

3 d. Sales of fuel, other than electricity or piped natural gas, to
4 manufacturing industries and manufacturing plants for use in
5 connection with the operation of such industries and plants
6 other than sales of fuels to be used for residential heating
7 purposes. The quantity of fuel purchased or used at any one
8 time shall not in any manner be a determinative factor as to
9 whether any sale or use of fuel is or is not subject to the ~~one~~
10 ~~percent (1%) rate of tax imposed herein.~~ rate of tax provided in
11 this subdivision.

12 e. Sales of fuel, other than electricity or piped natural gas, to
13 commercial laundries or to pressing and dry-cleaning
14 establishments for use in machinery used in the direct
15 performance of the laundering or the pressing and cleaning
16 service.

17 f. Sales to freezer locker plants of wrapping paper, cartons and
18 supplies consumed directly in the operation of such plant.

19 (1d) ~~At the rate of one percent (1%) of the sales price, subject to a~~
20 ~~maximum tax of eighty dollars (\$80.00) per article, on the following~~
21 ~~items:~~ The rate of two percent (2%) applies to the sales price of the
22 following articles. The maximum tax is one hundred sixty dollars
23 (\$160.00) per article.

24 a. Sales of machines and machinery, whether animal or motor
25 drawn or operated, and parts and accessories for such machines
26 and machinery to farmers for use by them in the planting,
27 cultivating, harvesting or curing of farm crops, and sales of
28 machines and machinery and parts and accessories for such
29 machines and machinery to dairy operators, poultry farmers,
30 egg producers, and livestock farmers for use by them in the
31 production of dairy products, poultry, eggs or livestock, except
32 such machines, machinery, equipment, parts, and accessories
33 that come within the provisions of G.S. 105-164.13(4c).

34 The term 'machines and machinery' as used in this
35 subdivision is defined as follows:

36 The term shall include all vehicular implements, designed
37 and sold for any use defined in this subdivision, which are
38 operated, drawn or propelled by motor or animal power, but
39 shall not include vehicular implements which are operated
40 wholly by hand, and shall not include any motor vehicles
41 required to be registered under Chapter 20 of the General
42 Statutes.

43 The term shall include all nonvehicular implements and
44 mechanical devices designed and sold for any use defined in

1 this subdivision, which have moving parts, or which require the
2 use of any motor or animal power, fuel, or electricity in their
3 operation but shall not include nonvehicular implements which
4 have no moving parts and are operated wholly by hand.

5 The term shall also include metal flues sold for use in curing
6 tobacco, whether such flues are attached to handfired furnaces
7 or used in connection with mechanical burners.

- 8 b. Sales of mill machinery or mill machinery parts and accessories
9 to manufacturing industries and plants, and sales to contractors
10 and subcontractors purchasing mill machinery or mill
11 machinery parts and accessories for use by them in the
12 performance of contracts with manufacturing industries and
13 plants, and sales to subcontractors purchasing mill machinery or
14 mill machinery parts and accessories for use by them in the
15 performance of contracts with general contractors who have
16 contracts with manufacturing industries and plants. As used in
17 this paragraph, the term 'manufacturing industries and plants'
18 does not include delicatessens, cafes, cafeterias, restaurants, and
19 other similar retailers that are principally engaged in the retail
20 sale of foods prepared by them for consumption on or off their
21 premises.
- 22 c. Sales of central office equipment and switchboard and private
23 branch exchange equipment to telephone companies regularly
24 engaged in providing telephone service to subscribers on a
25 commercial basis, and sales to these companies of prewritten
26 computer programs used in providing telephone service to their
27 subscribers.
- 28 d. Sales to commercial laundries or to pressing and dry cleaning
29 establishments of machinery used in the direct performance of
30 the laundering or the pressing and cleaning service and of parts
31 and accessories thereto.
- 32 e. Sales to freezer locker plants of machinery used in the direct
33 operation of said freezer locker plant and of parts and
34 accessories thereto.
- 35 f. Sales of broadcasting equipment and parts and accessories
36 thereto and towers to commercial radio and television
37 companies which are under the regulation and supervision of
38 the Federal Communications Commission.
- 39 g. Sales to farmers of bulk tobacco barns and racks and all parts
40 and accessories thereto and similar apparatus used for the
41 curing and drying of any farm produce.
- 42 h. Sales to farmers of grain, feed or soybean storage facilities and
43 accessories thereto, whether or not dryers are attached, and all

1 similar apparatus and accessories thereto for the storage of
2 grain, feed or soybeans.

- 3 i. Sales of containers to farmers or producers for use in the
4 planting, producing, harvesting, curing, marketing, packaging,
5 sale, or transporting or delivery of their products when such
6 containers do not go with and become part of the sale of their
7 products at wholesale or retail.

- 8 (2) ~~At the applicable percentage rate of~~ The applicable percentage rate
9 applies to the gross receipts derived from the lease or rental of tangible
10 personal property by a person who is engaged in the business of
11 leasing or renting tangible personal property, or is a retailer and leases
12 or rents property of the type sold by the retailer. The applicable
13 percentage rate is the rate and the maximum tax, if any, that applies to
14 a sale of the property that is leased or rented. A person who leases or
15 rents property shall also collect the tax imposed by this section on the
16 separate retail sale of the property.

- 17 (3) Operators of hotels, motels, tourist homes, tourist camps, and similar
18 type businesses and persons who rent private residences and cottages
19 to transients are considered retailers under this Article. ~~There is levied~~
20 ~~upon every such retailer a tax of three percent (3%) of the gross~~
21 ~~receipts derived~~ A tax at the general rate of tax is levied on the gross
22 receipts derived by these retailers from the rental of any rooms,
23 lodgings, or accommodations furnished to transients for a
24 consideration. This tax does not apply to any private residence or
25 cottage that is rented for less than 15 days in a calendar year or to any
26 room, lodging, or accommodation supplied to the same person for a
27 period of 90 or more continuous days.

28 As used in this subdivision, the term 'persons who rent to transients'
29 means (i) owners of private residences and cottages who rent to
30 transients and (ii) rental agents, including 'real estate brokers' as
31 defined in G.S. 93A-2, who rent private residences and cottages to
32 transients on behalf of the owners. If a rental agent is liable for the tax
33 imposed by this subdivision, the owner is not liable.

- 34 (4) ~~Every person, firm or corporation person (i) engaged in the business of~~
35 ~~operating a pressing club, cleaning plant, hat blocking establishment,~~
36 ~~dry cleaning plant, laundry (including wet or damp wash laundries and~~
37 ~~businesses known as laundrettes and laundralls), dry cleaning,~~
38 pressing, or hat-blocking establishment, a laundry, or any similar
39 business, ~~or (ii) engaged in the business of renting clean linen or~~
40 towels or wearing apparel, or any similar business, or (iii) engaged in
41 the business of soliciting cleaning, pressing, hat blocking, laundering
42 or linen rental business for any of the ~~aforenamed~~ these businesses,
43 shall be considered "retailers" for the purposes of this Article. ~~is~~
44 considered a retailer under this Article. ~~There is hereby levied upon~~

