

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
Fourth Edition Engrossed 6/7/91

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			
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	Reserve for Local Government		
9	Tax Sharing	236,826,720	236,826,720
10			
11	Debt Service	<u>76,028,270</u>	<u>73,049,578</u>
12			
13			
14	GRAND TOTAL CURRENT OPERATIONS –		
15	GENERAL FUND	\$7,461,988,074	\$7,704,734,251
16			
17			

PART 2.—CURRENT OPERATIONS/HIGHWAY FUND

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

25	<u>Current Operations-Highway Fund</u>	<u>1991-92</u>	<u>1992-93</u>
26			
27	Department of Transportation		
28	01. Administration	\$ 34,171,517	\$ 34,329,674
29	02. Division of Highways		
30	a. Administration and		
31	Operations	32,800,070	32,866,712
32	b. State Construction		
33	(01) Primary Construction	-	-
34	(02) Secondary		
35	Construction	66,121,926	66,717,023
36	(03) Urban Construction	10,805,664	10,028,266
37	(04) Access and Public		
38	Service Roads	2,000,000	2,000,000
39	(05) Special Appropriation		
40	for Highways		5,000
41	(06) Spot Safety		
42	Improvements	9,100,000	9,100,000
43	c. State Funds to Match Federal		
44	Highway Aid		

1	(01)	Construction	65,992,066	65,992,066	
2	(02)	Planning Survey and Highway			
3		Planning Research			2,959,649 2,959,649
4	d.	State Maintenance			
5	(01)	Primary	85,882,433	85,882,433	
6	(02)	Secondary	151,355,630	151,355,630	
7	(03)	Urban	22,714,972	22,714,972	
8	(04)	Contract Resurfacing	100,000,000	102,500,000	
9	e.	Ferry Operations	16,547,896	16,547,896	
10	03.	Division of Motor Vehicles	74,682,719	74,649,678	
11	04.	Governor's Highway Safety Program	288,398	288,736	
12	05.	State Aid to Municipalities			66,121,926 66,717,023
13	06.	State Aid for Public			
14		Transportation	5,038,766	5,046,001	
15	07.	Salary Adjustments for Highway			
16		Fund Employees	200,000	200,000	
17	08.	Reserve to Correct Occupational			
18		Safety and Health Conditions	425,000	425,000	
19	09.	Reserve to Continue DOT			
20		Merit Salary Increases	4,510,383	4,510,383	
21	10.	Debt Service	38,227,230	38,018,250	
22	11.	Reserve for State Employee			
23		Health Benefit Plan	6,300,000	7,500,000	
24					
25		Appropriations for Other State Agencies			
26	01.	Crime Control and Public			
27		Safety	84,297,637	86,652,285	
28	02.	Other Agencies			
29	a.	Department of Agriculture	2,892,001	2,790,013	
30	b.	Department of Revenue	1,921,279	1,923,941	
31	c.	Department of Environment,			
32		Health, and Natural Resources:			
33		LUST Trust Fund	5,186,720	5,586,046	
34		Chemical Test Program	378,286	378,286	
35	d.	Department of Correction	4,614,056	4,614,056	
36	e.	Department of Justice	240,250	240,250	
37	f.	Department of Public			
38		Education	22,930,662	22,868,826	
39					
40		GRAND TOTAL CURRENT OPERATIONS –			
41		HIGHWAY FUND			\$ 918,712,136 \$ 925,408,095
42					
43					
44		PART 3.—HIGHWAY TRUST FUND			

1	03.	Development Planning/Housing	1,987,193	
2				
3	04.	Economic Development	7,948,772	
4				
5	05.	Community Revitalization	27,820,702	
6				
7	TOTAL COMMUNITY DEVELOPMENT			
8	BLOCK GRANT			\$
9	40,657,000			
10				
11	PREVENTIVE HEALTH BLOCK GRANT			
12				
13	01.	Emergency Medical Services	\$ 451,915	
14				
15	02.	Basic Public Health Services	928,395	
16				
17	03.	Hypertension Programs	590,230	
18				
19	04.	Health Education/Risk Reduction Programs and		
20		Health Promotion/Local Health Departments	1,013,371	
21				
22	05.	Fluoridation of Water Supplies	158,134	
23				
24	06.	Rape Prevention and Rape		
25		Crisis Programs	91,269	
26				
27	07.	AIDS/HIV Education, Counseling,		
28		and Testing	290,577	
29				
30	08.	TB Control Program	61,787	
31				
32	TOTAL PREVENTIVE HEALTH BLOCK GRANT			\$
33	3,585,678			
34				
35	MATERNAL AND CHILD HEALTH SERVICES			
36				
37	01.	Healthy Mother/Healthy Children		
38		Block Grants to Local Health		
39		Departments	\$ 11,788,781	
40				
41	02.	High Risk Maternity Clinic Services,		
42		Perinatal Education, and Consultation		
43		to Local Health Departments		
44		and Other Health Care Providers	1,554,303	

1			
2	03.	Services to Disabled Children	5,367,054
3			
4	04.	Reimbursements for Local Health	
5		Departments for Contracted	
6		Nutritional Services	120,530
7			
8	TOTAL MATERNAL AND CHILD		
9	HEALTH SERVICES		
10			\$
11			18,830,668
12	SOCIAL SERVICES BLOCK GRANT		
13			
14	01.	County Departments of Social Services	\$ 42,846,858
15			
16	02.	Allocation for In-Home Services provided	
17		by County Departments of	
18		Social Services	1,184,524
19			
20	03.	Division of Mental Health, Developmental	
21		Disabilities, and Substance Abuse	5,514,782
22			
23	04.	Division of Services for the Blind	3,162,920
24			
25	05.	Division of Youth Services	1,037,868
26			
27	06.	Division of Facility Services	330,573
28			
29	07.	Division of Aging	333,656
30			
31	08.	Day Care Services	12,158,899
32			
33	09.	Volunteer Services	55,086
34			
35	10.	State Administration and State Level	
36		Contracts	3,392,468
37			
38	11.	Voluntary Sterilization Funds	98,710
39			
40	12.	Transfer to Maternal and Child	
41		Health Block Grant	1,670,089
42			
43	13.	Adult Day Care Services	652,889
44			

1	14.	County Departments of Social Services for		
2		Child Abuse/Prevention and		
3		Permanency Planning	394,841	
4				
5	15.	Allocation to Division of Maternal and		
6		Child Health for Grants-in-Aid to Prevention		
7		Programs	439,261	
8				
9	16.	Transfer to Preventive Health		
10		Block Grant for Emergency Medical Services		
11		and Basic Public Health Services	486,258	
12				
13	17.	Allocation to Preventive Health Block		
14		Grant for AIDS Education	290,577	
15				
16	18.	Allocation to Department of Administration		
17		for North Carolina Fund for Children	45,270	
18				
19	19.	Allocation to the Division of Economic		
20		Opportunity for Head Start,		
21		Elderly and Handicapped Services	197,421	
22				
23	TOTAL SOCIAL SERVICES BLOCK GRANT			\$
24	74,292,950			
25				
26	LOW INCOME ENERGY BLOCK GRANT			
27				
28	01.	Energy Assistance Programs	\$ 18,407,453	
29				
30	02.	Crisis Intervention	4,441,897	
31				
32	03.	Administration	1,981,400	
33				
34	04.	Weatherization Program	1,737,187	
35				
36	05.	Indian Affairs	27,222	
37				
38	06.	Transfer to Preventive Health Block Grant		
39		for Emergency Medical Services Program	209,116	
40				
41	07.	Transfer to Social Services		
42		Block Grant for Adult		
43		Day Care Services	417,648	
44				

1	08.	Transfer to Social Services Block	
2		Grant for State Administration	
3		& Contract Service	192,748
4			
5	09.	Transfer to Maternal and Child Health	
6		Block Grant in the Division of	
7		Maternal and Child Health	
8		for Healthy Mothers and Children	1,696,362
9			
10	10.	Transfer to SSBG for allocation to the	
11		Department of Administration for	
12		the North Carolina Fund for Children	45,270
13			
14		TOTAL LOW INCOME ENERGY BLOCK GRANT	\$
15		29,156,303	
16			
17		ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH	
18		SERVICES BLOCK GRANT	
19			
20	01.	Allocate funds to the four regional	
21		offices on a per capita basis	
22		for mental health services	\$ 1,866,556
23			
24	02.	Programs for the Chronically	
25		Mentally Ill	3,336,748
26			
27	03.	Continuation of child mental health	
28		nonresidential services in	
29		accordance with the Child Mental	
30		Health Plan	315,013
31			
32	04.	Continuation of child mental health	
33		residential services including group	
34		homes, specialized foster care,	
35		therapeutic homes, professional	
36		parenting programs, and respite care,	
37		with an emphasis on children under	
38		the age of 12	359,703
39			
40	05.	Continuation and expansion of community-	
41		based alcohol and drug services	
42		including prevention, early inter-	
43		vention, treatment, rehabilitation,	
44		nonhospital medical detoxification,	

1	and training	6,121,682	
2			
3	06. Continuation and expansion of services		
4	to female substance abusers,		
5	including specialized services at		
6	the ADATCS	2,652,698	
7			
8	07. Continuation and expansion of services to		
9	IV drug abusers, including increased		
10	capacity for drug screens and IV		
11	services at the ADATCS	3,518,950	
12			
13	08. Services to adolescents, including		
14	continuation and expansion of services		
15	in accordance with the Youth Substance		
16	Abuse Plan	3,140,864	
17			
18	09. Funding to support the provision of		
19	Treatment Alternatives to Street		
20	Crimes (TASC) programs for adults		
21	and four demonstration projects with		
22	local jails	462,104	
23			
24	10. Continuing of funding for detoxification		
25	services in the Eastern Region	1,048,110	
26			
27	11. Administration	1,085,098	
28			
29	TOTAL ALCOHOL, DRUG ABUSE AND		
30	MENTAL HEALTH SERVICES		
31	BLOCK GRANT		\$
32	23,907,526		
33			
34	MENTAL HEALTH SERVICES FOR THE HOMELESS		
35	BLOCK GRANT		
36			
37	01. Specialized Community Services for the		
38	Chronically Mentally Ill	\$ 420,000	
39			
40	02. Community-Based Services for Chronically		
41	Mentally Ill Youth	97,656	
42			
43	03. Administration	13,344	
44			

1 TOTAL MENTAL HEALTH SERVICES FOR THE
 2 HOMELESS BLOCK GRANT \$
 3 531,000

4
 5 COMMUNITY YOUTH ACTIVITY PROGRAM BLOCK GRANT

6
 7 01. Development of Community-Based Substance
 8 Abuse Prevention Programs
 9 for Youth \$ 92,091

10
 11 TOTAL COMMUNITY YOUTH ACTIVITY PROGRAM
 12 BLOCK GRANT \$
 13 92,091

14
 15 CHILD CARE AND DEVELOPMENT BLOCK GRANT

16
 17 01. Child Day Care Services 14,752,146

18
 19 02. Head Start Wrap-Around 3,337,000

20
 21 03. Revolving Loans/Grants 500,000

22
 23 04. County Day Care Coordinators 467,167

24
 25 05. Staff/Child Ratio Reduction 208,300

26
 27 06. Study of Day Care Salaries 100,000

28
 29 07. Child Care Worker Credentials 100,000

30
 31 08. Resource and Referral Programs 650,000

32
 33 09. Facility Services Administration 202,054

34
 35 TOTAL CHILD CARE AND DEVELOPMENT
 36 BLOCK GRANT \$
 37 20,316,667

38
 39 (b) Decreases in Federal Fund Availability
 40 If federal funds are reduced below the amounts specified above after the
 41 effective date of this act, then every program, in each of the federal block grants listed
 42 above, shall be reduced by the same percentage as the reduction in federal funds.

43 (c) Increases in Federal Fund Availability

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

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

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

20 (d) Education Setaside of JTPA Funds

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

26
27
28 PART 5.—GENERAL PROVISIONS

29
30 Requested by: Representatives Nesbitt, Diamont

31 —SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL
32 RECEIPTS/AUTHORIZATION FOR EXPENDITURES

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

42 Pursuant to G.S. 143-34.2, State departments, agencies, institutions, boards,
43 or commissions may make application for, receive, or disburse any form of non-State
44 aid. All non-State monies received shall be deposited with the State Treasurer unless

1 otherwise provided by State law. These funds shall be expended in accordance with the
2 terms and conditions of the fund award that are not contrary to the laws of North
3 Carolina.

4
5 Requested by: Representatives Nesbitt, Diamont

6 ---INSURANCE AND FIDELITY BONDS

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

11
12 Requested by: Representatives Nesbitt, Diamont

13 ---CONTINGENCY AND EMERGENCY FUND ALLOCATION

14 Sec. 8. Of the funds appropriated in this Title to the Contingency and
15 Emergency Fund, \$900,000 for the 1991-92 fiscal year and \$900,000 for the 1992-93
16 fiscal year shall be designated for emergency allocations, which are for the purposes
17 outlined in G.S. 143-23(a1). \$225,000 for the 1991-92 fiscal year and \$225,000 for the
18 1992-93 fiscal year shall be designated for other allocations from the Contingency and
19 Emergency Fund.

20
21 Requested by: Representatives Nesbitt, Diamont

22 ---BUDGETING OF PILOT PROGRAMS

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

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

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

31
32 Requested by: Representatives Nesbitt, Diamont

33 ---AUTHORIZED TRANSFERS

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

41
42 Requested by: Representatives Nesbitt, Diamont

43 ---EXPENDITURES OF FUNDS IN RESERVES LIMITED

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

3
4 Requested by: Representatives Ethridge, H. Hunter
5 —NONPROFITS MAY RELINQUISH FUNDS

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

7 **"§ 143-6.1. Information from private organizations receiving State funds.**

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

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

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

33
34 Requested by: Representatives Ethridge, H. Hunter
35 —STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY

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

1 funds, and shall include actions to be taken by the entity or the individual, or both, to
2 avoid conflicts of interest and the appearance of impropriety.

3
4 Requested by: Representative Dockham

5 ~~—DEPARTMENTAL REDUCTIONS/COUNTIES HARMLESS~~

6 Sec. 14. The Departments of Environment, Health, and Natural Resources,
7 Economic and Community Development, Labor, and Agriculture shall not reduce
8 continuing operations disbursements to local governments for the 1991-92 fiscal year
9 and the 1992-93 fiscal year below the disbursement level for the 1990-91 fiscal year
10 solely for the purpose of effectuating reductions to those Departments required by this
11 act.

12
13 Requested by: Representatives Warner, Anderson

14 ~~—STATE PURCHASES OF SUPPLIES, MATERIALS, EQUIPMENT~~

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

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

32
33 PART 6.—STATE BOARD OF ELECTIONS

34
35 Requested by: Representatives Bowman, N.J. Crawford

36 ~~—CHANGE THE DATE OF THE PRESIDENTIAL PRIMARY TO THE DATE OF~~
37 ~~THE REGULAR STATEWIDE PRIMARY, AND ELIMINATE REIMBURSEMENT~~
38 ~~TO THE COUNTIES OF THE EXPENSE OF HOLDING A SEPARATE PRIMARY~~

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

40 "**§ 163-213.2. Primary to be held; date; qualifications and registration of voters.**

41 On the ~~second Tuesday in March, 1988,~~ Tuesday after the first Monday in May,
42 1992, and every four years thereafter, the voters of this State shall be given an
43 opportunity to express their preference for the person to be the presidential candidate of
44 their political party.

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

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

10 **"§ 163-213.3. Conduct of election.**

11 The presidential preference primary election shall be conducted and canvassed by
12 the same authority and in the manner provided by law for the conduct and canvassing of
13 the primary election for the office of Governor and all other offices enumerated in G.S.
14 163-187 and under the same provisions stipulated in G.S. ~~163-188, 163-188.~~ ~~except that~~
15 ~~the earliest date by which absentee ballots shall be available shall be 35 days prior to the~~
16 ~~date of the primary.~~ The State Board of Elections shall have authority to promulgate
17 reasonable rules and regulations, not inconsistent with provisions contained herein,
18 pursuant to the administration of this Article."

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

20 **"§ 163-213.4. Nomination by State Board of Elections.**

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

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

33
34
35 **PART 7.—OFFICE OF STATE AUDITOR**

36
37 Requested by: Representatives Bowman, N.J. Crawford

38 —DEPARTMENT OF REVENUE PERFORMANCE AUDIT

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

1 PART 8.—DEPARTMENT OF ADMINISTRATION

2

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

4 —BOARD OF SCIENCE AND TECHNOLOGY LIMITATION

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

8

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

10 —OFFICE OF STATE PERSONNEL DECENTRALIZATION

11 Sec. 18. (a) Effective January 1, 1993, the Office of State Personnel shall
12 have decentralized the classification and salary administration functions of all State
13 departments with more than 500 permanent full-time employees, subject to criteria and
14 standards set by the State Personnel Commission. The Commission shall have the
15 authority to suspend decentralization when agencies violate State Personnel
16 Commission criteria and standards.17 The Office of State Personnel shall report annually to the Joint Legislative
18 Commission on Governmental operations and to the Fiscal Research Division by
19 December 1 of each year, beginning on December 1, 1991, on its progress towards this
20 decentralization.21 (b) The Office of State Personnel shall present its plan for decentralization of
22 the classification and salary administration functions to the State Personnel Study
23 Commission or its successor. The State Personnel Study Commission shall consider
24 those statutory changes as may facilitate decentralization and report its
25 recommendations to the General Assembly by April 1, 1992.

26

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

28 —COUNCIL OF GOVERNMENT FUNDS

29 Sec. 19. (a) Of the funds appropriated in this Title to the Department of
30 Administration, \$864,270 for 1991-92 fiscal year and \$864,270 for 1992-93 fiscal year
31 shall only be used as provided by this section. Each regional council of government or
32 lead regional organization is allocated up to \$48,015 each fiscal year, with the actual
33 amount calculated as provided in subsection (b) of this section.34 (b) The funds shall be allocated as follows: A share of the maximum \$48,015
35 each fiscal year shall be allocated to each county and smaller city based on the most
36 recent annual estimate of the Office of State Budget and Management of the population
37 of that county (less the population of any larger city within that county) or smaller city,
38 divided by the sum of the total population of the region (less the population of larger
39 cities within that region) and the total population of the region living in smaller cities.
40 Those funds shall be paid to the regional council of government for the region in which
41 that city or county is located upon receipt by the Department of Administration of a
42 resolution of the governing board of the county or city requesting release of the funds.
43 If any city or county does not so request payment of funds by June 30 of a State fiscal
44 year, that share of the allocation for that fiscal year shall revert to the General Fund.

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

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

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

10
11 Requested by: Representatives Ethridge, N.J. Crawford

12 ---ALLOCATION OF RAPE CRISIS CENTER FUNDS

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

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

25 ---DOMESTIC VIOLENCE CENTER FUNDS

26 Sec. 21. The funds appropriated in this Title to the Department of
27 Administration, Council on the Status of Women, for fiscal years 1991-92 and 1992-93
28 for domestic violence centers, shall be allocated equally among all of the 61 domestic
29 violence centers in operation on July 1, 1989, that offered services including a hotline,
30 transportation services, community education programs, daytime services, and call
31 forwarding during the night. For the 1991-92 fiscal year and for the 1992-93 fiscal
32 year, each grant shall be \$17,500. Grants shall be awarded based on criteria established
33 by the Department of Administration and disbursed on a quarterly basis. The North
34 Carolina Coalition Against Domestic Violence, Incorporated, is eligible for a grant of
35 \$10,000 under this section.

36
37 Requested by: Representatives Bowman, N.J. Crawford

38 ---MOTOR FLEET MANAGEMENT CHANGES/EFFICIENCY
39 MEASURES/COMMUTING AND SPECIAL USE VEHICLE RESTRICTIONS

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

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

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

41 As used in this subpart, 'suitable transportation'
42 means the standard vehicle in the State motor fleet,
43 unless special towing provisions are required by the
44 employee or agency. The Department may not assign

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

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

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

- 20 I. Pursuit vehicles and full size ~~4-wheel~~ four-wheel
21 drive vehicles – \$.24/mile.
22 II. Vans and compact ~~4-wheel~~ four-wheel drive
23 vehicles – \$.22/mile.
24 III. All other vehicles – \$.20/mile.
- 25 7. To adopt, with the approval of the Governor, reasonable
26 rules for the efficient and economical operation,
27 maintenance, repair, and ~~replacement~~ replacement, as
28 limited in paragraph 4. of this subdivision, of all state-
29 owned motor vehicles under the control of the
30 Department, and to enforce those rules; and to adopt,
31 with the approval of the Governor, reasonable rules
32 regulating the use of private motor vehicles upon State
33 business by the officers and employees of State agencies,
34 and to enforce those rules. The Department, with the
35 approval of the Governor, may delegate to the respective
36 heads of the agencies to which motor vehicles are
37 permanently assigned by the Department the duty of
38 enforcing the rules adopted by the Department pursuant
39 to this paragraph. Any person who violates a rule
40 adopted by the Department and approved by the
41 Governor is guilty of a misdemeanor, and upon
42 conviction is punishable in the discretion of the court.
- 43 7a. To adopt with the approval of the Governor and to
44 enforce rules and to coordinate State policy regarding (i)

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

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

1 minimum annual rate, the permanent assignment shall
2 be revoked immediately.

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

1 Division of Motor Fleet Management, shall report
2 quarterly to the Joint Legislative Commission on
3 Governmental Operations and to the Fiscal Research
4 Division of the Legislative Services Office on
5 individuals who use State-owned passenger motor
6 vehicles, pickup trucks, or vans between their official
7 work stations and their homes, who are not required to
8 reimburse the State for these trips.

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

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

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

40 The Department of Administration, with the approval of the
41 Governor, may delegate, or conditionally delegate, to the
42 respective heads of agencies which own passenger motor
43 vehicles or to which passenger motor vehicles are
44 permanently assigned by the Department, the duty of

enforcing all or part of the rules adopted by the Department of Administration pursuant to this subdivision 7a. The Department of Administration, with the approval of the Governor, may revoke this delegation of authority.

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

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

Requested by: Representatives Bowman, N.J. Crawford

—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

1 receivable during the preceding fiscal year and less an amount equal to the costs during
2 the preceding fiscal year of:

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

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

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

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

36 The chairman of each board of county commissioners and the mayor of each
37 municipality shall report to the Secretary of Revenue information requested by the
38 Secretary to enable the Secretary to distribute the amount appropriated by this section.
39 If a county or municipality fails to make a requested report within the time allowed, the
40 Secretary may disregard the county or municipality in distributing the amount
41 appropriated by this section. The amount distributed to each county and municipality
42 shall be used by the county or municipality in proportion to property tax levies made by
43 it for the various funds and activities of the county or municipality, unless the county or
44 municipality has pledged the amount to be distributed to it under this section in payment

1 of a loan agreement with the North Carolina Solid Waste Management Capital Projects
2 Financing Agency. A county or municipality that has pledged amounts distributed
3 under this section in payment of a loan agreement with the Agency may apply the
4 amount the loan agreement requires.

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

9
10
11 PART 10.—DEPARTMENT OF REVENUE

12
13 Requested by: Representatives Bowman, N.J. Crawford
14 —NO GAS TAX ON GAS FOR STATE VEHICLES

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

17 **"§ 105-449A. Exemption of motor fuel used in State vehicles.**

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

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

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

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

41
42
43 PART 11.—OFFICE OF THE GOVERNOR

1 — COMPUTER RESERVE FUND

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

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

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

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

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

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

35

36 Requested by: Representatives Nesbitt, Diamont, McAllister

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

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

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

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

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

13
14 ---RESERVE FOR LOCAL GOVERNMENT TAX SHARING

15 Sec. 28. (a) There is created in the Office of State Budget and Management a
16 special reserve to be known as the Local Government Tax Sharing Reserve. Funds in
17 the reserve shall be distributed to local governments as provided in G.S. 105-113.82,
18 105-116(d), 105-120(c), and 105-213, as amended by this section.

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

20 "(a) Amount, Method. – An amount equal to the following percentages of the net
21 amount of excise taxes collected, during the period that ~~begins the preceding October 1~~
22 ~~and ends September 30, began October 1, 1989, and ended September 30, 1990,~~ on the
23 sale of malt beverages and wine, less the amount of the net proceeds credited to the
24 Department of Agriculture under G.S. 105-113.81A, is annually appropriated from the
25 General Fund to the counties and cities in which the retail sale of these beverages is
26 authorized:

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

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

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

42 "(d) Appropriation. There is annually appropriated from the General Fund to each
43 municipality an amount that equals three and nine hundredths percent (3.09%) of the
44 taxable gross receipts derived, from ~~April 1 of the preceding fiscal year to the following~~

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

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

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

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

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

36 (e) G.S. 105-213(a) reads as rewritten:

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

42 (1) Refunds made during the fiscal year of taxes levied under this Article.

43 (2) The Department of Revenue to collect and administer the taxes levied
44 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 The appropriation shall be distributed by August 30 of each year. The appropriation
7 shall be included in the Current Operations Appropriations Act.

8 The appropriation shall be allocated among the counties in proportion to the amount
9 of taxes collected under this Article in each county during the preceding fiscal year. ~~To~~
10 distribute the appropriation, the The Secretary of Revenue shall keep a separate record
11 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.~~ Article. The
15 Secretary shall allocate the amount appropriated under this Article section 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~~ allocated
20 between the county and the municipalities in the county in proportion to the total
21 amount of ad valorem taxes levied by each during the fiscal year preceding the
22 distribution. After making these allocations, the Secretary of Revenue shall certify to
23 the State Controller and to the State Treasurer the amount to be distributed to each
24 county and municipality in the State. The State Controller shall then issue a warrant on
25 the State Treasurer to each county and municipality in the amount certified. The
26 amount to be distributed shall be drawn from the Local Government Tax Sharing
27 Reserve.

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

37 The chairman of each board of county commissioners and the mayor of each
38 municipality shall report to the Secretary of Revenue information requested by the
39 Secretary to enable the Secretary to ~~distribute~~ allocate the amount appropriated by this
40 section. If a county or municipality fails to make a requested report within the time
41 allowed, the Secretary may disregard the county or municipality in ~~distributing~~
42 allocating the amount appropriated by this section. The amount distributed to each
43 county and municipality shall be used by the county or municipality in proportion to
44 property tax levies made by it for the various funds and activities of the county or

1 municipality, unless the county or municipality has pledged the amount to be distributed
2 to it under this section in payment of a loan agreement with the North Carolina Solid
3 Waste Management Capital Projects Financing Agency. A county or municipality that
4 has pledged amounts distributed under this section in payment of a loan agreement with
5 the Agency may apply the amount the loan agreement requires."
6
7

8 **PART 12.—OFFICE OF THE STATE CONTROLLER**
9

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

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

17 The rates set by this amended rate schedule shall not be increased during the
18 1991-93 fiscal biennium.
19
20

21 **PART 13.—GENERAL ASSEMBLY**
22

23 Requested by: Representatives Bowman, N. J. Crawford
24 —STUDY COMMISSION ON COMPUTER SERVICES

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

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

43 (c) The Study Commission on Computer Services shall examine the
44 functions, powers, and effectiveness of the Information Technology Commission, the

1 organization and operation of the State Information Processing Service, the processes by
2 which long term plans for computer applications are devised and approved, the policies
3 and practices applied to hardware and software procurement, and such other issues as
4 may, in the judgment of the Commission, relate to the cost of computer usage in State
5 government.

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

13 (e) Members of the Study Commission who are also members of the General
14 Assembly shall be paid subsistence and travel expenses at the rate set forth in G.S. 120-
15 3.1. Members of the Study Commission who are officials or employees of the State
16 shall receive travel allowances at the rate set forth in G.S. 138-6. All other members of
17 the Study Commission shall be paid per diem and allowances at the rates set forth in
18 G.S. 138-5.