1 every such person, firm or corporation a tax of three percent (3%) of
2 the gross receipts derived. A tax at the general rate of tax is levied on
3 the gross receipts derived by these retailers from services rendered in
4 engaging in any of the occupations or businesses named in this
5 subdivision. ~~subdivision, and every person, firm or corporation subject~~
6 ~~to the provisions of this subdivision shall register and secure a license~~
7 ~~in the manner hereinafter provided in this section, and, insofar as~~
8 ~~practicable, all other provisions of this Article shall be applicable with~~
9 ~~respect to the tax herein provided for.~~—The tax imposed by this
10 subdivision does not apply to receipts derived from coin or token-
11 operated washing machines, extractors, and dryers. ~~The taxes levied in~~
12 ~~this subdivision are additional privilege or license taxes for the~~
13 ~~privilege of engaging in the occupations or businesses named herein.~~
14 Any person, firm or corporation engaged in cleaning, pressing, hat
15 blocking, laundering for, or supplying clean linen or towels or wearing
16 apparel to, another person, firm or corporation engaged in soliciting
17 shall not be required to pay the three percent (3%) tax on its gross
18 receipts derived through such solicitor, if the soliciting person, firm or
19 corporation has registered with the Department, secured the license
20 hereinafter required and has paid the tax at the rate of three percent
21 (3%) of the total gross receipts derived from business solicited. The
22 tax imposed by this subdivision does not apply to gross receipts
23 derived from services performed for resale by a retailer that pays the
24 tax on the total gross receipts derived from the services.

25 (4a) ~~At the rate of three percent (3%) of~~ The rate of three percent (3%)
26 applies to the gross receipts derived by a utility from sales of
27 electricity, piped natural gas, or local telecommunications service as
28 defined by G.S. 105-120(e). A person who operates a utility is
29 considered a retailer under this Article.

30 (4b) A person who sells tangible personal property at a flea market, other
31 than his own household personal property, is considered a retailer
32 under this Article. A tax at the general rate of tax is levied on that
33 person at the rate of three percent (3%) of the sales price of each
34 article sold by him the retailer at the flea market. A person who leases
35 or rents space to others at a flea market may not lease or rent this space
36 unless the retailer requesting to rent or lease the space furnishes
37 evidence that he has obtained shows the license or a copy of the
38 license required by this Article.—Article or other evidence of
39 compliance. A person who leases or rents space at a flea market shall
40 keep records of retailers to whom he has who have leased or rented
41 space at the flea market. As used in this subdivision, the term 'flea
42 market' means a place where space is rented to a person for the
43 purpose of selling tangible personal property.

1 (4c) ~~At the~~ The rate of six and one-half percent (6 1/2%) ~~of applies to the~~
2 gross receipts derived from providing toll telecommunications services
3 or private telecommunications services as defined by G.S. 105-120(e)
4 that both originate from and terminate in the State and are not subject
5 to the privilege tax under G.S. 105-120. Any business entity that
6 provides ~~the service outlined above~~ these services is considered a
7 retailer under this Article. This subdivision does not apply to
8 telephone membership corporations as described in Chapter 117 of the
9 General Statutes.

10 (b) The tax levied in this section shall be collected from the retailer and paid by
11 him at the time and in the manner as hereinafter provided. Provided, however, that any
12 person engaging or continuing in business as a retailer shall pay the tax required on the
13 net taxable sales of such business at the rates specified when proper books are kept
14 showing separately the gross proceeds of taxable and nontaxable sales of tangible
15 personal property in such form as may be accurately and conveniently checked by the
16 Secretary or his duly authorized agent. If such records are not kept separately the tax
17 shall be paid as a retailer on the gross sales of business and the exemptions and
18 exclusions provided by this Article shall not be allowed. The tax levied in this section is
19 in addition to all other taxes whether levied in the form of excise, license or privilege or
20 other taxes.

21 (c) Any person who engages or continues in any business for which a privilege
22 tax is imposed by this Article shall immediately after July 1, 1979, apply for and obtain
23 from the Secretary upon payment of the sum of five dollars (\$5.00) a license to engage
24 in and conduct such business upon the condition that the person shall pay the tax
25 accruing to the State under this Article; the person shall thereby be duly licensed and
26 registered to engage in and conduct such business. Except as hereinafter provided, a
27 license issued under this subsection shall be a continuing license until revoked for
28 failure to comply with the provisions of this Article. However, any person who has
29 heretofore applied for and obtained the license, if the license was in force and effect as
30 of July 1, 1979, shall not be required to apply for and obtain a new license.

31 Any person who ceases to be engaged in any business for which a privilege tax is
32 imposed by this Article, and who remains continuously out of business for a period of
33 five years shall apply for and obtain a new license from the Secretary upon the payment
34 of a tax of five dollars (\$5.00), and any license previously issued under this section shall
35 be void. The burden of proof after such period shall be upon the taxpayer to show that
36 he did engage in such business within the period, and that no new license is required.

37 A retailer who sells tangible personal property at a flea market shall conspicuously
38 display his sales tax license when making sales at the flea market."

39 Sec. 307. G.S. 105-164.6(b) reads as rewritten:

40 "~~(b) There is hereby levied and there shall be collected from every person, firm, or~~
41 ~~corporation, an excise tax of three percent (3%) of the purchase price of all tangible~~
42 ~~personal property purchased or used which shall enter into or become a part of any~~
43 ~~building or other kind of structure in this State, including all materials, supplies, fixtures~~
44 ~~and equipment of every kind and description which shall be annexed thereto or in any~~

1 manner become a part thereof. The tax shall be levied against the purchaser of such
2 property. Provided, that where the purchaser is a contractor, the contractor and owner
3 shall be jointly and severally liable for the tax, but the liability of the owner shall be
4 deemed satisfied if before final settlement between them the contractor furnishes to the
5 owner an affidavit certifying that the tax has been paid. Provided further, that where the
6 purchaser is a subcontractor, the contractor and subcontractor shall be jointly and
7 severally liable for the tax, but the liability of the contractor shall be deemed satisfied if
8 before final settlement between them the subcontractor furnishes to the contractor an
9 affidavit certifying that the tax has been paid. An excise tax at the general rate of tax set
10 in G.S. 105-164.4 is imposed on the purchase price of tangible personal property
11 purchased inside or outside the State that becomes a part of a building or other structure
12 in the State. The purchaser of the property is liable for the tax. If the purchaser is a
13 contractor, the contractor and owner are jointly and severally liable for the tax; if the
14 purchaser is a subcontractor, the subcontractor and contractor are jointly and severally
15 liable for the tax. The liability of an owner or contractor who did not purchase the
16 property is satisfied if the purchaser delivers to the owner or contractor before final
17 settlement between them an affidavit certifying that the tax has been paid."

18 Sec. 308. G.S. 105-164.10 reads as rewritten:

19 **"§ 105-164.10. Retail bracket system.**

20 For the convenience of the retailer in collecting the tax due at the rate of three
21 percent (3%) and to facilitate the administration of this Article, every retailer engaged in
22 or continuing within this State in a business for which a license, privilege or excise tax
23 is required by this Article shall add to the sale price and collect from the purchaser on
24 all taxable retail sales an amount equal to the following:

- 25 (1) No amount on sales of less than 10¢.
- 26 (2) 1¢ on sales of 10¢ and over but not in excess of 35¢.
- 27 (3) 2¢ on sales of 36¢ and over but not in excess of 70¢.
- 28 (4) 3¢ on sales of 71¢ and over but not in excess of \$1.16.
- 29 (5) Sales over \$1.16 — straight 3% with major fractions governing.