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

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

24
25 Requested by: Representative Huffman

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

28 Sec. 30.1. The Legislative Services Commission shall review its action on
29 longevity pay for General Assembly employees, especially as it differs from that
30 awarded to State employees, to determine whether other, alternative methods of
31 encouraging and rewarding employee longevity should be implemented. The
32 Commission shall report the results of its review to the Joint Legislative Commission on
33 Governmental Operations by April 15, 1992.

34
35
36 PART 14.—PUBLIC SCHOOLS

37
38 Requested by: Representative Nesbitt

39 —TRANSFER OF FUNDS

40 Sec. 30.1. Of the funds appropriated to the Department of Public Education
41 in Title I of this act, the sum of \$1,771,245 for the 1991-92 fiscal year and the sum of
42 \$1,771,245 for the 1992-93 fiscal year is transferred from Line Item 6606 - Salary -
43 Teachers to the Judicial Department for retirement contributions for the Judicial
44 Department.

1

2 Requested by: Representatives Payne, Fussell

3 —CONSOLIDATE SCHOOL ADMINISTRATOR ALLOTMENTS

4

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

7

8 Requested by: Representatives Payne, Fussell

9 —DRIVER TRAINING PROGRAM

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

11 "**§ 20-88.1. Driver training and safety education.**

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

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

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

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

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

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

4 **"§ 115C-215. Instruction in driver training and safety education.**

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

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

12 **"§ 115C-216. Boards of education required to provide courses in operation of**
13 **motor vehicles.**

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

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

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

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

1 ~~Assembly is hereby given for the levying of taxes for such purpose and for providing~~
2 ~~funds for such purpose by the other means herein mentioned.~~

3 ~~(e) Content of Course; What Persons Eligible.—The words "a course of training~~
4 ~~and instruction for eligible persons in the operation of motor vehicles" as applied to this~~
5 ~~section means such course of instruction in the operation of motor vehicles prescribed~~
6 ~~or approved by the Department of Public Instruction, provided that every such course~~
7 ~~shall include actual operation of motor vehicles by the persons eligible for same, under~~
8 ~~the supervision of a qualified instructor. Only such persons older than 14 years and six~~
9 ~~months, who are approved by the principal of the school, shall be eligible for such~~
10 ~~course of instruction, subject to rules and regulations prescribed by the Department of~~
11 ~~Public Instruction.~~

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

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

21
22 Requested by: Representatives Payne, Fussell

23 —DROPOUT PREVENTION/IN-SCHOOL SUSPENSION

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

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

37
38 Requested by: Representatives Payne, Fussell

39 —DROPOUT PREVENTION COORDINATORS

40 Sec. 34. Of the funds appropriated to the Department of Public Education for
41 aid to local school administrative units for dropout prevention, the State Board of
42 Education shall allocate to the Department of Public Instruction up to \$225,000 for the
43 1991-92 fiscal year and up to \$225,000 for the 1992-93 fiscal year for the three dropout
44 prevention coordinators. The State Superintendent shall assign the dropout prevention

1 coordinators to designated areas within the State and shall develop job descriptions for
2 them. These funds are to be part of the continuation budget in the next biennium.

3
4 Requested by: Representatives Payne, Fussell

5 —PROJECT TEACH FUNDS

6 Sec. 35. Of the funds appropriated to the Department of Public Education for
7 the 1991-93 fiscal biennium for aid to local school administrative units, the State Board
8 of Education shall allocate to the Department of Public Instruction \$73,000 for the
9 1991-92 fiscal year and \$73,000 for the 1992-93 fiscal year to be used to:

10 (1) Maintain the Project Teach Initiative in the Robeson, Pitt,
11 Cumberland, Warren, Halifax, Guilford, Vance, Northampton, Anson
12 and Bertie County Schools, and the Durham, High Point, and
13 Greensboro City Schools.

14 (2) Expand the project in at least two school systems to focus on parents
15 of students in the seventh grade so as to involve parents in the
16 coaching and support of promising minority young people.

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

18
19 Requested by: Representatives Payne, Fussell

20 —ADVANCED TRAINING FOR FOREIGN LANGUAGE TEACHERS

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

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

27 —CONTINUE MODEL TEACHER EDUCATION CONSORTIUM

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

33
34 Requested by: Representatives Payne, Fussell

35 —FUNDING FOR CITY SCHOOL SYSTEMS

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

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

1 **"§ 115C-68.1. Merger of units by the board of county commissioners.**

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

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

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

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

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

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

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

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

38 **"§ 115C-68.2. Merger of units by the local boards of education.**

39 If a city board of education notifies the State Board of Education that it is dissolving
40 itself, the State Board of Education shall adopt a plan of consolidation and merger of
41 that city school administrative unit with the county school administrative unit in the
42 county in which the city unit is located; provided, however, if a city school
43 administrative unit located in more than one county notifies the State Board of
44 Education that it is dissolving itself, the State Board shall adopt a plan that divides the

1 city unit along the county line and consolidates and merges the part of the city unit in
2 each county with the county unit in that county and the plans shall take effect on the
3 same day. The plans shall be prepared and approved in accordance with G.S. 115C-67
4 as provided by general law, and G.S. 115C-68 as provided by general law, as
5 applicable, except that the county and city boards of education and the boards of
6 commissioners shall not participate by preparing, entering into, submitting, or agreeing
7 to a plan, and the plan shall not be contingent upon approval by the voters."

8 (d) No liability for any supplemental school tax levied under local act or G.S.
9 115C-501 to G.S. 115C-511 that attached prior to the date on which a levy is
10 discontinued pursuant to a plan for merger for local school administrative units under
11 G.S. 115C-68.1 or G.S. 115C-68.2 is discharged as a result of the repeal, and no right to
12 a refund of tax that accrued prior to the effective date on which a levy is discontinued
13 may be denied as a result of the repeal.

14 This subsection becomes effective July 1, 1991.

15
16 Requested by: Representatives Payne, Fussell

17 —PUPIL TRANSPORTATION PROGRAM IMPROVEMENTS

18 Sec. 38. The Department of Public Instruction shall implement the Pupil
19 Transportation Program Improvements Implementation Projects authorized by Section
20 55 of Chapter 752 of the 1989 Session Laws. The Department of Public Instruction
21 may use up to \$400,000 of the funds appropriated for the 1991-92 fiscal year for aid to
22 local school administrative units for pupil transportation in order to replace computer
23 equipment located in the 100 county school bus garages and in the Department of Public
24 Instruction, as required by the State Fleet Vehicle Management System, and for other
25 purposes required for the implementation of the projects authorized by the 1989
26 Session.

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

30
31 Requested by: Representatives Diamont, Nesbitt

32 —APPROPRIATION OF FUNDS FROM STATE LITERARY FUND

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

36
37
38 PART 15.—COMMUNITY COLLEGES

39
40 Requested by: Representatives Payne, Fussell

41 —MAINTENANCE OF PLANT

42 Sec. 40. (a) Notwithstanding any provision of law to the contrary, any
43 community college that has an out-of-county student head count served on the main
44 campus of the college in excess of fifty percent (50%) of the total student head count as

1 defined by the State Board of Community Colleges shall be provided funds for the
2 purpose of "operations of plant". These funds shall not exceed eighty-five percent
3 (85%) of the funds allocated to these colleges during the 1990-91 fiscal year for this
4 purpose.

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

6
7 Requested by: Representatives Payne, Fussell

8 ---BUDGET FLEXIBILITY

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

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

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

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

23
24 Requested by: Representatives Payne, Fussell

25 ---OPERATING APPROPRIATIONS/NOT USED FOR RECREATION
26 EXTENSION

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

34
35 Requested by: Representatives Payne, Fussell

36 ---FULL-TIME EQUIVALENT TEACHING POSITIONS/COMMUNITY
37 COLLEGES

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

44

1 Requested by: Representatives Payne, Fussell
2 ---TUITION/PUBLIC SCHOOL STUDENTS TAKING COMMUNITY COLLEGE
3 COURSES

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

5 "(b) In order to make instruction as accessible as possible to all citizens, the
6 teaching of curricular courses and of noncurricular extension courses at convenient
7 locations away from institution campuses as well as on campuses is authorized and shall
8 be encouraged. A pro rata portion of the established regular tuition rate charged a full-
9 time student shall be charged a part-time student taking any curriculum course. In lieu
10 of any tuition charge, the State Board of Community Colleges shall establish a uniform
11 registration fee, or a schedule of uniform registration fees, to be charged students
12 enrolling in extension courses for which instruction is financed primarily from State
13 funds; provided, however, that the State Board of Community Colleges may provide by
14 general and uniform regulations for waiver of tuition and registration fees for persons
15 not enrolled in elementary or secondary schools taking courses leading to a high school
16 diploma or equivalent certificate, for training courses for volunteer firemen, local fire
17 department personnel, volunteer rescue and lifesaving department personnel, local
18 rescue and lifesaving department personnel, Radio Emergency Associated Citizens
19 Team (REACT) members when the REACT team is under contract to a county as an
20 emergency response agency, local law-enforcement officers, patients in State alcoholic
21 rehabilitation centers, all full-time custodial employees of the Department of Correction,
22 employees of the Department of Correction's Division of Adult Probation and Parole
23 and employees of the Division of Youth Services of the Department of Human
24 Resources required to be certified pursuant to Chapter 17C of the General Statutes and
25 the rules of the Criminal Justice and Training Standards Commission, trainees enrolled
26 in courses conducted under the New and Expanding Industry Program, clients of
27 sheltered workshops, clients of adult developmental activity programs, students in
28 Human Resources Development Programs, juveniles of any age committed to the
29 Division of Youth Services of the Department of Human Resources by a court of
30 competent jurisdiction, and prison inmates. Provided further, tuition shall be waived for
31 senior citizens attending institutions operating pursuant to this Chapter as set forth in
32 Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided
33 further, tuition shall also be waived for all courses taken by high school students at
34 community colleges in accordance with G.S. 115D-20(4) and this section."

35

36 Requested by: Representatives Payne, Fussell

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

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

1 Management which appropriations will revert at the end of the 12 months after the close
2 of each fiscal year.

3

4 Requested by: Representatives Payne, Fussell

5 —" TECH PREP" IMPLEMENTATION

6 Sec. 46. Of the funds available to the Department of Public Education for
7 vocational education, \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93
8 fiscal year, shall be allocated to the North Carolina Tech Prep Leadership Development
9 Center at Richmond Community College for assistance to local education agencies and
10 community colleges in planning and implementing "Tech Prep" across the State. The
11 Department of Community Colleges shall allocate \$50,000 each year from funds
12 available to it for the 1991-92 fiscal year and for the 1992-93 fiscal year for the North
13 Carolina "Tech Prep" Leadership Development Center at Richmond Community
14 College.

15

16 Requested by: Representatives Payne, Fussell

17 —ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION

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

28

29 Requested by: Representative Nesbitt

30 —STATE DEFENSE MILITIA EXEMPT FROM COMMUNITY COLLEGE
31 TUITION AND FEES

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

33 "(b) In order to make instruction as accessible as possible to all citizens, the
34 teaching of curricular courses and of noncurricular extension courses at convenient
35 locations away from institution campuses as well as on campuses is authorized and shall
36 be encouraged. A pro rata portion of the established regular tuition rate charged a full-
37 time student shall be charged a part-time student taking any curriculum course. In lieu
38 of any tuition charge, the State Board of Community Colleges shall establish a uniform
39 registration fee, or a schedule of uniform registration fees, to be charged students
40 enrolling in extension courses for which instruction is financed primarily from State
41 funds; provided, however, that the State Board of Community Colleges may provide by
42 general and uniform regulations for waiver of tuition and registration fees for persons
43 not enrolled in elementary or secondary schools taking courses leading to a high school
44 diploma or equivalent certificate, for training courses for volunteer firemen, local fire

1 department personnel, volunteer rescue and lifesaving department personnel, local
2 rescue and lifesaving department personnel, Radio Emergency Associated Citizens
3 Team (REACT) members when the REACT team is under contract to a county as an
4 emergency response agency, local law-enforcement officers, patients in State alcoholic
5 rehabilitation centers, all full-time custodial employees of the Department of Correction,
6 employees of the Department's Division of Adult Probation and Parole and employees
7 of the Division of Youth Services of the Department of Human Resources required to be
8 certified pursuant to Chapter 17C of the General Statutes and the rules of the Criminal
9 Justice and Training Standards Commission, trainees enrolled in courses conducted
10 under the New and Expanding Industry Program, clients of sheltered workshops, clients
11 of adult developmental activity programs, students in Human Resources Development
12 Programs, juveniles of any age committed to the Division of Youth Services of the
13 Department of Human Resources by a court of competent jurisdiction, ~~and prison~~
14 ~~inmates.~~ prison inmates, and members of the North Carolina State Defense Militia as
15 defined in G.S. 127A-5 and as administered pursuant to Article 5 of Chapter 127A of
16 the General Statutes. Provided further, tuition shall be waived for senior citizens
17 attending institutions operating pursuant to this Chapter as set forth in Chapter 115B of
18 the General Statutes, Tuition Waiver for Senior Citizens."

19
20
21 PART 16.—COLLEGES AND UNIVERSITIES

22
23 Requested by: Representatives Payne, Fussell
24 —TEACHING HOSPITAL REIMBURSEMENT

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

29
30 Requested by: Representatives Payne, Fussell
31 —AID TO PRIVATE COLLEGES/LEGISLATIVE TUITION GRANT
32 LIMITATIONS

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

39 (b) No Legislative Tuition Grant funds may be expended for a program at an off-
40 campus site of a private institution, as defined in G.S. 116-22(1), established after May
41 15, 1987, unless (i) the private institution offering the program has previously notified
42 and secured agreement from other private institutions operating degree programs in the
43 county in which the off-campus program is located or operating in the counties adjacent

1 to that county or (ii) the degree program is neither available nor planned in the county
2 with the off-campus site or in the counties adjacent to that county.

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

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

11
12 Requested by: Representatives Payne, Fussell

13 —AID TO PRIVATE COLLEGES/PROCEDURE

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

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

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

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

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

1 has properly certified eligibility and enrollment of students and credited grants paid on
2 the behalf of the students.

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

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

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

12 Any remaining funds shall revert to the General Fund.

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

15
16 Requested by: Representatives Payne, Fussell

17 —WAKE FOREST AND DUKE MEDICAL SCHOOL ASSISTANCE/FUNDING
18 FORMULAE

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

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

41 The Board of Governors shall establish the criteria for determining the
42 eligibility for financial aid of needy North Carolina students who are enrolled in the
43 medical schools and shall review the grants or awards to eligible students. The Board of
44 Governors shall adopt rules for determining which students are residents of North

1 Carolina for the purposes of these programs. The Board of Governors shall also make
2 any regulations as necessary to ensure that these funds are used directly for instruction
3 in the medical programs of the schools and not for religious or other nonpublic
4 purposes. The Board of Governors shall encourage the two schools to orient students
5 towards personal health care in North Carolina giving special emphasis to family and
6 community medicine.

7
8 Requested by: Representatives Payne, Fussell

9 —UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL
10 HILL/NURSING

11 Sec. 53. Notwithstanding the provisions of G.S. 126-4(1), G.S. 126-4(2),
12 and Section 9 of Chapter 738 of the 1987 Session Laws, as amended by Section 100(a)
13 of the 1987 Session Laws, and as further amended by Section 54 of Chapter 500 of the
14 1989 Session Laws, the Current Operations Appropriations Act of 1989, the Board of
15 Directors of the University of North Carolina Hospitals at Chapel Hill shall establish
16 policies and rules governing the study and implementation of competitive position
17 classification and compensation plans for registered and licensed practical nurse
18 positions that have been approved by the Board of Directors. These plans shall provide
19 for minimum, maximum, and intermediate rates of pay, and may include provisions for
20 range revisions and shift premium pay and for salary adjustments to address internal
21 inequities, job performance, and market conditions. The Office of State Personnel shall
22 review the classification and compensation plans on an annual basis, and all changes in
23 compensation plans for these registered and licensed practical nursing positions shall be
24 submitted to the Office of State Personnel upon implementation.

25
26 Requested by: Representatives Payne, Fussell

27 —UNC BUDGETARY CHANGES

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

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

38
39 Requested by: Representatives Payne, Fussell

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

42 Sec. 55. The Board of Governors of The University of North Carolina and
43 the State Board of Community Colleges shall develop and implement a new
44 Memorandum of Agreement between the Small Business and Technology Development

1 Centers Program (SBTDC) in The University of North Carolina and the Small Business
2 Assistance Centers in the Community Colleges system. This Memorandum of
3 Agreement shall:

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

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

23
24 Requested by: Representatives Payne, Fussell

25 —UNC BOARD OF GOVERNORS PREVENTION OF DUPLICATIVE
26 ECONOMIC DEVELOPMENT EFFORTS

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

- 30 (1) Reallocate the funds for Northeastern North Carolina Tomorrow
31 (E.C.S.U.), Western North Carolina Tomorrow (W.C.U.), the Regional
32 Development Institute (ECU), The Economic Development Office
33 (PSU), and the Urban Development Institute (UNC-C), pulled out of
34 the individual campuses and provided to the Board in this act, after the
35 funding reduction required by this act, to achieve consolidation of
36 services and after:
 - 37 a. Ensuring that the efforts of these offices are consistent with the
38 Small Business and Technology Development Centers Program
39 (SBTDC) efforts and may be used to match federal funds,
40 including additional federal funds that may become available.
41 The Board shall, when possible, consolidate these offices into
42 the (SBTDC) network; and
 - 43 b. Requiring the Small Business and Technology Development
44 Centers Program (SBTDC) to provide those direct services to

1 small businesses previously offered by the Department of
2 Economic and Community Development, including
3 purchaser/supplier conferences and export assistance.

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

8

9 Requested by: Representative Nesbitt

10 —OBSTETRICAL EDUCATION FUNDS

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

18

19

20 PART 17.—DEPARTMENT OF TRANSPORTATION

21

22 Requested by: Representative Anderson

23 —MOWING ROAD SHOULDERS

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

35

36 Requested by: Representatives McLaughlin, Holt

37 —DOT PERSONNEL ACTIONS REPORTED

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

43

44 Requested by: Representatives McLaughlin, Holt

1 —PLAN TO REDUCE LABOR VARIANCE

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

9

10 Requested by: Representatives McLaughlin, Holt

11 —PERFORMANCE AUDIT COMPARING COST OF ENGINEERING SERVICES
12 BETWEEN DEPARTMENT OF TRANSPORTATION AND PRIVATE
13 ENGINEERING FIRMS

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

23

24 Requested by: Representatives McLaughlin, Holt

25 —REDUCTION OF HIGHWAY TRUST FUND REVENUE USED FOR
26 ADMINISTRATIVE EXPENSES

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

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

- 34 (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design,
35 and construct the projects of the Intrastate System described in G.S.
36 136-179.
- 37 (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and
38 construct the urban loops described in G.S. 136-180.
- 39 (3) Six and one-half percent (6.5%) to supplement the appropriation to
40 cities for city streets under G.S. 136-181.
- 41 (4) Six and one-half percent (6.5%) for secondary road construction as
42 provided in G.S. 136-182."

43

44 Requested by: Representatives McLaughlin, Holt

1 —BRANCH AGENT TRANSACTION RATE

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

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

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

27
28 Requested by: Representatives McLaughlin, Holt

29 —BIDS FOR COMPUTER SERVICES

30 Sec. 64. In requests for bids, requests for quotes, requests for proposals, or
31 other procurement actions issued through the Department of Administration, Division of
32 Purchase and Contract, or through any other State agency, for vendors to develop a
33 strategic plan, conduct a feasibility study, or prepare a needs assessment for a computer
34 system, information system, data communications network, data processing application,
35 or other information technology application, there shall be a provision that reads as
36 follows: "Eligibility for Future Requirements: The successful offeror on this project
37 will not be considered for an award on subsequent hardware, software, software
38 support, and related procurements which are based on specifications or
39 recommendations resulting from this procurement." The Division of Purchase and
40 Contract and the State agency or agencies involved in the procurement may delete this
41 provision in a procurement request by jointly (i) filing a written request with the
42 Director of the Office of State Budget for authorization to delete this provision from the
43 procurement effort, (ii) sending a copy of this written request for authorization to the
44 Director of the Fiscal Research Division at the time it is filed with the Office of State

1 Budget, (iii) receiving written authorization to delete the provision from the Director of
2 the Office of State Budget, and (iv) reporting the authorization, if it is granted, to the
3 Director of the Fiscal Research Division and to the next meeting of the Joint Legislative
4 Commission on Governmental Operations.

5
6 Requested by: Representatives McLaughlin, Holt, Bowie

7 ~~—NORTH CAROLINA RAILROAD DIVIDENDS APPROPRIATED TO THE~~
8 ~~HIGHWAY FUND FOR RAILROAD PURPOSES~~

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

10 **"§ 136-16.6. Continuing rail appropriations.**

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

20
21 Requested by: Representatives McLaughlin, Holt

22 ~~—TRANSFER OF FUNDS FROM THE EQUIPMENT FUND~~

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

26
27
28 PART 18.—DEPARTMENT OF CORRECTION

29
30 Requested by: Representatives Anderson, Redwine

31 ~~—PRIVATE CONFINEMENT FACILITIES~~

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

36
37 Requested by: Representatives Anderson, Redwine

38 ~~—NEGOTIATED RATES FOR MEDICAL SERVICES~~

39 Sec. 68. The Department of Correction shall negotiate for rates as close to
40 Medicaid rates as possible for all medical services rendered to that Department by
41 providers who are not State employees. The Department shall report the results of its
42 negotiations to the Chairmen of the Senate Appropriations Committee and the Senate
43 Base Budget Appropriations Committee, the Chairmen of the House Appropriations

1 Committee, and the Chairmen of the Senate and the House Appropriations Committees
2 on Justice and Public Safety prior to March 15, 1992.

3
4 Requested by: Representatives Anderson, Redwine

5 ---LIMIT USE OF OPERATIONAL FUNDS

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

13
14 Requested by: Representatives Anderson, Redwine

15 ---INMATE REPRESENTATION STUDY

16 Sec. 70. The Joint Legislative Commission on Governmental Operations
17 shall study the issue of providing legal representation to inmates in the custody of the
18 Department of Correction by examining the current means and alternative means of
19 providing such representation and determining which of those means are the most
20 feasible. The Commission shall report its findings and any recommendations to the
21 Chairmen of the Senate and House Appropriations Committees and the Chairmen of the
22 Senate and House Appropriations Committees on Justice and Public Safety by May 1,
23 1992.

24
25
26 PART 19.—DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

27
28 Requested by: Representatives Anderson, Redwine

29 ---REPORT ON COMMUNITY SERVICE WORKERS

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

36
37 Requested by: Representatives Anderson, Redwine

38 ---REPORTS ON THE COMMUNITY PENALTIES PROGRAM AND THE CRIME
39 VICTIMS COMPENSATION FUND

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

1

2 Requested by: Representatives Anderson, Redwine

3 —LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER
4 GRANTS5 Sec. 73. (a) Section 1303(4) of the Omnibus Crime Control and Safe Streets
6 Act of 1968 provides that State applications for drug law enforcement grants are subject
7 to review by the State legislature or its designated body.8 (b) The North Carolina General Assembly hereby provides that State applications
9 for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M
10 of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of
11 P.L. 99-570, the Anti-Drug Abuse Act of 1986, are subject to review by the Joint
12 Legislative Commission on Governmental Operations if at the time of review the
13 General Assembly is not in session.14 (c) Unless a State statute provides a different forum for review where a federal
15 law or regulation provides that a State application for a grant must be reviewed by the
16 State legislature or its designated body and at the time of the review the General
17 Assembly is not in session, that application shall be reviewed by the Joint Legislative
18 Commission on Governmental Operations.

19

20 Requested by: Representatives Anderson, Redwine

21 —REPORT ON MOTOR VEHICLE REPLACEMENT COST

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

32

33 Requested by: Representatives Anderson, Redwine

34 —REPORT ON HIGHWAY PATROL FURNITURE AND EQUIPMENT
35 REPLACEMENT SCHEDULE36 Sec. 75. The Highway Patrol, Department of Crime Control and Public
37 Safety, shall report to the 1991 General Assembly, 1992 Regular Session, regarding the
38 reductions in the replacement schedule for furniture and equipment for the Highway
39 Patrol for the 1991-92 fiscal year and the effect, if any, of those reductions. The
40 Highway Patrol shall also report on the projected cost of the replacement schedule for
41 equipment and furniture for the 1992-93 fiscal year.

42

43 Requested by: Representatives Anderson, Redwine

44 —CRIME VICTIMS COMPENSATION/SOFTWARE FUNDS

1 Sec. 76. (a) The Office of State Budget and Management shall designate
2 \$10,080 of the Computer Reserve Fund created in the Office of State Budget and
3 Management for the 1991-92 fiscal year for the critical computer needs of the Crime
4 Victims Compensation Program in the Department of Crime Control and Public Safety.

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

7
8
9 PART 20.—JUDICIAL DEPARTMENT

10
11 Requested by: Representatives Anderson, Redwine
12 —COMMISSIONERS ON UNIFORM STATE LAWS

13 Sec. 77. From funds appropriated to the Judicial Department in the certified
14 budget for the 1991-93 biennium, the Administrative Office of the Courts may transfer
15 within its budget up to \$19,000 for the 1991-92 fiscal year and up to \$19,000 for the
16 1992-93 fiscal year to reimburse the expenses of travel of the North Carolina delegation
17 of the National Conference of Commissioners on Uniform State Laws.

18
19 Requested by: Representatives Anderson, Redwine
20 —INDIGENT PERSONS' ATTORNEY FEE FUND

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

27 (b) Effective July 1, 1991, the Administrative Office of the Courts shall, for
28 each year of the biennium, allot the sum of \$11,500,000 from the Indigent Persons'
29 Attorney Fee Fund for adult, juvenile, and guardian **ad litem** cases for the 1991-92 and
30 1992-93 fiscal years to each judicial district where the superior and district court
31 districts are coterminous, and otherwise by county, according to the caseload of indigent
32 persons who were not represented by the public defender in the districts or counties
33 during 1990-91 and 1991-92, respectively.

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

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

1 assure that all judges holding court within the county receive this request from the
2 senior resident superior court judge and the chief district court judge.

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

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

17
18 Requested by: Representatives Anderson, Redwine

19 —CURRENT OPERATING EXPENSES

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

28
29 Requested by: Representatives Anderson, Redwine

30 —RAPE VICTIM WITNESS COUNSELLOR PROGRAM

31 Sec. 80. From funds appropriated to the Judicial Department in the certified
32 budget for the 1991-93 biennium in this Title, the Administrative Office of the Courts
33 may transfer within its budget up to \$25,000 for the 1991-92 fiscal year and up to
34 \$25,000 for the 1992-93 fiscal year to support the existing Rape Victim Witness
35 Counsellor Program.

36
37 Requested by: Representatives Anderson, Redwine

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

41 Sec. 81. (a) Before the 1992 Regular Session of the General Assembly
42 convenes, the Administrative Office of the Courts shall submit to the House and Senate
43 Appropriations Committees on Justice and Public Safety and to the Joint Legislative
44 Commission on Governmental Operations two reports which compare the amount

1 actually spent on private assigned counsel for indigent persons in Superior Court
2 District or Set of Districts 4A (Sampson, Duplin, and Jones Counties), 5 (New Hanover
3 and Pender Counties), and 10 (Wake County), with the estimated amount which would
4 have been incurred had there been a public defender in each of those districts. The first
5 report shall be submitted on or before January 1, 1992, and shall cover the period May
6 1, 1991, through October 31, 1991; the second report shall be submitted on or before
7 May 20, 1992, and shall cover the period May 1, 1991, through April 30, 1992. Each
8 report shall be based on methods and shall be presented in a format substantially similar
9 to those of the "Comparative Cost Estimates for Establishing Additional Public
10 Defender Offices in Certain Judicial Districts" which are prepared annually by the
11 Administrative Office of the Courts.