30 Use of the above bracket does not relieve the retailer from the duty and liability to
31 remit to the Secretary an amount equal to three percent (3%) of the gross receipts
32 derived from all taxable retail sales subject to the three percent (3%) rate during the
33 taxable period.

34 Whenever a sales or use tax is due at a rate of less than three percent (3%), the tax
35 shall be computed by multiplying the sales or purchase price by the applicable rate and
36 by rounding the result off to the nearest whole cent. The use of this method in
37 computing the sales or use tax shall not relieve a taxpayer from the duty and liability of
38 remitting to the Secretary an amount equal to the applicable rates times gross receipts
39 subject to taxation at the lesser rates. under this Article, the Secretary shall prescribe
40 tables that compute the tax due on sales by rounding off the amount of tax due to the
41 nearest whole cent. The Secretary shall issue a separate table for each rate of tax that
42 may apply to a sale, including the general rate established in G.S. 105-164.4,
43 preferential rates, and combined State and local rates. Use of the tables prescribed by

1 the Secretary does not relieve a retailer of liability for the applicable rate of tax due on
2 the gross receipts or net taxable sales of the retailer."

3 Sec. 309. G.S. 105-164.13, as amended by Chapters 45 and 79 of the 1991
4 Session Laws, reads as rewritten:

5 "**§ 105-164.13. Retail sales and use tax.**

6 The sale at retail, the use, storage or consumption in this State of the following
7 tangible personal property is specifically exempted from the tax imposed by this Article:

8
9 **AGRICULTURAL GROUP.**

- 10
- 11 (1) Commercial fertilizer on which the inspection tax is paid and lime and
12 land plaster used for agricultural purposes whether the inspection tax is
13 paid or not.
 - 14 (2) Seeds; remedies, vaccines, medications, litter materials, and feeds for
15 livestock and poultry; rodenticides, insecticides, herbicides,
16 fungicides, and pesticides for livestock, poultry, and agriculture;
17 defoliants for use on cotton or other crops; plant growth inhibitors,
18 regulators, or stimulators for agriculture including systemic and
19 contact or other sucker control agents for tobacco and other crops.
 - 20 (3) Products of forests and mines in their original or unmanufactured state
21 when such sales are made by the producer in the capacity of producer.
 - 22 (4) Cotton, tobacco, peanuts or other farm products sold to manufacturers
23 for further manufacturing or processing.
 - 24 (4a) Baby chicks and poults sold for commercial poultry or egg production.
 - 25 (4b) Products of a farm sold in their original state by the producer of the
26 products if the producer is not primarily a retail merchant and ice used
27 to preserve agriculture, aquaculture and commercial fishery products
28 until the products are sold at retail.
 - 29 (4c) Commercially manufactured swine, livestock, and poultry facilities to
30 be used for commercial purposes for housing, raising, or feeding of
31 swine, livestock, or poultry or for housing equipment necessary for
32 these commercial activities; building materials, supplies, fixtures, and
33 equipment to be used in the construction, repair, or improvement and
34 that become a part of an enclosure or structure specifically designed,
35 constructed and used for such above commercial purposes; and
36 commercially manufactured swine, livestock, and poultry equipment,
37 parts and accessories therefor placed or installed in or affixed to such
38 facilities, enclosures, or structures.
 - 39 (4d) The lease or rental of burlap tobacco sheets used in handling tobacco
40 in the warehouse and transporting tobacco to and from the warehouse.

41
42 **INDUSTRIAL GROUP.**

43

- 1 (5) Manufactured products produced and sold by manufacturers or
2 producers to other manufacturers, producers, or registered wholesale
3 or retail merchants, for the purpose of resale except as modified by
4 Division I, G.S. 105-164.3, subdivision (23). Provided, however, this
5 exemption shall not extend to or include retail sales to users or
6 consumers not for resale.
- 7 (6) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1068, s. 1.
- 8 (7) Sales of products of waters in their original or unmanufactured state
9 when such sales are made by the producer in the capacity of producer.
10 Fish and seafoods are likewise exempt when sold by the fisherman in
11 that capacity.
- 12 (8) Sales of tangible personal property to a manufacturer which enters into
13 or becomes an ingredient or component part of tangible personal
14 property which is manufactured.
- 15 (8a) ~~(Effective July 1, 1991)~~ Sales to a small power production facility, as
16 defined in 16 U.S.C. § 796(17)(A), of fuel used by the facility to
17 generate electricity.
- 18 (9) Sales of boats, fuel oil, lubricating oils, machinery, equipment, nets,
19 rigging, paints, parts, accessories, and supplies to persons for use by
20 them principally in commercial fishing operations within the meaning
21 of G.S. 113-152, except when the property is for use by persons
22 principally to take fish for recreation or personal use or consumption.
23 As used in this subdivision, "fish" is defined as in G.S. 113-129(7).
- 24 (10) Sales to commercial laundries or to pressing and dry cleaning
25 establishments of articles or materials used for the identification of
26 garments being laundered or dry cleaned, wrapping paper, bags,
27 hangers, starch, soaps, detergents, cleaning fluids and other
28 compounds or chemicals applied directly to the garments in the direct
29 performance of the laundering or the pressing and cleaning service.

30 31 **MOTOR FUELS GROUP.**

- 32
- 33 (11) Gasoline or other motor fuel on which the tax levied in G.S. 105-434
34 and/or G.S. 105-435 is due and has been paid, and the fact that a
35 refund of the tax levied by either of said sections is made pursuant to
36 the provisions of Subchapter V of Chapter 105 shall not make the sale
37 or the seller of such fuels subject to the tax levied by this Article.

38 39 **MEDICAL GROUP.**

- 40
- 41 (12) Therapeutic, prosthetic, or artificial devices, such as pulmonary
42 respirators or medical beds, that are designed for individual personal
43 use to correct or alleviate physical illness, disease, or incapacity and
44 that are sold on the written prescription of a physician, dentist, or other

- 1 professional person licensed to prescribe, and crutches, artificial limbs,
2 artificial eyes, hearing aids, false teeth, eyeglasses ground on
3 prescription of a physician or an optometrist, and orthopedic
4 appliances designed to be worn by the purchaser or user. This
5 subdivision does not apply to a motor vehicle.
6 (13) Medicines sold on prescription of physicians, dentists, or veterinarians;
7 insulin whether or not sold on prescription.
8

9 **PRINTED MATERIALS GROUP.**

- 10
11 (14) Public school books on the adopted list, the selling price of which is
12 fixed by State contract.
13 (14a) Printed material which is sold by a printer to a purchaser within or
14 without this State, when such printed material is delivered in this
15 State to a common carrier or to the United States Postal Service for
16 delivery to the purchaser or the purchaser's designees outside this
17 State, if the purchaser does not thereafter use the printed material in
18 this State.
19

20 **TRANSACTIONS GROUP.**

- 21
22 (15) Accounts of purchasers, representing taxable sales, on which the tax
23 imposed by this Article has been paid, that are found to be worthless
24 and actually charged off for income tax purposes may, at
25 corresponding periods, be deducted from gross sales, provided,
26 however, they must be added to gross sales if afterwards collected.
27 (16) Sales of used articles taken in trade, or a series of trades, as a credit or
28 part payment on the sale of a new article. "New article" means the
29 original stock in trade of the merchant, and is not limited to newly
30 manufactured articles. The resale of articles repossessed by the vendor
31 shall likewise be exempt from gross sales taxable under this Article.
32

33 **EXEMPT STATUS GROUP.**

- 34
35 (17) Sales which a state would be without power to tax under the
36 limitations of the Constitution or laws of the United States or under the
37 Constitution of this State.
38

39 **UNCLASSIFIED GROUP.**

- 40
41 (18) Funeral expenses, including coffins and caskets, not to exceed one
42 thousand five hundred dollars (\$1,500). All other funeral expenses,
43 including gross receipts for services rendered, shall be taxable at the
44 rate of three percent (3%) - general rate of tax set in G.S. 105-164.4.