12 (b) It is the intent of the General Assembly to establish, effective July 1, 1992, a
13 public defender office for a defender district coterminous with any of the three superior
14 court districts or set of districts designated in subsection (a) of this section in which the
15 amount actually spent on private assigned counsel between May 1, 1991, and April 30,
16 1992, exceeds the estimated amount which would have been incurred in the same period
17 had there been a public defender office in that district or set of districts, as shown in the
18 reports submitted pursuant to subsection (a) of this section.

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

22

23 Requested by: Representatives Anderson, Redwine

24 —APPELLATE DEFENDER – DEATH PENALTY CASES

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

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

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

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

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

43 "**§ 7A-486.3. Duties.**

44 The appellate defender shall:

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

26
 27 Requested by: Representatives Anderson, Redwine

28 —JUDICIAL DEPARTMENT AND DEPARTMENT OF CORRECTION
 29 PURCHASES OF SUPPLIES, MATERIALS, AND EQUIPMENT

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

40 The Administrative Office of the Courts and the Department of Correction
 41 shall report to the Joint Legislative Commission on Governmental Operations and the
 42 Fiscal Research Division regarding these purchases by December 31, 1991, and by May
 43 1, 1992, for the 1991-92 fiscal year and by May 1, 1993, for the 1992-93 fiscal year.

44

1 Requested by: Representatives Anderson, Redwine
2 ---TERMINATION OF AUTOMATIC DISMISSAL PROGRAMS

3 Sec. 84. Effective July 1, 1991, the programs in Prosecutorial Districts 5, 25,
4 26, 27A, and 27B for dismissing all minor traffic citation court cases and forgiving the
5 payment of all court costs upon the completion by the offender of a "defensive driving
6 course" or "traffic safety school" shall be terminated. No such program may be
7 established or operated in any judicial or prosecutorial district except by express
8 enactment of the General Assembly.

9

10

11 PART 21.—DEPARTMENT OF JUSTICE

12

13 Requested by: Representatives Anderson, Redwine
14 ---USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE
15 LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

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

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

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

35

36 Requested by: Representatives Anderson, Redwine
37 ---DEPARTMENT OF JUSTICE STUDY/CHARGES FOR LEGAL SERVICES TO
38 LOCAL GOVERNMENTS AND STATE AGENCIES

39 Sec. 86. (a) The Department of Justice shall study the feasibility of charging
40 local governments for legal services rendered to those governments by the Office of the
41 Attorney General. The Department of Justice shall consider the number of requests for
42 legal assistance received from local governments, the type of legal assistance requested,
43 the time required to respond to the requests, and any other matters related to the issue of
44 charging local governments for legal assistance. The Department of Justice shall also

1 consider what fee, if any, is appropriate to charge local governments for such legal
2 services. The Department of Justice shall report its findings and recommendations to
3 the 1991 General Assembly, 1992 Regular Session.

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

11
12 Requested by: Representatives Anderson, Redwine

13 ~~—DEPARTMENT OF TRANSPORTATION TO PAY COMPENSATION OF~~
14 ~~ATTORNEYS ASSIGNED TO MOTOR VEHICLES DIVISION BY THE~~
15 ~~ATTORNEY GENERAL~~

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

20
21 Requested by: Representatives Anderson, Redwine

22 ~~—JUSTICE ACADEMY STUDY/STUDENT REGISTRATION FEE~~

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

29
30 Requested by: Representatives Anderson, Redwine

31 ~~—SBI USE OF COURT-ORDERED RESTITUTION FUNDS~~

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

34
35 Requested by: Representatives Anderson, Redwine

36 ~~—PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING~~
37 ~~BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES~~

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

41
42 REQUESTED BY: Representatives Anderson, Redwine

43 ~~—TRANSFER LEGAL AND SUPPORT STAFF POSITIONS FROM VARIOUS~~
44 ~~DEPARTMENTS TO THE DEPARTMENT OF JUSTICE~~

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

3	4 Dept	Position	Position	
5	Agency	Number	Title	Grade

6
7
8 ADMINISTRATION

9	10 Radioactive			
11	Waste	0095	Paralegal II	67

12
13 (b) The following positions are transferred to the Department of Justice from the
14 Department of Agriculture:

15	16 Dept	Position	Position	
17	Agency	Number	Title	Grade

18
19
20 AGRICULTURE

21	22 Administration			
23	Legal Staff		Agency Legal	
24		0105	Specialist II	75

25
26 (c) The following positions are transferred to the Department of Justice from the
27 Department of Community Colleges:

28	29 Dept	Position	Position	
30	Agency	Number	Title	Grade

31
32
33 COMMUNITY COLLEGES

34	35 Legal Staff	0180		
36		(to 1160)	Paralegal I	65

37
38 (d) The following positions are transferred to the Department of Justice from the
39 Department of Correction:

40	41 Dept	Position	Position	
42	Agency	Number	Title	Grade

1			
2			Agency Legal
3	1907		Specialist III 77
4			
5			Agency Legal
6	1909		Specialist III 77
7			
8			Agency Legal
9	1911		Specialist II 75
10			
11			Agency Legal
12	1912		Specialist III 77
13			
14			Agency Legal
15	1915		Specialist III 77
16			
17			Agency Legal
18	1916		Specialist III 77
19			
20			Agency Legal
21	1918		Specialist I 73
22			
23	Marine Fisheries	8442	Paralegal II 67
24			
25		8443	Paralegal II 67
26			
27		8444	Paralegal II 67
28			
29	Solid Waste	4523	Attorney II 79
30			
31	Support Staff	1914	Clerk-Steno V 61
32			
33		1917	Clerk-Typist IV 59
34			
35		1908	Clerk-Typist IV 59
36			
37		1905	Clerk-Typist IV 59
38			
39		4035	Secretary III 57
40			

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

44	Dept	Position	Position
----	------	----------	----------

Agency	Number	Title	Grade
--------	--------	-------	-------

2

3

4 HUMAN RESOURCES

5

6 Legal Staff

7

8 Office of the		Agency Legal	
9 Secretary	0713	Specialist II	75

10

11

12 Division of		Agency Legal	
13 Youth Services	0003	Specialist I	73

15

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

18

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

21

22

23 INSURANCE

24

25 Legal Services			
26 Division	0114	Attorney II	79

27

28	0117	Attorney II	79
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29

30	0120	Attorney II	79
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31

32	0122	Attorney II	79
----	------	-------------	----

33

34	0123	Attorney II	79
----	------	-------------	----

35

36	0124	Attorney II	79
----	------	-------------	----

37

38	0125	Attorney II	75
----	------	-------------	----

39

40		Agency Legal	
41	0126	Specialist III	77

42

43	0133	Paralegal II	67
----	------	--------------	----

44

1	Field Audit	0420	Attorney II	79
2				
3	Support Staff	0134	Clerk-Typist IV	59
4				
5		0138	Clerk-Typist IV	59
6			Administrative	
7		0139	Secretary V	61
8				
9		0144	Clerk-Typist IV	59

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

14	Dept	Position	Position	
15	Agency	Number	Title	Grade

18 REVENUE

20	Legal Staff			
21	Field Operations		Agency Legal	
22		8210	Specialist II	75

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

27	Dept	Position	Position	
28	Agency	Number	Title	Grade

31 SECRETARY OF STATE

33	Legal Staff			
34				
35	Corporations		Attorney-	
36	Division	0200	Corporations Filing	75
37				
38	Support Staff	0420	Clerk-Steno III	57

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

43 (k) Funds are transferred in this Title to the Department of Justice for the
 44 positions, equipment, supplies, and other property transferred to the Department of

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

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

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

18
19 Requested by: Representative Anderson

20 ---DEPARTMENT OF JUSTICE/DRUG INFORMATION SYSTEM

21 Sec. 92. The North Carolina Drug Information System proposed in the State's
22 1991 Criminal Justice Improvement and Drug Control Grant application submitted to
23 the United States Department of Justice, Bureau of Justice Assistance, shall be housed
24 in the Department of Justice and shall be under the supervision and control of the
25 Attorney General. The Department of Justice and the Department of Crime Control and
26 Public Safety shall report to the Joint Legislative Commission on Governmental
27 Operations and the Fiscal Research Division by March 15, 1992, regarding the progress
28 in implementing the system.

29
30
31 PART 22.—DEPARTMENT OF HUMAN RESOURCES

32
33 Requested by: Representatives Nye, Easterling

34 ---MEDICAID

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

40 Services and payment bases:

- 41 (1) Hospital-Inpatient - Payment for hospital inpatient services will be
42 prescribed in the State Plan as established by the Department of
43 Human Resources. Administrative days for any period of
44 hospitalization shall be limited to a maximum of three days.

- 1 (2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a
2 prospective reimbursement plan as established by the Department of
3 Human Resources.
- 4 (3) Nursing Facilities - As prescribed under the reimbursement plan for
5 Nursing Facilities. Nursing facilities providing services to Medicaid
6 recipients who also qualify for Medicare, must be enrolled in the
7 Medicare program as a condition of participation in the Medicaid
8 program, subject to phase-in certification for those nursing facilities
9 not already enrolled in Medicare. State facilities are not subject to the
10 requirement to enroll in the Medicare Program.
- 11 (4) Intermediate Care Facilities for the Mentally Retarded - As prescribed
12 under the State Plan for reimbursing intermediate care facilities for the
13 mentally retarded.
- 14 (5) Drugs - Drug costs as allowed by federal regulations plus a
15 professional services fee per month excluding refills for the same drug
16 or generic equivalent during the same month. Reimbursement shall be
17 available for up to six prescriptions per recipient, per month, including
18 refills. Payments for drugs are subject to the provisions of subsection
19 (h) of this section and to the provisions at the end of subsection (a) of
20 this section, or in accordance with a plan adopted by the Department of
21 Human Resources consistent with federal reimbursement regulations.
22 Payment of the professional services fee shall be made in accordance
23 with the plan adopted by the Department of Human Resources,
24 consistent with federal reimbursement regulations. Adjustments to the
25 professional services fee shall be established by the General Assembly.
- 26 (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified
27 Nurse Midwife Services - Fee schedules as developed by the
28 Department of Human Resources. Payments for dental services are
29 subject to the provisions of subsection (g) of this section.
- 30 (7) Community Alternative Program, EPSDT Screens - Payment to be
31 made in accordance with rate schedule developed by the Department
32 of Human Resources.
- 33 (8) Home Health, Private Duty Nursing, Clinic Services, Prepaid Health
34 Plans - Payment to be made according to reimbursement plans
35 developed by the Department of Human Resources.
- 36 (9) Medicare Buy-In - Social Security Administration premium.
- 37 (10) Ambulance Services - Uniform fee schedules as developed by the
38 Department of Human Resources.
- 39 (11) Hearing Aids - Actual cost plus a dispensing fee.
- 40 (12) Rural Health Clinic Services - Provider based - reasonable cost;
41 nonprovider based - single cost reimbursement rate per clinic visit.
- 42 (13) Family Planning - Negotiated rate for local health departments. For
43 other providers - see specific services, for instance, hospitals,
44 physicians.

- 1 (14) Independent Laboratory and X-Ray services - Uniform fee schedules
2 as developed by the Department of Human Resources.
- 3 (15) Optical Supplies - One hundred percent (100%) of reasonable
4 wholesale cost of materials.
- 5 (16) Ambulatory Surgical Centers - Payment as prescribed in the
6 reimbursement plan established by the Department of Human
7 Resources.
- 8 (17) Medicare Crossover Claims - An amount up to the actual coinsurance
9 or deductible or both, in accordance with the plan, as approved by the
10 Department of Human Resources.
- 11 (18) Physical Therapy and Speech Therapy - Services limited to EPSDT
12 eligible children. Payments are to be made only to the Children's
13 Special Health Services program at rates negotiated by the Department
14 of Human Resources.
- 15 (19) Personal Care Services - Payment in accordance with plan approved
16 by the Department of Human Resources.
- 17 (20) Case Management Services - Reimbursement in accordance with the
18 availability of funds to be transferred within the Department of Human
19 Resources.
- 20 (21) Hospice - Services may be provided in accordance with plan
21 developed by the Department of Human Resources.
- 22 (22) Other Mental Health Services - Unless otherwise covered by this
23 section, coverage is limited to agencies meeting the requirements of
24 the rules established by the Commission for Mental Health,
25 Developmental Disabilities, and Substance Abuse Services, and
26 reimbursement is made in accordance with a plan developed by the
27 Department of Human Resources not to exceed the upper limits
28 established in federal regulations.
- 29 (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible
30 Children - Reimbursement in accordance with plan approved by the
31 Department of Human Resources.
- 32 (24) Health Insurance Premiums - Payments to be made in accordance with
33 the plan adopted by the Department of Human Resources consistent
34 with federal regulations.

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

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

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

6 (d) Medicaid and Aid to Families with Dependent Children Income Eligibility
 7 Standards. Effective January 1, 1990, the maximum net family annual income
 8 eligibility standards for Medicaid and Aid to Families with Dependent Children, and the
 9 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>
1	\$ 4,344	\$ 2,172	\$ 2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

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

25 The payment level for Aid to Families with Dependent Children shall be fifty percent
 26 (50%) of the standard of need.

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

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

35 (f) Dental Coverage Limits. Dental services will be provided on a restricted
 36 basis in accordance with regulations developed by the Department. Funds for dental
 37 services shall be disbursed only with prior approval by the Department of Human
 38 Resources, Division of Medical Assistance, as required by this subsection. No prior
 39 approval shall be required for emergency services or routine services. Routine services
 40 are defined as examinations, X rays, prophylaxes, nonsurgical tooth extractions,
 41 amalgam fillings, and fluoride treatments. Prior approval shall be required for all other
 42 services and for routine services performed more than two times during a consecutive
 43 12-month period. The Department of Human Resources shall adopt rules, as provided
 44 by the Administrative Procedure Act, to implement this subsection.

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

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

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

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

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

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

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

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

- 39 (1) Pregnant women with incomes equal to or less than one hundred
40 eighty-five percent (185%) of the federal poverty guidelines as revised
41 each July shall be covered for Medicaid benefits;
- 42 (2) Infants under the age of 1 with family incomes equal to or less than
43 one hundred eighty-five percent (185%) of the federal poverty

1 guidelines as revised each July 1, shall be covered for Medicaid
2 benefits;

3 (3) Children aged 1 through 5 with family incomes equal to or less than
4 one hundred thirty-three percent (133%) of the federal poverty
5 guidelines as revised each July 1 shall be covered for Medicaid
6 benefits; and

7 (4) Children aged 6 through 18 who were born after September 30, 1983,
8 with family incomes equal to the federal poverty guidelines as revised
9 each July 1, shall be covered for Medicaid benefits.

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

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

21

22 Requested by: Representatives Easterling, Nye

23 ~~—REDUCTIONS FROM INFLATIONARY INCREASES~~

24 Sec. 94. The Department of Human Resources, Division of Medical
25 Assistance, shall effect the reductions of \$10,700,000 for the 1991-92 fiscal year and
26 \$10,700,000 for the 1992-93 fiscal year from inflationary increases in the following
27 categories of services:

- 28 (1) Inpatient Hospital;
- 29 (2) Specialty Hospital Inpatient;
- 30 (3) Mental Hospital Inpatient - Private;
- 31 (4) Skilled Nursing;
- 32 (5) Intermediate Nursing;
- 33 (6) Intermediate Care Facilities for the Mentally Retarded - Private;
- 34 (7) Physician, Dental, Chiropractor, Optometrist, and Podiatrist;
- 35 (8) Drugs - Profession Services Fee;
- 36 (9) Home Health;
- 37 (10) Personal Care Service;
- 38 (11) Community Alternative Program (CAP).

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

42

43 Requested by: Representatives Nye, Easterling

44 ~~—GENERAL REDUCTIONS~~

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

5
6 Requested by: Representatives Easterling, Nye

7 —FAMILY SUPPORT ACT

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

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

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

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

27
28 Requested by: Representatives Nye, Easterling

29 —RETROSPECTIVE ACCOUNTING ADJUSTMENT

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

37
38 Requested by: Representatives Easterling, Nye

39 —AFDC/WOMEN IN THIRD TRIMESTER OF PREGNANCY ADJUSTMENT

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

1 Requested by: Representatives Nye, Easterling

2 ---ADOPTION SUBSIDY

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

6

7 Requested by: Representatives Easterling, Nye

8 ---FOSTER CARE

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

12

13 Requested by: Representatives Nye, Easterling

14 ---EMERGENCY ASSISTANCE

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

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

28

29 Requested by: Representatives Easterling, Nye

30 ---FOOD STAMP OUTREACH

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

41

42 Requested by: Representatives Nye, Easterling

43 ---CHILD PROTECTIVE SERVICES

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

7 (1) \$10,000 for the 1991-92 fiscal year and \$10,000 for the 1992-93 fiscal
8 year shall be allocated to each of the 15 county departments that did
9 not receive an allocation of the 1985 State appropriation for child
10 protective services;

11 (2) In addition, each of the 100 county departments shall receive an
12 allocation of \$10,000 for the 1991-92 fiscal year and \$10,000 for the
13 1992-93 fiscal year;

14 (3) The balance of available funds shall be allocated to each county
15 department based upon the percentage that the total number of abuse
16 and neglect reports within that county represents to the statewide total
17 number of abuse and neglect reports. These percentages shall be
18 computed from the reports received by the Central Registry of Abuse
19 and Neglect cases for the next two prior fiscal years.

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

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

33
34 Requested by: Representatives Easterling, Nye

35 —CHILD CARING INSTITUTION REIMBURSEMENT

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

42 (1) Only those child caring agencies that have been receiving funds from
43 the Division of Social Services that have been appropriated as grants-
44 in-aid to non-State agencies shall be included in the disbursement

1 unless additional State or federal funds are made available to permit
2 disbursement to new child caring agencies. A new child caring agency
3 may receive funds pursuant to this section only if the additional State
4 or federal funds made available are sufficient to allow disbursements
5 to the new agency without reducing the disbursement to the agencies
6 already receiving funds;

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

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

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

16
17 Requested by: Representatives Easterling, Nye

18 ---CHILD-PLACING AGENCIES CHANGE

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

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

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

26 b. To achieve maximum cooperation with other agencies of the
27 State and with agencies of other states and of the federal
28 government in rendering services to strengthen and maintain
29 family life and to help recipients of public assistance obtain
30 self-support and self-care;

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

34 d. For the payment of ~~grants-in-aid and other~~ State funds to
35 ~~private child caring institutions. The payment and distribution of~~
36 ~~grants-in-aid funds to private child caring institutions shall be~~
37 ~~regulated by the grant-in-aid (GIA) formula. This formula and~~
38 ~~any modifications of this formula shall be approved by the~~
39 ~~Advisory Budget Commission prior to its implementation.~~
40 child-placing agencies as defined in G.S. 131D-10.2(4) and
41 residential child care facilities as defined in G.S. 131D-10.2(13)
42 for care and services provided to children who are in the
43 custody or placement responsibility of a county department of
44 social services."

1

2 Requested by: Representatives Nye, Easterling

3 —LIMITATIONS ON STATE ABORTION FUND

4

5 Sec. 106. Section 93 of Chapter 479 of the 1985 Session Laws, as amended
6 by Section 75 of Chapter 738 of the 1987 Session Laws, as amended by Section 72 of
7 Chapter 500 of the 1989 Session Laws, as amended by Section 79 of Chapter 1066 of
8 the 1989 Session Laws, Regular Session 1990, shall remain in effect on and after July 1,
9 1991, with the following exception:

9

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

12

13 Requested by: Representatives Easterling, Nye

14

14 —WILLIE M.

15

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

16

16 (1) That there is a need in North Carolina to provide appropriate treatment
17 and education programs to children under the age of 18 who suffer
18 from emotional, mental, or neurological handicaps accompanied by
19 violent or assaultive behavior;

20

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

23

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

27

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

34

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

43

43 (d) The Department of Human Resources shall continue to implement its
44 prospective unit cost reimbursement system and shall ensure that unit cost rates reflect

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

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

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

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

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

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

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

42 (f) The Departments of Human Resources and Public Education shall
43 provide periodic reports of expenditures and program effectiveness on behalf of the
44 Willie M. Class to the Joint Legislative Commission on Governmental Operations and

1 to the Fiscal Research Division. As part of these reports, the Departments shall explain
2 measures they have taken to control and reduce program expenditures.

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

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

8 (2) That the funds appropriated will enable the development and
9 implementation of placement and services for the class members in
10 Willie M., et al. vs. Martin, et al., formerly Willie M., et al. vs. Hunt,
11 et al., within a reasonable period of time considered within the context
12 of the needs of the class members, the other needs of the State and the
13 resources available to the State.

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

19 (1) Funds specifically appropriated by the General Assembly for the
20 placement and services of Willie M. class members; and

21 (2) Funds for placement and services for which Willie M. class members
22 are otherwise eligible.

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

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

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

39
40 Requested by: Representatives Nye, Easterling

41 ---WILLIE M. AUDIT CONTINUED

42 Sec. 108. The Office of State Auditor shall conduct a follow-up study of its
43 1990 performance audit of the Willie M. program to determine, along with other issues
44 the Auditor considers appropriate, the following:

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

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

13
14 Requested by: Representatives Easterling, Nye
15 —THOMAS S.

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

- 24 (1) Funds specifically appropriated by the General Assembly for the
25 placement and services of Thomas S. Class members; and
- 26 (2) Funds for placement and services for which Thomas S. Class members
27 are otherwise eligible.
- 28 (b) The Department of Human Resources shall provide periodic reports of funds
29 expended and services performed on behalf of members of the Thomas S. Class and on
30 behalf of those clients who are likely to become class members to the Joint Legislative
31 Commission on Governmental Operations and to the Fiscal Research Division of the
32 Legislative Services Office.

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

38
39 Requested by: Representatives Nye, Easterling

40 —TRANSFERS OF CERTAIN FUNDS AUTHORIZED

41 Sec. 110. In order to assure maximum utilization of funds in county
42 departments of social services, county or district health agencies, and area mental
43 health, mental retardation, and substance abuse authorities, the Director of the Budget is
44 authorized to transfer excess funds appropriated to a specific service or program or

1 fund, whether specified in a block grant plan or General Fund appropriation, into
2 another service or program or fund for local services within the budget of the respective
3 State agency.

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

7
8 Requested by: Representatives Easterling, Nye

9 —MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS

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

18
19 Requested by: Representatives Nye, Easterling

20 —ADAP TRANSPORTATION FUNDS

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

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

28
29 Requested by: Representatives Easterling, Nye

30 —SPECIALIZED RESIDENTIAL CENTERS' BED CONVERSION

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

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

40
41 Requested by: Representatives Nye, Easterling

42 —LIABILITY INSURANCE

43 Sec. 114. The Secretary of the Department of Human Resources, the
44 Secretary of the Department of Environment, Health, and Natural Resources, and the

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

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

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

16

17 Requested by: Representatives Easterling, Nye

18 ---NON-MEDICAID REIMBURSEMENT

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

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

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

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

38 Family	Medical Eye	All		
39 <u>Size</u>	<u>Care Adults</u>	<u>Rehabilitation</u>	<u>Other</u>	
40 1	\$4,860	\$ 8,364	\$4,200	
41 2	5,940	10,944	5,300	
42 3	6,204	13,500	6,400	
43 4	7,284	16,092	7,500	
44 5	7,824	18,648	7,900	

1	6	8,220	21,228	8,300
2	7	8,772	21,708	8,800
3	8	9,312	22,220	9,300

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

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

11
12 Requested by: Representatives Nye, Easterling
13 —JOHN UMSTEAD HOSPITAL - PLANNING

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

18
19 Requested by: Representatives Easterling, Nye
20 —DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND
21 SUBSTANCE ABUSE SERVICES BUDGET CODE CONSOLIDATION

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

32
33 Requested by: Representatives Nye, Easterling
34 —DEVELOPMENTAL DAY CENTERS GRANT-IN-AID

35 Sec. 118. Of the funds appropriated in this Title, to the Department of
36 Human Resources, Division of Mental Health, Developmental Disabilities, and
37 Substance Abuse Services, the sum of \$2,260,470 for the 1991-92 fiscal year is
38 transferred to the Department of Public Instruction for handicapped children aged 3
39 through 4 years who have been identified through Division of Mental Health,
40 Developmental Disabilities, and Substance Abuse Services statewide services and who
41 are served in developmental day centers. These funds shall be used to contract with
42 area mental health, developmental disabilities, and substance abuse authorities or with
43 public or private nonprofit developmental day centers to continue to serve handicapped

1 children aged 3 through 4 years who are identified as needing developmental day
2 services.

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

6
7 Requested by: Representatives Easterling, Nye

8 ---CAREGIVER SUPPORT SHARING

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

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

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

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

39
40 Requested by: Representatives Nye, Easterling

41 ---IN-HOME AGING SERVICES

42 Sec. 120. Of the funds appropriated to the Division of Aging, Department of
43 Human Resources, by this Title for the 1991-93 fiscal biennium, the sum of \$720,000
44 for the 1991-92 fiscal year and the sum of \$720,000 for the 1992-93 fiscal year shall be

1 used to provide funds for additional in-home aide services that enable the frail elderly to
2 remain in their homes and avoid institutionalization.

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

12
13 Requested by: Representatives Easterling, Nye

14 —SENIOR CENTER OUTREACH

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

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

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

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

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

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

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

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

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

33
34 Requested by: Representatives Nye, Easterling

35 —FUNDS TO MATCH FEDERAL FUNDS FOR AGING

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

40
41 Requested by: Representatives Easterling, Nye

42 —DAY CARE FUNDS MATCHING REQUIREMENT

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

4
5 Requested by: Representatives Nye, Easterling
6 ---DAY CARE

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

10
11 Requested by: Representatives Easterling, Nye
12 ---DAY CARE RATES

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

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

43 (b) Facilities licensed pursuant to Article 7 of Chapter 110 of the General
44 Statutes may participate in the program that provides for the purchase of care in day

1 care facilities for minor children of needy families. No separate licensing requirements
2 may be used to select facilities to participate.

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

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

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

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

17 (2) One-third of the budgeted funds shall be distributed according to the
18 number of children under 6 years of age in a county who are living in
19 families whose income is below the State poverty level in relation to
20 the total number of children under 6 in the State in families whose
21 income is below the poverty level; and

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

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

36
37 Requested by: Representatives Nye, Easterling

38 —COMMUNITY ACTION PROGRAM FUNDS

39 Sec. 126. For the 1991-92 fiscal year and the 1992-93 fiscal year, all
40 agencies designated as eligible agencies pursuant to G.S. 108A-24 that receive
41 Community Service Block Grant Funds may use those funds for the administration of
42 agency programs. The amount of those funds used for administration of agency
43 programs shall be limited to ten percent (10%) of the total annual budget of the agency
44 as certified in the prior year's audit of the agency. The Department of Human Resources

1 shall report annually to the Joint Legislative Commission on Governmental Operations
2 and the Appropriations Committee on Human Resources beginning October 1, 1991, on
3 the use of Community Service Block Grant Funds for administration of agency
4 programs. The report shall show:

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

11
12 Requested by: Representatives Easterling, Nye

13 ---DOMICILIARY RATE INCREASE

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

19
20 Requested by: Representatives Nye, Easterling

21 ---DOMICILIARY STATE/COUNTY SHARE OF COSTS

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

24 **"§ 143B-139.5. Department of Human Resources; domiciliary State/county share**
25 **of costs.**

26 State funds available to the Department of Human Resources shall pay fifty percent
27 (50%), and the counties shall pay fifty percent (50%) of the authorized rates for
28 domiciliary care in homes for the aged and for family care homes including area mental
29 health agency-operated or contracted-group homes."