1 However, 'services rendered' shall not include those services which
2 have been taxed pursuant to G.S. 105-164.4(4), or to those services
3 performed by any beautician, cosmetologist, hairdresser or barber
4 employed by or at the specific direction of the family or personal
5 representative of a deceased; and 'funeral expenses' and 'services
6 rendered' shall not include death certificates procured by or at the
7 specific direction of the family or personal representative of a
8 deceased. Where coffins, caskets or vaults are purchased direct and a
9 separate charge is paid for services, the provisions of this subdivision
10 shall apply to the total for both.

11 (19) Sales by concession stands operated by the State prison system within
12 the confines of the prisons where such sales are made to prison
13 inmates and guards therein while on duty.

14 (20) Sales by blind merchants operating under supervision of the
15 Department of Human Resources.

16 (21) The lease or rental of motion picture films used for exhibition purposes
17 where the lease or rental of such property is an established business or
18 part of an established business or the same is incidental or germane to
19 said business of the lessee.

20 (22) The lease or rental of films, motion picture films, transcriptions and
21 recordings to radio stations and television stations operating under a
22 certificate from the Federal Communications Commission.

23 (23) Sales of wrapping paper, labels, wrapping twine, paper, cloth, plastic
24 bags, cartons, packages and containers, cores, cones or spools, wooden
25 boxes, baskets, coops and barrels, including paper cups, napkins and
26 drinking straws and like articles sold to manufacturers, producers and
27 retailers, when such materials are used for packaging, shipment or
28 delivery of tangible personal property which is sold either at wholesale
29 or retail and when such articles constitute a part of the sale of such
30 tangible personal property and are delivered with it to the customer.

31 (24) Sales of fuel and other items of tangible personal property for use or
32 consumption by or on ocean-going vessels which ply the high seas in
33 interstate or foreign commerce in the transport of freight and/or
34 passengers for hire exclusively, when delivered to an officer or agent
35 of such vessel for the use of such vessel; provided, however, that sales
36 of fuel and other items of tangible personal property made to officers,
37 agents, members of the crew or passengers of such vessels for their
38 personal use shall not be exempted from payment of the sales tax.

39 (25) Sales by merchants on the Cherokee Indian Reservation when such
40 merchants are authorized to do business on the Reservation and are
41 paying the tribal gross receipts levy to the Tribal Council.

42 (26) Lunches to school children when such sales are made within school
43 buildings and are not for profit.

- 1 (27) Meals and food products served to students in dining rooms regularly
2 operated by State or private educational institutions or student
3 organizations thereof.
- 4 (28) Sales of newspapers by newspaper street vendors and by newspaper
5 carriers making door-to-door deliveries and sales of magazines by
6 magazine vendors making door-to-door sales.
- 7 (29) Sales to the North Carolina Museum of Art of paintings and other
8 objects or works of art for public display, the purchases of which are
9 financed in whole or in part by gifts or donations.
- 10 (30) Sales from vending machines when sold by the owner or lessee of said
11 machines at a price of one cent (1¢) per sale.
- 12 (31) Sales of meals not for profit to elderly and incapacitated persons by
13 charitable or religious organizations not operated for profit which are
14 entitled to the refunds provided by G.S. 105-164.14(b), when such
15 meals are delivered to the purchasers at their places of abode.
- 16 (31a) Food sold by a church or religious organization not operated for
17 profit when the proceeds of the sales are actually used for religious
18 activities.
- 19 (32) Sales of motor vehicles, the sale of a motor vehicle body to be
20 mounted on a motor vehicle chassis when a certificate of title has not
21 been issued for the chassis, and the sale of a motor vehicle body
22 mounted on a motor vehicle chassis that temporarily enters the State so
23 the manufacturer of the body can mount the body on the chassis.
- 24 (33) Tangible personal property purchased solely for the purpose of export
25 to a foreign country for exclusive use or consumption in that or some
26 other foreign country, either in the direct performance or rendition of
27 professional or commercial services, or in the direct conduct or
28 operation of a trade or business, all of which purposes are actually
29 consummated, or purchased by the government of a foreign country
30 for export which purpose is actually consummated. "Export" shall
31 include the acts of possessing and marshalling such property, by either
32 the seller or the purchaser, for transportation to a foreign country, but
33 shall not include devoting such property to any other use in North
34 Carolina or the United States. "Foreign country" shall not include any
35 territory or possession of the United States.

36 In order to qualify for this exemption, an affidavit of export
37 indicating compliance with the terms and conditions of this exemption,
38 as prescribed by the Secretary of Revenue, must be submitted by the
39 purchaser to the seller, and retained by the seller to evidence
40 qualification for the exemption.

41 If the purposes qualifying the property for exemption are not
42 consummated, the purchaser shall be liable for the tax which was
43 avoided by the execution of the aforesaid affidavit as well as for

1 applicable penalties and interest and the affidavit shall contain express
2 provision that the purchaser has recognized and assumed such liability.

3 The principal purpose of this exemption is to encourage the flow of
4 commerce through North Carolina ports that is now moving through
5 out-of-state ports. However, it is not intended that property acquired
6 for personal use or consumption by the purchaser, including gifts, shall
7 be exempt hereunder.

8 (34) Sales of items by a nonprofit civic, charitable, educational, scientific or
9 literary organization when the net proceeds of the sales will be given
10 or contributed to the State of North Carolina or to one or more of its
11 agencies or instrumentalities, or to one or more nonprofit charitable
12 organizations, one of whose purposes is to serve as a conduit through
13 which such net proceeds will flow to the State or to one or more of its
14 agencies or instrumentalities.

15 (35) Sales by a nonprofit civic, charitable, educational, scientific, literary or
16 fraternal organization continuously chartered or incorporated within
17 North Carolina for at least two years when such sales are conducted
18 only upon an annual basis for the purpose of raising funds for its
19 activities, and when the proceeds thereof are actually used for such
20 purposes; provided, however, that no such sale shall be exempt if not
21 actually consummated within 60 days after the first solicitation of any
22 sale made during said organization's annual sales period.

23 (36) Advertising supplements and any other printed matter ultimately to be
24 distributed with or as part of a newspaper.

25 (37) Spirituous liquor. This exemption does not prohibit the levy of sales
26 and use taxes on mixed beverages. As used in this subdivision, the
27 terms "spirituous liquor" and "mixed beverage" have the same
28 meanings as in G.S. 18B-101(14) and G.S. 18B-101(10) respectively.

29 (38) Food and other items lawfully purchased with coupons issued under
30 the Food Stamp Program, 7 U.S.C. § 51, and supplemental foods
31 lawfully purchased with a food instrument issued under the Special
32 Supplemental Food Program, 42 U.S.C. § 1786.