30
31 Requested by: Representatives Easterling, Nye

32 ---DHR EMPLOYEES/IN-KIND MATCH

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

38
39 Requested by: Representatives Nye, Easterling

40 ---NO EYE CLINICS IN CERTAIN COUNTIES

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

1

2 Requested by: Representatives Easterling, Nye

3 —COMMUNITY-BASED ALTERNATIVES PARTICIPATION

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

8

9 Requested by: Representatives Nye, Easterling

10 —DEPARTMENT OF HUMAN RESOURCES PROGRAM FUNDS

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

16

17 Requested by: Representatives Easterling, Nye

18 —SHORT-TERM LOAN FUND FOR INTERMEDIATE CARE
19 FACILITIES/MENTAL RETARDATION FACILITIES20 Sec. 133. The Department of Human Resources may use funds that become
21 available to it through gifts, federal or private grants, receipts from federal programs, or
22 any other resource to develop a revolving short-term loan fund to assist area mental
23 health, developmental disabilities, and substance abuse programs and their nonprofit
24 contract agencies in establishing community ICF/MR facilities.

25

26 Requested by: Representatives Nye, Easterling

27 —EXPANSION OF THE TARGET POPULATION FOR TASC SERVICES

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

30

31 Requested by: Representatives Easterling, Nye

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

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

35 "(b) The Secretary may:

36 (1) Acquire by purchase or otherwise in the name of the Department
37 equipment, supplies, and other personal property necessary to carry out
38 the mental health, developmental disabilities, and substance abuse
39 programs;40 (2) Sponsor training opportunities in the fields of mental health,
41 developmental disabilities, and substance abuse;42 (3) Promote and conduct research in the fields of mental health,
43 developmental disabilities, and substance abuse;

- 1 (4) Provide technical assistance for the development and improvement of
2 prevention services;
- 3 (5) Receive donations of money, securities, equipment, supplies, or any
4 other personal property of any kind or description which shall be used
5 by the Secretary for the purpose of carrying out mental health,
6 developmental disabilities, and substance abuse programs. Any
7 donations shall be reported to the Office of State Budget and
8 Management as determined by that office;
- 9 (6) Accept, allocate, and spend any federal funds for mental health,
10 developmental disabilities, and substance abuse activities that may be
11 made available to the State by the federal government. This Chapter
12 shall be liberally construed in order that the State and its citizens may
13 benefit fully from these funds. Any federal funds received shall be
14 deposited with the State Treasurer and shall be appropriated by the
15 General Assembly for the mental health, developmental disabilities, or
16 substance abuse purposes specified;
- 17 (7) Enter agreements authorized by G.S. 122C-346;
- 18 (8) Accept, allocate, and spend funds from the United States Department
19 of Defense to operate mental health demonstration projects for families
20 of the uniformed services. Demonstration projects shall be operated
21 through an area authority. The operation of these demonstration
22 projects may be accomplished through subcontracts with one or more
23 private sector ~~providers~~ providers; and
- 24 (9) Authorize funds for contracting with a person, firm, or corporation for
25 aid or assistance in locating, recruiting, or arranging employment of
26 health care professionals in any facility listed in G.S. 122C-181,
27 notwithstanding the provisions of G.S. 126-18."
28

29 Requested by: Representative Nye

30 ---WILLIE M. SECURE TREATMENT FACILITY AUTHORIZATION

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

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

- 34 (1) For the mentally ill:
- 35 a. Cherry Hospital;
- 36 b. Dorothea Dix Hospital;
- 37 c. John Umstead Hospital; and
- 38 d. Broughton Hospital; and
- 39 (2) For the mentally retarded:
- 40 a. Caswell Center;
- 41 b. O'Berry Center;
- 42 c. Murdoch Center;
- 43 d. Western Carolina Center; and
- 44 e. Black Mountain Center; and

- 1 (3) For substance abusers:
 2 a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at
 3 Greenville;
 4 b. Alcohol and Drug Abuse Treatment Center at Butner; and
 5 c. Alcohol and Drug Abuse Treatment Center at Black Mountain;
 6 and
 7 (4) As special care facilities:
 8 a. Wilson Special Care Center;
 9 b. Whitaker School; ~~and~~
 10 c. ~~Wright School.~~ School; and
 11 d. Butner Adolescent Treatment Center."
 12

13 Requested by: Representatives Nye, Easterling

14 ---EARLY EDUCATION/HANDICAPPED/FUNDS

15 Sec. 137. The Department of Human Resources shall ensure that, by October
 16 1, 1991, all types of early intervention services referenced in G.S. 122C-3(13a), and any
 17 other such services the Secretary of Human Resources, in cooperation with the other
 18 appropriate agencies and upon the advice of the Interagency Coordinating Council for
 19 Handicapped Children from Birth to Five Years of Age, considers necessary, shall be
 20 available to all eligible infants and toddlers and their families, as defined in G.S. 122C-
 21 3(13a).
 22

23 Requested by: Representatives Diamont, Easterling, and Nye

24 ---CHILD PROTECTIVE SERVICES NON-SUPPLANT REQUIREMENT

25 Sec. 138. The Department of Human Resources, Division of Social Services
 26 shall ensure that local county departments of social services do not reduce federal fund
 27 disbursements or county appropriations for child protective services because they have
 28 received State appropriations for that purpose. The Department shall monitor local
 29 agency compliance with this provision and report its findings to the General Assembly
 30 by May 1, 1992.
 31
 32

33 PART 23.—DEPARTMENT OF AGRICULTURE

34 Requested by: Representatives Ethridge, H. Hunter

35 ---AGRICULTURE TO MARKET FOREST PRODUCTS

36 Sec. 139. The Department of Agriculture shall market forest products
 37 through the Department's marketing programs.
 38
 39
 40

41 PART 24.—DEPARTMENT OF ECONOMIC AND COMMUNITY
 42 DEVELOPMENT

43 Requested by: Representatives Ethridge, H. Hunter
 44

1 ---MAIN STREET PROGRAM RESTRICTIONS

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

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

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

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

15

16 Requested by: Representatives Ethridge, H. Hunter

17 ---WORKER TRAINING TRUST FUND

18 Sec. 141. (a) There is appropriated from the Worker Training Trust Fund to the
19 Employment Security Commission of North Carolina the sum of \$5,459,673 for the
20 1991-92 fiscal year and the sum of \$6,059,673 for the 1992-93 fiscal year for the
21 operation of local offices at the 1986-87 level of service.

22 (b) Notwithstanding G.S. 96-5(c), there is appropriated from the Special
23 Employment Security Administration Fund to the Employment Security Commission of
24 North Carolina, the sum of \$2,000,000 for the 1991-92 fiscal year and the sum of
25 \$2,000,000 for the 1992-93 fiscal year for administration of the Veterans Employment
26 Program, Employment Services Program, and Unemployment Insurance Program.

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

30 (d) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the
31 Worker Training Trust Fund to the following agencies the following sums for the 1991-
32 92 and the 1992-93 fiscal years for the following purposes:

33 (1) \$3,000,000 for the 1991-92 fiscal year and \$2,400,000 for the 1992-93
34 fiscal year to the Department of Economic and Community
35 Development, Division of Employment and Training, for the
36 Employment and Training Grant Program.

37 (2) \$500,000 for the 1991-92 fiscal year and \$500,000 for the 1992-93
38 fiscal year to the North Carolina Department of Labor for customized
39 training of the unemployed and the working poor for specific jobs
40 needed by employers through the Department's Pre-Apprenticeship
41 Division.

42 (3) \$2,000,000 for the 1991-92 fiscal year and \$2,000,000 for the 1992-93
43 fiscal year to the North Carolina Department of Human Resources to
44 assist welfare recipients in gaining employment through the federally

1 funded Job Opportunities and Basic Skills Program in such a way as to
2 gain the maximum match of federal funds for the State dollars
3 appropriated.

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

7
8 Requested by: Representatives Ethridge, H. Hunter

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

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

11 "(f) Employment Security Commission Reserve Fund. – There is created in the
12 State treasury a special trust fund, separate and apart from all other public moneys or
13 funds of this State, to be known as the Employment Security Commission Reserve
14 Fund, hereinafter 'Reserve Fund'. Except as provided herein and in G.S. 96-9(b)(3)j, all
15 proceeds from the tax as defined in G.S. 96-9(b)(3)j and collected pursuant to G.S. 96-
16 10 shall be paid into the Reserve Fund. The moneys in the Reserve Fund may be used
17 by the Commission for loans to the Unemployment Insurance Fund, as security for
18 loans from the federal Unemployment Insurance Trust Fund, and to pay any interest
19 required on advances under Title XII of the Social Security Act as required by G.S. 96-
20 6(f), and shall be continuously available to the Commission for expenditure in
21 accordance with the provisions of this section. The State Treasurer shall be ex officio
22 the treasurer and custodian and shall invest said moneys in accordance with existing law
23 as well as rules and regulations promulgated pursuant thereto. Furthermore, the State
24 Treasurer shall disburse the moneys in accordance with the directions of the
25 Commission and in accordance with such regulations as the Commission may prescribe.

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

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

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

1 The use of funds from the Worker Training Trust Fund, for the purposes set out in
2 the above paragraph, shall be pursuant to appropriations in the Current Operations
3 Appropriations Act. Funds deposited in the Worker Training Trust Fund prior to July 1,
4 1987, shall be used as provided in the Current Operations Appropriations Act for 1987-
5 89. Funds appropriated from the Worker Training Trust Fund that are unexpended and
6 unencumbered at the end of the fiscal year for which they are appropriated shall revert
7 to the State treasury to the credit of the Worker Training Trust Fund in accordance with
8 G.S. 143-18."

9
10 Requested by: Representatives Ethridge, H. Hunter

11 ---UTILITIES REGULATORY FEE

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

14
15 Requested by: Representatives Ethridge, H. Hunter

16 ---TOURISM PROMOTION FUNDS

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

- 22 (1) Counties 1 through 20 are each eligible to receive a maximum grant of
23 \$7,500 for each fiscal year, provided these funds are matched on the
24 basis of one non-State dollar for every four State dollars.
- 25 (2) Counties 21 through 50 are each eligible to receive a maximum grant
26 of \$3,500 for two of the next three fiscal years, provided these funds
27 are matched on the basis of one non-State dollar for every three State
28 dollars.
- 29 (3) Counties 51 through 100 are each eligible to receive a maximum grant
30 of \$3,500 for alternating fiscal years, beginning with the 1991-92
31 fiscal year, provided these funds are matched on the basis of four non-
32 State dollars for every State dollar.

33
34 Requested by: Representatives Ethridge, H. Hunter

35 ---PETROLEUM OVERCHARGE ATTORNEY FEES

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

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

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

10
11 Requested by: Representatives Ethridge, H. Hunter

12 ---NORTH CAROLINA MANUFACTURING DIRECTORY PROCEEDS

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

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

22
23 Requested by: Representatives Ethridge, H. Hunter

24 ---INDUSTRIAL DEVELOPMENT FUND/LOCAL MATCH

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

30
31 Requested by: Representatives Ethridge, H. Hunter

32 ---BIOTECHNOLOGY CENTER

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

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

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

1 with sources of funding for the next 12 months. Subsequent reports shall include
2 quarterly updates of the initial report.

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

7
8 Requested by: Representatives Ethridge, H. Hunter

9 —MCNC

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

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

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

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

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

38 (d) It is the intent of the General Assembly that all appropriations to MCNC
39 for all years after the 1990-91 fiscal year for the MCNC basic research program contain
40 the proviso that the appropriated funds are matched on the basis of two non-State dollars
41 (\$2.00) for every three State dollars (\$3.00).

42 (e) Beginning October 1, 1991, MCNC shall provide quarterly reports on all
43 of its programs to the the Joint Legislative Commission on Governmental Operations,
44 and the Fiscal Research Division. These reports shall include information on the

1 activities and accomplishments during the past fiscal year, itemized expenditures during
 2 the past fiscal year with sources of funding, planned activities and accomplishments for
 3 at least the next 12 months, and itemized anticipated expenditures with sources of
 4 funding for the next 12 months.

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

12
 13 Requested by: Representatives Ethridge, H. Hunter

14 —MCNC BUDGET LIMITS

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

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

22
 23 In addition, the above amounts shall be further reduced by \$850,000 in each fiscal year
 24 of the biennium. The allocation of such reductions may be determined by MCNC.

25 (b) Of the funds appropriated to MCNC for the Microelectronics Program,
 26 \$2,000,000 of the total appropriation in each fiscal year is contingent upon a dollar-for-
 27 dollar match in non-State funds.

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

32
 33 Requested by: Representatives Ethridge, H. Hunter

34 —RURAL ECONOMIC DEVELOPMENT CENTER

35 Sec. 151. (a) Of the funds appropriated in this Title to the Department of
 36 Economic and Community Development, \$1,630,627 for fiscal year 1991-92 and
 37 \$1,614,766 for fiscal year 1992-93 shall be used for a grant-in-aid to the Rural
 38 Economic Development Center, Inc., for the administrative costs of the Center and for
 39 its pilot projects and research. No more than \$300,000 of the funds appropriated for
 40 each fiscal year may be used for the administrative costs of the Rural Economic
 41 Development Center, Inc.

42 (b) Beginning October 1, 1991, the Rural Economic Development Center, Inc.,
 43 shall provide quarterly reports on the Center's programs to the Joint Legislative
 44 Commission on Governmental Operations. The initial report shall include information

1 on the activities and accomplishments during the past fiscal year, itemized expenditures
2 during the past fiscal year with sources of funding, planned activities and
3 accomplishments for at least the next 12 months, and itemized anticipated expenditures
4 with sources of funding for the next 12 months. Subsequent reports shall include
5 quarterly updates of the information in the initial report.

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

10
11 Requested by: Representatives Ethridge, H. Hunter

12 ---RURAL ECONOMIC DEVELOPMENT CENTER FUND LIMITATIONS

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

17
18 Requested by: Representatives Ethridge, H. Hunter

19 ---FEDERAL FUNDS ADMINISTRATION

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

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

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

32 (2) To establish and revise by regulation, in accordance with Chapter
33 150B of the General Statutes, schedules of reasonable rates, fees, or
34 charges for services rendered, including but not limited to, reasonable
35 fees or charges for servicing applications. Schedules of rates, fees, or
36 charges may vary according to classes of service, and different
37 schedules may be adopted for public entities, nonprofit entities, private
38 for-profit entities, and individuals."