33 (39) Sales of paper, ink, and other tangible personal property to commercial
34 printers and commercial publishers for use as ingredient or component
35 parts of free circulation publications, and sales by printers of free
36 circulation publications to the publishers of these publications. As used
37 in this subdivision, the term "free circulation publications" means
38 shoppers' guides that:

- 39 (1) Are published on a periodic basis at recurring intervals;
- 40 (2) Are mailed or are distributed house-to-house, by street
41 distributors, in racks, or in any other manner at other locations
42 without charge to the recipient;
- 43 (3) Contain advertising of a general nature; and

1 (4) Make space available to all advertisers for the purpose of
2 inducing readers to purchase the goods and services of the
3 advertisers.

4 The term does not include house organs or trade, professional, or
5 similar types of publications. The ratio of news to advertising in a
6 publication is not a factor in determining whether the publication is a
7 free circulation publication.

8 (40) ~~Sales to the Department of Transportation.~~"

9 Sec. 310. G.S. 105-164.14 reads as rewritten:

10 **"§ 105-164.14. Certain refunds authorized.**

11 (a) Interstate Carriers. Any person engaged in transporting persons or property in
12 interstate commerce for compensation who is subject to regulation by, and to the
13 jurisdiction of, the Interstate Commerce Commission or the United States Department
14 of Transportation and who is required by either such federal agency to keep records
15 according to its standard classification of accounting or, in the case of a small
16 certificated air carrier, is required by the U.S. Department of Transportation to make
17 reports of financial and operating statistics, may secure a refund from the Secretary of
18 Revenue with respect to sales or use tax paid by such person on purchases or
19 acquisitions of lubricants, repair parts and accessories in this State for motor vehicles,
20 railroad cars, locomotives, and airplanes operated by such person, upon the conditions
21 described below. The Secretary of Revenue shall prescribe the periods of time, whether
22 monthly, quarterly, semiannually or otherwise, with respect to which refunds may be
23 claimed, and shall prescribe the time within which, following such periods, an
24 application for refund may be made. An applicant for refund shall furnish such
25 information as the Secretary may require, including detailed information as to
26 lubricants, repair parts and accessories wherever purchased, whether within or without
27 the State, acquired during the period with respect to which a refund is sought, and the
28 purchase price thereof, detailed information as to sales and use tax paid in this State
29 thereon, and detailed information as to the number of miles such motor vehicles,
30 railroad cars, locomotives, and airplanes were operated both within this State, and
31 without this State, during such period, together with satisfactory proof thereof. The
32 Secretary shall thereupon compute the tax which would be due with respect to all
33 lubricants, repair parts and accessories acquired during the refund period as though all
34 such purchases were made in this State, but only on such proportion of the total
35 purchase prices thereof as the total number of miles of operation of such applicants'
36 motor vehicles, railroad cars, locomotives, and airplanes within this State bears to the
37 total number of miles of operation of such applicants' motor vehicles, railroad cars,
38 locomotives and airplanes within and without this State, and such amount of sales and
39 use tax as the applicant has paid in this State during said refund period in excess of the
40 amounts so computed shall be refunded to the applicant.

41 (b) Nonprofit Corporations. The Secretary of Revenue shall make refunds
42 semiannually to hospitals not operated for profit (including hospitals and medical
43 accommodations operated by an authority created under the Hospital Authorities Law,
44 Article 2 of Chapter 131E), educational institutions not operated for profit, churches,

1 orphanages and other charitable or religious institutions and organizations not operated
2 for profit of sales and use taxes paid under this Article, except under G.S. 105-164.4(4a)
3 and G.S. 105-164.4(4c), by such institutions and organizations on direct purchases of
4 tangible personal property for use in carrying on the work of such institutions or
5 organizations. Sales and use tax liability indirectly incurred by such institutions and
6 organizations on building materials, supplies, fixtures and equipment which shall
7 become a part of or annexed to any building or structure being erected, altered or
8 repaired for such institutions and organizations for carrying on their nonprofit activities
9 shall be construed as sales or use tax liability incurred on direct purchases by such
10 institutions and organizations, and such institutions and organizations may obtain
11 refunds of such taxes indirectly paid. The Secretary of Revenue shall also make refunds
12 semiannually to all other hospitals (not specifically excluded herein) of sales and use tax
13 paid by them on medicines and drugs purchased for use in carrying out the work of such
14 hospitals. This subsection does not apply to organizations, corporations, and institutions
15 that are owned and controlled by the United States, the State, or a unit of local
16 government, except hospital facilities created under Article 2 of Chapter 131E of the
17 General Statutes and nonprofit hospitals owned and controlled by a unit of local
18 government that elect to receive semiannual refunds under this subsection instead of
19 annual refunds under subsection (c). In order to receive the refunds herein provided for,
20 such institutions and organizations shall file a written request for refund covering the
21 first six months of the calendar year on or before the fifteenth day of October next
22 following the close of said period, and shall file a written request for refund covering
23 the second six months of the calendar year on or before the fifteenth day of April next
24 following the close of that period. Such requests for refund shall be substantiated by
25 such proof as the Secretary of Revenue may require, and no refund shall be made on
26 applications not filed within the time allowed by this section and in such manner as the
27 Secretary may require. ~~Notwithstanding the foregoing provisions of this subsection, the~~
28 ~~constituent institutions of The University of North Carolina may obtain in the manner~~
29 ~~prescribed by this Article the refund of sales and use tax paid by them on or after~~
30 ~~January 1, 1992, for tangible personal property acquired by them through the~~
31 ~~expenditure of contract and grant funds.~~

32 (c) Certain Governmental Entities. Upon receipt of timely applications for
33 refund, the Secretary of Revenue shall make refunds annually to all governmental
34 entities, as hereinafter defined, of sales and use tax paid under this Article, except under
35 G.S. 105-164.4(4a) and G.S. 105-164.4(4c), by said governmental entities on direct
36 purchases of tangible personal property. Sales and use tax liability indirectly incurred by
37 such governmental entities on building materials, supplies, fixtures and equipment
38 which shall become a part of or annexed to any building or structure being erected,
39 altered or repaired which is owned or leased by such governmental entities shall be
40 construed as sales or use tax liability incurred on direct purchases by such governmental
41 entities, and such entities may obtain refunds of such taxes indirectly paid. The refund
42 provisions contained in this subsection shall not apply to any governmental entities not
43 specifically named herein. In order to receive the refund herein provided for,
44 governmental entities shall file a written request for said refund within six months of the

1 close of the fiscal year of the governmental entities seeking said refund, and such
2 request for refund shall be substantiated by such records, receipts and information as the
3 Secretary may require. No refunds shall be made on applications not filed within the
4 time allowed by this section and in such manner as the Secretary may otherwise require.
5 The term 'governmental entities,' for the purposes of this subsection, shall mean all
6 counties, incorporated cities and towns, water and sewer authorities created and existing
7 under the provisions of Chapter 162A of the General Statutes, lake authorities created
8 by a board of county commissioners pursuant to an act of the General Assembly,
9 sanitary districts, regional councils of governments created pursuant to G.S. 160A-470,
10 area mental health, mental retardation, and substance abuse authorities (other than
11 single-county area authorities) established pursuant to Article 4 of Chapter 122C of the
12 General Statutes, district health departments, regional planning and economic
13 development commissions created pursuant to G.S. 158-14, regional sports authorities
14 created pursuant to G.S. 160A-479, regional economic development commissions
15 created pursuant to G.S. 158-8, regional planning commissions created pursuant to G.S.
16 153A-391, metropolitan sewerage districts and metropolitan water districts in this State,
17 the North Carolina Low-Level Radioactive Waste Management Authority created
18 pursuant to Chapter 104G of the General Statutes, the North Carolina Hazardous Waste
19 Management Commission created pursuant to Chapter 130B of the General Statutes,
20 and the Rockingham County Airport Authority. Notwithstanding the foregoing
21 provisions of this subsection, the constituent institutions of The University of North
22 Carolina may obtain in the manner prescribed by this subsection a refund of sales and
23 use tax paid by them on or after January 1, 1992, for tangible personal property acquired
24 by them through the expenditure of contract and grant funds.

25 (d) Penalties for Late Applications. Refunds made pursuant to applications filed
26 after the dates specified in subsections (b) and (c) above shall be subject to the
27 following penalties for late filing: applications filed within 30 days after said dates,
28 twenty-five percent (25%); applications filed after 30 days but within six months after
29 said dates, fifty percent (50%). However, refunds which are applied for after six months
30 following said dates shall be barred.

31 (e) State Agencies. The State is allowed quarterly refunds of local sales and use
32 taxes paid by a State agency on direct purchases of tangible personal property and local
33 sales and use taxes paid indirectly by the State agency on building materials, supplies,
34 fixtures, and equipment that become a part of or annexed to a building or structure that
35 is being erected, altered, or repaired and is owned or leased by the State agency. This
36 subsection does not apply to purchases for which a State agency is allowed a refund
37 under subsection (c) of this section.

38 A person who pays local sales and use taxes on building materials or other tangible
39 personal property for a State building project shall give the State agency for whose
40 project the property was purchased a signed statement containing all of the following
41 information:

- 42 (1) The date the property was purchased.
- 43 (2) The type of property purchased.
- 44 (3) The project for which the property was used.

- 1 (4) If the property was purchased in this State, the county in which it was
- 2 purchased.
- 3 (5) If the property was not purchased in this State, the county in which the
- 4 property was used.
- 5 (6) The amount of sales and use taxes paid.

6 If the property was purchased in this State, the person shall attach a copy of the sales
7 receipt to the statement. A State agency to whom a statement is submitted shall verify
8 the accuracy of the statement.

9 Within 15 days after the end of each calendar quarter, every State agency shall file
10 with the Secretary a written application for a refund of taxes to which this subsection
11 applies paid by the agency during the quarter. The application shall contain all
12 information required by the Secretary. The Secretary shall credit the local sales and use
13 tax refunds for which the Department of Transportation applies as follows: seventy-five
14 percent (75%) directly to the Highway Fund and twenty-five percent (25%) directly to
15 the Highway Trust Fund. The Secretary shall credit all other local sales and use tax
16 refunds directly to the General Fund."

17 Sec. 311. The title of Article 39 of Chapter 105 of the General Statutes reads
18 as rewritten:

19 **"ARTICLE 39.**

20 **"ONE-CENT (1¢) LOCAL GOVERNMENT SALES AND USE TAX."**

21 Sec. 312. G.S. 105-463 reads as rewritten:

22 **"§ 105-463. Short title.**

23 This Article shall be known as the ~~'Local'~~'One-cent (1¢) Local Government Sales
24 and Use Tax Act."

25 Sec. 313. G.S. 105-465 reads as rewritten:

26 **"§ 105-465. County election as to adoption of local sales and use tax.**

27 The board of elections of any county, upon the written request of the board of county
28 commissioners thereof, or upon receipt of a petition signed by qualified voters of the
29 county equal in number to at least fifteen percent (15%) of the total number of votes
30 cast in the county, at the last preceding election for the office of Governor, shall call a
31 special election for the purpose of submitting to the voters of the county the question of
32 whether a one percent (1%) sales and use tax as hereinafter provided will be levied.

33 The special election shall be held under the same rules and regulations applicable to
34 the election of members of the General Assembly. No new registration of voters shall be
35 required. All qualified voters in the county who are properly registered not later than 21
36 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at
37 said election. The county board of elections shall give at least 20 days' public notice
38 prior to the closing of the registration books for the special election.

39 The county board of election shall prepare ballots for the special election which shall
40 contain the words, 'FOR the one percent (1%) local sales and use tax only on those
41 items presently covered by the ~~three percent (3%)~~three and five-tenths percent (3.5%)
42 sales and use tax,' and the words, 'AGAINST the one percent (1%) local sales and use
43 tax only on those items presently covered by the ~~three percent (3%)~~three and five-

1 tenths percent (3.5%) sales and use tax,' with appropriate squares so that each voter may
2 designate his vote by his cross (X) mark.

3 The county board of elections shall fix the date of the special election; provided,
4 however, that the special election shall not be held on the date of any biennial election
5 for county officers, nor within 60 days thereof, nor within one year from the date of the
6 last preceding special election under this section."

7 Sec. 314. G.S. 105-467 reads as rewritten:

8 **"§ 105-467. Scope of sales tax.**

9 The sales tax which may be imposed under this Article is limited to a tax at the rate
10 of one percent (1%) of:

- 11 (1) The sales price of those articles of tangible personal property now
12 subject to the ~~three percent (3%) general rate of~~ sales tax imposed by
13 the State under G.S. 105-164.4(a)(1) and (4b);
- 14 (2) The gross receipts derived from the lease or rental of tangible personal
15 property when the lease or rental of the property is subject to the ~~three
16 percent (3%) general rate of~~ sales tax imposed by the State under G.S.
17 105-164.4(a)(2);
- 18 (3) The gross receipts derived from the rental of any room or lodging
19 furnished by any hotel, motel, inn, tourist camp or other similar
20 accommodations now subject to the ~~three percent (3%) general rate of~~
21 sales tax imposed by the State under G.S. 105-164.4(a)(3); and
- 22 (4) The gross receipts derived from services rendered by laundries, dry
23 cleaners, ~~cleaning plants and similar type and other~~ businesses now
24 subject to the ~~three percent (3%) general rate of~~ sales tax imposed by
25 the State under G.S. 105-164.4(a)(4).

26 The sales tax authorized by this Article does not apply to sales that are taxable by the
27 State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through
28 (4) of this section.

29 The exemptions and exclusions contained in G.S. 105-164.13 and the refund
30 provisions contained in G.S. 105-164.14 shall apply with equal force and in like manner
31 to the local sales and use tax authorized to be levied and imposed under this Article. A
32 taxing county shall have no authority, with respect to the local sales and use tax
33 imposed under this Article to change, alter, add to or delete any refund provisions
34 contained in G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-
35 164.13 or which are elsewhere provided for.

36 The local sales tax authorized to be imposed and levied under the provisions of this
37 Article shall apply to such retail sales, leases, rentals, rendering of services, furnishing
38 of rooms, lodgings or accommodations and other taxable transactions which are made,
39 furnished or rendered by retailers whose place of business is located within the taxing
40 county. The tax imposed shall apply to the furnishing of rooms, lodging or other
41 accommodations within the county which are rented to transients. For the purpose of
42 this Article, the situs of a transaction is the location of the retailer's place of business."

43 Sec. 315. G.S. 105-468 reads as rewritten:

44 **"§ 105-468. Scope of use tax.**

1 The use tax which may be imposed under this Article shall be at the rate of one
2 percent (1%) of the cost price of each item or article of tangible personal property when
3 it is not sold but used, consumed or stored for use or consumption in the taxing county,
4 except that no tax shall be imposed upon tangible personal property when the property
5 would be taxed by the State at a rate of ~~other than three percent (3%) other than the~~
6 general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6.

7 Every retailer engaged in business in this State and in the taxing county and required
8 to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent (1%)
9 use tax when such property is to be used, consumed or stored in the taxing county, one
10 percent (1%) use tax to be collected concurrently with the State's use tax; but no retailer
11 not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect
12 the one percent (1%) use tax. The use tax contemplated by this section shall be levied
13 against the purchaser, and the purchaser's liability for the use tax shall be extinguished
14 only upon payment of the use tax to the retailer, where the retailer is required to collect
15 the tax, or to the Secretary of Revenue, or to the taxing county, as appropriate, where
16 the retailer is not required to collect the tax.

17 Where a local sales or use tax has been paid with respect to tangible personal
18 property by the purchaser, either in another taxing county within the State, or in a taxing
19 jurisdiction outside the State where the purpose of the tax is similar in purpose and
20 intent to the tax which may be imposed pursuant to this Article, the tax paid may be
21 credited against the tax imposed under this section by a taxing county upon the same
22 property. If the amount of sales or use tax so paid is less than the amount of the use tax
23 due the taxing county under this section, the purchaser shall pay to the Secretary of
24 Revenue or to the taxing county, as appropriate, an amount equal to the difference
25 between the amount so paid in the other taxing county or jurisdiction and the amount
26 due in the taxing county. The Secretary of Revenue or the taxing county, as
27 appropriate, may require such proof of payment in another taxing county or jurisdiction
28 as is deemed to be necessary. The use tax levied under this Article is not subject to
29 credit for payment of any State sales or use tax not imposed for the benefit and use of
30 counties and municipalities. No credit shall be given under this section for sales or use
31 taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not
32 grant similar credit for sales taxes paid under this Article."

33 Sec. 316. G.S. 105-470, 105-485, and 105-500 and Article 41 of Chapter 105
34 of the General Statutes are repealed.

35 Sec. 317. Chapter 1096 of the 1967 Session Laws is amended as follows:

- 36 (1) The title is amended by deleting the phrase "THREE PER CENT
37 SALES AND USE TAX." and substituting the phrase "SALES AND
38 USE TAX AT THE GENERAL STATE RATE OF TAX SET IN G.S.
39 105-164.4."
- 40 (2) Section 4 is amended by deleting the phrase "three per cent (3%)" each
41 time it appears and substituting the phrase "general rate of".
- 42 (3) Section 5 is amended by deleting the phrase "of other than three
43 percent (3%)" and substituting the phrase "other than the general rate
44 of tax set in G.S. 105-164.4".

1 (4) Section 7 is repealed.

2 (5) Section 10.1(d) is amended by deleting the phrase "Items on Which the
3 State Now Imposes a Three Percent (3%) Sales Tax." and substituting
4 the phrase "Scope."

5 Sec. 318. (a) Approval under the Local Government Sales and Use Tax Act,
6 Article 39 of Chapter 105 of the General Statutes, or under the Mecklenburg County
7 Sales and Use Tax Act, Chapter 1096 of the 1967 Session Laws, as amended, of one
8 percent (1%) local sales and use taxes in addition to the three percent (3%) State sales
9 and use taxes constitutes approval of one percent (1%) local sales and use taxes in
10 addition to the three and five-tenths percent (3.5%) State sales and use taxes.

11 (b) Approval under the Supplemental Local Government Sales and Use Tax Act,
12 Article 40 of Chapter 105 of the General Statutes, of one-half percent (1/2%) local sales
13 and use taxes in addition to the one percent (1%) local sales and use taxes and three
14 percent (3%) State sales and use taxes constitutes approval of one-half percent (1/2%)
15 local sales and use taxes in addition to the one percent (1%) local sales and use taxes
16 and the three and five-tenths percent (3.5%) State sales and use taxes.

17 (c) Approval under the Additional Supplemental Local Government Sales and
18 Use Tax Act, Article 42 of Chapter 105 of the General Statutes, of one-half percent
19 (1/2%) local sales and use taxes in addition to the one and one-half percent (1-1/2%)
20 local sales and use taxes and three percent (3%) State sales and use taxes constitutes
21 approval of one-half percent (1/2%) local sales and use taxes in addition to the one and
22 one-half percent (1-1/2%) local sales and use taxes and the three and five-tenths percent
23 (3.5%) State sales and use taxes.

24 Sec. 319. The title of Article 40 of Chapter 105 of the General Statutes reads
25 as rewritten:

26 **"ARTICLE 40.**
27 **~~"SUPPLEMENTAL FIRST ONE-HALF-CENT (1/2¢) LOCAL GOVERNMENT~~**
28 **SALES**
29 **AND USE TAXES. TAX."**

30 Sec. 320. G.S. 105-480 reads as rewritten:

31 **"§ 105-480. Short title.**

32 This Article shall be known as the ~~Supplemental First One-half-cent (1/2¢) Local~~
33 ~~Government Sales and Use Tax Act."~~

34 Sec. 321. The title of Article 42 of Chapter 105 of the General Statutes reads
35 as rewritten:

36 **"ARTICLE 42.**
37 **~~"ADDITIONAL SUPPLEMENTAL SECOND ONE-HALF-CENT (1/2¢) LOCAL~~**
38 **GOVERNMENT SALES AND USE TAXES. TAX."**

39 Sec. 322. G.S. 105-495 reads as rewritten:

40 **"§ 105-495. Short title.**

41 This Article shall be known as the ~~Additional Supplemental Second One-half-cent~~
42 ~~(1/2¢) Local Government Sales and Use Tax Act."~~

43 Sec. 323. Subchapter VIII of Chapter 105 of the General Statutes is amended
44 by adding a new Article to read:

"ARTICLE 43.
"THIRD ONE-HALF-CENT (1/2¢) LOCAL GOVERNMENT
SALES AND USE TAX.

"§ 105-505. Short title.

This Article shall be known as the Third One-half-cent (1/2¢) Local Government Sales and Use Tax Act.

"§ 105-506. Purpose.

This Article gives the counties and cities of this State an opportunity to obtain an added source of revenue with which to meet their growing financial needs. It provides all counties of the State that are subject to this Article with authority to levy one-half percent (1/2%) sales and use taxes.

"§ 105-507. Limitations.

This Article applies only to counties that levy the one percent (1%) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half percent (1/2%) local sales and use tax under Article 40 of this Chapter, and the second one-half percent (1/2%) local sales and use tax under Article 42 of this Chapter.

"§ 105-508. Levy and collection of additional taxes.

A county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean 'Article 43 of Chapter 105 of the General Statutes'. Notwithstanding the provisions of G.S. 105-466(c), the effective date of a tax levied under this Article, as set in the resolution levying the tax, may be the first day of any calendar month that is at least 15 days after the adoption of the resolution.

"§ 105-509. Form of ballot.

(a) The form of the question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article shall be: 'FOR one-half percent (1/2%) local sales and use taxes in addition to the current two percent (2%) local sales and use taxes' or 'AGAINST one-half percent (1/2%) local sales and use taxes in addition to the current two percent (2%) local sales and use taxes.'

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any additional taxes levied pursuant to this Article shall be: 'FOR repeal of the additional one-half percent (1/2%) local sales and use taxes' or 'AGAINST repeal of the additional one-half percent (1/2%) local sales and use taxes.'

"§ 105-510. Distribution of additional taxes.

The Secretary shall, on a quarterly basis, distribute the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article among the taxing counties and the cities located in the taxing counties in proportion to the total amount of funds each county and city was entitled by statute to receive during the 1990-91 fiscal year from the Local Government Tax Reimbursement Reserve created in Section 52 of Chapter 752 of the 1989 Session Laws. 'Net proceeds' means gross proceeds less taxes

1 refunded, the cost to the State of collecting and administering the tax in the taxing
2 county, and other deductions properly charged to the taxing county.

3 If any taxes levied under this Article by a county have not been collected in that
4 county for a full quarter because of the levy or repeal of the taxes, the Secretary shall
5 distribute a pro rata share to that county and the cities located in that county for that
6 quarter based on the number of months the taxes were collected in that county during
7 the quarter."

8 Sec. 324. The provisions of this Part increasing the State sales and use tax
9 from three percent (3%) to three and five-tenths percent (3.5%) do not apply to
10 construction materials purchased to fulfill a lump sum or unit price contract entered into
11 or awarded before the effective date of the increase or entered into or awarded pursuant
12 to a bid made before the effective date of the increase when the construction materials
13 would otherwise be subject to the State sales and use tax at the rate of three and five-
14 tenths percent (3.5%). A tax levied under Article 43 of Chapter 105 of the General
15 Statutes, as enacted by this Part, does not apply to construction materials purchased to
16 fulfill a lump sum or unit price contract entered into or awarded before the effective
17 date of the levy or entered into or awarded pursuant to a bid made before the effective
18 date of the levy when the construction materials would otherwise be subject to the tax
19 levied under Article 34 of Chapter 105 of the General Statutes.

20 21 PART 54.—REPEAL LOCAL REIMBURSEMENTS

22
23 Sec. 325. G.S. 105-213 reads as rewritten:

24 "§ 105-213. Appropriation to counties and municipalities; use of appropriation.

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

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

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

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

1 The Secretary shall allocate the amount appropriated under this Article to the
2 counties according to the county in which the taxes were collected. ~~The Secretary shall~~
3 ~~then increase the amount allocable to each county by a sum equal to forty percent (40%)~~
4 ~~of the amount of tax on accounts receivable allocated to the county on the basis of~~
5 ~~collections.~~—The amounts so allocated to each county shall in turn be divided between
6 the county and the municipalities in the county in proportion to the total amount of ad
7 valorem taxes levied by each during the fiscal year preceding the distribution. For the
8 purpose of computing the distribution of the intangibles tax to any county and the
9 municipalities located in the county for any year with respect to which the property
10 valuation of a public service company is the subject of an appeal pursuant to the
11 provisions of the Machinery Act, or to applicable provisions of federal law, and the
12 Department of Revenue is restrained by operation of law or by a court of competent
13 jurisdiction from certifying such valuation to the county and municipalities therein, the
14 Department shall use the last property valuation of such public service company which
15 has been so certified in order to determine the ad valorem tax levies applicable to such
16 public service company in the county and the municipalities therein.

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

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

34 Sec. 326. G.S. 105-164.44C, 105-213.1, 105-275.1, 105-277A, and 105-
35 277.1A are repealed.

36 37 38 TITLE V. - OTHER

39 40 41 PART 55.—MISCELLANEOUS APPROPRIATIONS PROVISIONS

42
43 Requested by: Representatives Nesbitt, Diamont
44 —EFFECT OF HEADINGS

1 Sec. 327. The headings to the Parts and sections of this act are a convenience
2 to the reader and are for reference only. The headings do not expand, limit, or define
3 the text of this act.

4
5 Requested by: Representatives Nesbitt, Diamont
6 —EXECUTIVE BUDGET ACT REFERENCE

7 Sec. 328. The provisions of the Executive Budget Act, Chapter 143, Article 1
8 of the General Statutes, are reenacted and shall remain in full force and effect and are
9 incorporated in this act by reference.

10
11 Requested by: Representatives Nesbitt, Diamont
12 —COMMITTEE REPORT

13 Sec. 329. The House Appropriations Committee Report on Base Budget
14 Reductions and Expansion Budget dated June 3, 1991, which was distributed in the
15 House and used to explain this act, shall indicate action by the General Assembly on
16 this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the
17 Executive Budget Act, and for these purposes shall be considered a part of this act.

18
19 Requested by: Representatives Nesbitt, Diamont
20 —MOST TEXT APPLIES ONLY TO 1991-93

21 Sec. 330. Except for statutory changes or other provisions that clearly
22 indicate an intention to have effects beyond the 1991-93 biennium, the textual
23 provisions of Titles I, II, and III of this act shall apply only to funds appropriated for
24 and activities occurring during the 1991-93 biennium.

25
26 Requested by: Representatives Nesbitt, Diamont
27 —SEVERABILITY CLAUSE

28 Sec. 331. If any section or provision of this act is declared unconstitutional or
29 invalid by the courts, it does not affect the validity of the act as a whole or any part
30 other than the part so declared to be unconstitutional or invalid.

31
32 Requested by: Representatives Nesbitt, Diamont
33 —EFFECTIVE DATE

34 Sec. 332. Except as otherwise provided, Titles I, II, and III of this act
35 becomes effective July 1, 1991.

36
37
38 **PART 56.—MISCELLANEOUS REVENUE PROVISIONS**

39
40 Sec. 333. The amendment to G.S. 115C-546.1 in Part 46 of this act becomes
41 effective October 1, 1991, and applies to remittances made on or after that date; the
42 remainder of Part 46 of this act is effective for taxable years beginning on or after
43 January 1, 1991. Part 47 of this act is effective for taxable years beginning on or after
44 January 1, 1991. Part 48 of this act becomes effective July 1, 1991. Part 49 of this act

1 becomes effective January 1, 1992. Part 50 of this act becomes effective July 1, 1991.
2 The amendments to G.S. 18B-804 and G.S. 18B-805 in Part 51 of this act become
3 effective August 1, 1991, and apply to sales made on or after that date; the remainder of
4 Part 51 of this act becomes effective May 1, 1992, and applies to permits and licenses
5 issued or renewed on or after that date. Part 52 of this act becomes effective October 1,
6 1991. G.S. 105-164.14(e), as enacted by Part 53 of this act, applies to property
7 purchased on or after April 1, 1991; Article 43 of Chapter 105 of the General Statutes,
8 as enacted by Part 53 of this act, is effective upon ratification; the remainder of Part 53
9 of this act becomes effective July 1, 1991, and applies to sales made on or after that
10 date. Part 54 of this act becomes effective July 1, 1991; no distributions shall be made
11 on or after that date. Part 56 of this act is effective upon ratification. The remainder of
12 Title IV of this act is effective upon ratification.

13 Sec. 334. This act does not affect the rights or liabilities of the State, a
14 taxpayer, or another person arising under a statute amended or repealed by this Part
15 before its amendment or repeal; nor does it affect the right to any refund or credit of a
16 tax that would otherwise have been available under the amended or repealed statute
17 before its amendment or repeal.

18 Sec. 335. To pay for the additional costs of implementing the provisions of
19 Title IV of this act in a timely manner, the Department of Revenue shall retain the sum
20 of five hundred thousand dollars (\$500,000) from collections received by the
21 Department during July 1991 under Article 5 of Chapter 105 of the General Statutes.