39
40 Requested by: Representatives Ethridge, H. Hunter

41 ---EMPLOYMENT AND TRAINING PROGRAM

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

44 **"§ 143B-438.6. Employment and Training Grant Program.**

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

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

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

31 (1) One half of the funds shall be allocated on the basis of the relative
32 excess number of unemployed individuals residing in each county as
33 compared to the total excess number of unemployed individuals in all
34 counties in the State.

35 'Excess number of unemployed' is defined as the number of
36 unemployed individuals in excess of four and one-half percent (4.5%)
37 of the civilian labor force in each county or the number of unemployed
38 individuals in excess of four and one-half percent (4.5%) of the
39 civilian labor force in each census tract within the county. The
40 following methodology is used to determine the excess number of
41 unemployed:

42 a. For counties classified as having excess unemployment, the
43 excess number of unemployed is determined by subtracting four
44 and one-half percent (4.5%) of the civilian labor force from the

1 number of unemployed individuals within the county. The
2 difference equals the number of excess unemployed.

3 b. In situations where the entire county is not classified as having
4 excess unemployment, the excess number of unemployed is
5 determined by census tract unemployment within the county.
6 Census tract data is used to determine which subcounty areas
7 qualify as areas of excess unemployment. In those subcounty
8 areas classified as having excess unemployment (census tracts
9 with four and one-half percent (4.5%) or higher unemployment
10 rates), four and one-half percent (4.5%) of the census tract labor
11 force is subtracted from the number of unemployed individuals
12 within the area of excess unemployment. The subcounty
13 figures of excess number of unemployed within the county are
14 then added together to determine the total excess number of
15 unemployed within the county.

16 (2) One half of the funds shall be allocated on the basis of the relative
17 number of economically disadvantaged individuals within each county
18 compared to the total number of economically disadvantaged
19 individuals in the State. To determine the number of economically
20 disadvantaged individuals within each county, data from the State Data
21 Center in the Office of State Budget and Management, or from the
22 federal decennial census, whichever is most recent, shall be used.

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

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

35
36
37 PART 25.—DEPARTMENT OF LABOR

38
39 Requested by: Representatives Ethridge, H. Hunter

40 —FUNDING FOR OSHA ENFORCEMENT POSITIONS

41 Sec. 155. The Department of Labor may use funds appropriated to the
42 Department of Labor for the Occupational Safety and Health Act of North Carolina
43 (OSHANC) program to fully fund enforcement personnel in the Compliance Bureau of
44 the OSHANC program, provided the Department of Labor certifies to the Office of

1 State Budget and Management that no federal match is available for the 1991-92 fiscal
2 year and for the 1992-93 fiscal year.

3

4

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

7

8 Requested by: Representatives Ethridge, H. Hunter

9 —REDUCTION IN ADMINISTRATIVE SERVICES

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

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

19 in order to reduce the budget of administrative services by the sum of \$200,000 for the
20 1991-92 fiscal year and by the sum of \$400,000 for the 1992-93 fiscal year.

21

22 Requested by: Representatives Ethridge, H. Hunter

23 —SEPTAGE MANAGEMENT FEES

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

27

28 Requested by: Representatives Ethridge, H. Hunter

29 —AUTHORIZE USE OF WATER QUALITY FEES

30 Sec. 158. There is appropriated from the nonreverting account established in
31 G.S. 143-215.3A to the Department of Environment, Health, and Natural Resources a
32 sum not to exceed \$2,124,142 for the 1991-92 fiscal year and a sum not to exceed
33 \$2,148,017 for the 1992-93 fiscal year for the salaries and the necessary support for up
34 to 49 positions for the 1991-92 fiscal year and the 1992-93 fiscal year in the water
35 quality program. Water quality fees shall be the only source of funds for these positions
36 and all necessary support. These positions shall be used to reduce the backlog of permit
37 applications and to improve the rate of compliance of facilities with environmental
38 standards for toxic substances.

39

40 Requested by: Representatives Ethridge, H. Hunter

41 —AUTHORIZE USE OF AIR QUALITY FEES

42 Sec. 159. There is appropriated from the nonreverting account established in
43 G.S. 143-215.3A to the Department of Environment, Health, and Natural Resources a

1 sum not to exceed \$1,193,340 for the 1991-92 fiscal year and a sum not to exceed
2 \$1,487,506 for the 1992-93 fiscal year for the salaries and the necessary support:

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

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

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

8

9 Requested by: Representatives Ethridge, H. Hunter

10 —SUPERFUND PROGRAM

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

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

21

22 Requested by: Representatives Ethridge, H. Hunter

23 —FOREST DEVELOPMENT ACT FUNDS

24 Sec. 161. Notwithstanding the provisions of G.S. 113A-192, the assessment
25 from the primary forest product processors shall be collected for the 1991-92 fiscal year
26 and the 1992-93 fiscal year. Notwithstanding the provisions of G.S. 113A-180 and G.S.
27 113A-183(c), all funds accrued to the Forest Development Fund, from whatever source,
28 may be expended pursuant to the provisions of G.S. 113A-193(c) and Article 11 of
29 Chapter 113A of the General Statutes for the 1991-92 fiscal year and the 1992-93 fiscal
30 year.

31

32 Requested by: Representatives Ethridge, H. Hunter

33 —STUDY TERMINATING LEASE WITH FEDERAL GOVERNMENT

34 Sec. 162. The Parks and Recreation Division, Department of Environment,
35 Health, and Natural Resources, shall study the desirability and the feasibility of
36 terminating any long-term lease that the State entered into, whereby the State leases
37 federal reservoirs. The Department shall report its findings and recommendations to the
38 1991 General Assembly (1992 Regular Session) no later than April 1, 1992.

39

40 Requested by: Representatives Ethridge, H. Hunter

41 —REVISION OF PARKS FEE SCHEDULE

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

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

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

5
6 Requested by: Representatives Ethridge, H. Hunter

7 ~~---~~TECHNICAL REVIEW COMMITTEE APPOINTMENTS

8 Sec. 164. The Soil and Water Conservation Commission shall include the
9 Executive Director of the Wildlife Resources Commission, or his designee, and the
10 Director of the Marine Fisheries Division of the Department of Environment, Health,
11 and Natural Resources, or his designee, among its appointments to the Technical
12 Review Committee, which reviews the technical specifications for the best management
13 practices specified for the Agricultural Cost Share Program for Nonpoint Source
14 Pollution Control.

15
16 Requested by: Representatives Ethridge, H. Hunter

17 ~~---~~AGRICULTURE COST SHARE PROGRAM

18 Sec. 165. Of the funds appropriated in this Title to the Department of
19 Environment, Health, and Natural Resources for the Agriculture Cost Share Program for
20 Nonpoint Source Pollution Control, a sum not to exceed \$40,000 for the 1991-92 fiscal
21 year and a sum not to exceed \$40,000 for the 1992-93 fiscal year shall be used to fund
22 tide gates in Hyde County in accordance with the match requirements specified in G.S.
23 143-215.74(b)(6).

24
25 Requested by: Representatives Ethridge, H. Hunter

26 ~~---~~AUDITS OF SOIL AND WATER DISTRICT BOARDS

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

28 **"§ 139-7. District board of supervisors – appointive members; organization of**
29 **board; certain powers and duties.**

30 The governing body of a soil and water conservation district shall consist of the
31 three elective supervisors from the county or counties in the district, together with the
32 appointive members appointed by the Soil and Water Conservation Commission
33 pursuant to this section, and shall be known as the district board of supervisors. When a
34 district is composed of less than four counties, the board of supervisors of each county
35 shall on or before October 31, 1978, and on or before October 31 as the terms of the
36 appointive supervisors expire, recommend in writing two persons from the district to the
37 Commission to be appointed to serve with the elective supervisors. If the names are not
38 submitted to the Commission as required, the office shall be deemed vacant on the date
39 the term is set to expire and the Commission shall appoint two persons of the district to
40 the district board of supervisors to serve with the elected supervisors. The Commission
41 shall make its appointments prior to or at the November meeting of the Commission.
42 Appointive supervisors shall take office on the first Monday in December following
43 their appointment. Such appointive supervisors shall serve for a term of four years, and
44 thereafter, as their terms expire, their successors shall serve for a term of four years. The

1 terms of office of all appointive supervisors who have heretofore been lawfully
2 appointed for terms the final year of which presently extends beyond the first Monday
3 in December are hereby terminated on the first Monday in December of the final year of
4 appointment. Vacancies for any reason in the appointive supervisors shall be filled for
5 the unexpired term by the appointment of a person by the Commission from the district
6 in which the vacancy occurs. Vacancies for any reason in the elected supervisors shall
7 be filled for the unexpired term by appointment by the Commission of a person from the
8 county in the district in which the vacancy occurs.

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

15 The supervisors shall designate a chairman and may, from time to time, change such
16 designation. A simple majority of the board shall constitute a quorum for the purpose of
17 transacting the business of the board, and approval by a majority of those present shall
18 be adequate for a determination of any matter before the board, provided at least a
19 quorum is present. Supervisors of soil and water conservation districts shall be
20 compensated for their services at the per diem rate and allowed travel, subsistence and
21 other expenses, as provided for State boards, commissions and committees generally,
22 under the provisions of G.S. 138-5; provided, that when per diem compensation and
23 travel, subsistence, or other expense is claimed by any supervisor for services performed
24 outside the district for which such supervisor ordinarily may be appointed or elected to
25 serve, the same may not be paid unless prior written approval is obtained from the
26 Department of Environment, Health, and Natural Resources.

27 The supervisors may employ a secretary, technical experts, whose qualifications
28 shall be approved by the Department, and such other employees as they may require,
29 and shall determine their qualifications, duties and compensation. The supervisors may
30 call upon the Attorney General of the State for such legal services as they may require.
31 The supervisors may delegate to their chairman, to one or more supervisors, or to one or
32 more agents, or employees such powers and duties as they may deem proper. The
33 supervisors shall furnish to the Soil and Water Conservation Commission, upon request,
34 copies of such ordinances, rules, regulations, orders, contracts, forms, and other
35 documents as they shall adopt or employ, and such other information concerning their
36 activities as it may require in the performance of its duties under this Chapter.

37 The supervisors shall provide for the execution of surety bonds for all employees
38 and officers who shall be entrusted with funds or property; shall provide for the keeping
39 of a full and accurate record of all proceedings and of all resolutions, regulations, and
40 orders issued or adopted; and shall provide for an annual audit of the accounts of
41 receipts and disbursements. In any given year, if the supervisors provide for an internal
42 audit, the supervisor serving as chairman shall certify, under oath, that this internal audit
43 is a true and accurate reflection of the accounts of receipts and disbursements, then the
44 supervisors shall not be required, notwithstanding the provisions of G.S. 159-34, to

1 provide for an audit of the accounts of receipts and disbursements by a certified public
2 accountant or by an accountant certified by the Local Government Commission. Any
3 supervisor may be removed by the Soil and Water Conservation Commission upon
4 notice and hearing, for neglect of duty, incompetence or malfeasance in office, but for
5 no other reason.

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

11 All district supervisors whose terms of office expire prior to the first Monday in
12 January, 1948, shall hold over and remain in office until supervisors are elected or
13 appointed and qualify as provided in this Chapter, as amended. The terms of office of
14 all district supervisors, who have heretofore been elected or appointed for terms
15 extending beyond the first Monday in January, 1948, are hereby terminated on the first
16 Monday in January, 1948."

17
18 Requested by: Representatives Ethridge, H. Hunter

19 —INTEREST ON WILDLIFE RESOURCES FUND/PRESERVE FEDERAL
20 FUNDING

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

22 **"§ 143-250. Wildlife Resources Fund.**

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

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

31 Except as otherwise specifically provided by law, all moneys derived from hunting,
32 fishing, trapping, and related license fees, exclusive of commercial fishing license fees,
33 including the income received and accruing from the investment of license revenues,
34 and all funds thereafter received from whatever sources shall be deposited to the credit
35 of the Wildlife Resources Fund and made available to the Commission until expended
36 subject to the provisions of this Article. License revenues include the proceeds from the
37 sale of hunting, fishing, trapping, and related licenses, from the sale, lease, rental, or
38 other granting of rights to real or personal property acquired or produced with license
39 revenues, and from federal aid project reimbursements to the extent that license
40 revenues originally funded the project for which the reimbursement is being made. For
41 purposes of this section, real property includes lands, buildings, minerals, energy
42 resources, timber, grazing, and animal products. Personal property includes equipment,
43 vehicles, machines, tools, and annual crops. The Wildlife Resources Fund herein
44 created shall be subject to the provisions of the Executive Budget Act, Chapter 143,

1 Article 1 of the General Statutes of North Carolina as amended, and the provisions of
2 the General Statutes of North Carolina as amended, and the provisions of the Personnel
3 Act, Chapter 143, Article 2 of the General Statutes of North Carolina as amended.

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

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

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

18
19 Requested by: Representatives Ethridge, H. Hunter

20 ---ABOLISH PERINATAL COUNCIL

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

22
23 Requested by: Representative Michaux

24 ---CONTINUE PUBLIC DENTAL HEALTH PROGRAM EMPHASIS

25 Sec. 169. (a) The reduction of \$204,000 for each fiscal year of the biennium
26 in the budget for the Department of Environment, Health, and Natural Resources for
27 Dental Health Services shall be taken only in vacant positions. When eliminating
28 vacant positions and reducing the funding for these positions, the Department shall
29 eliminate vacant Dentist and Dental Hygienist positions only after eliminating other
30 vacancies.

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

36
37 Requested by: Representative Diamont

38 ---MATERNAL AND CHILD HEALTH CARE NON-SUPPLANTING
39 REQUIREMENT

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

42 "**§ 130A-4.1. State Funds for Maternal and Child Health Care/non-supplanting.**

43 (a) The Department of Environment, Health, and Natural Resources shall ensure
44 that local health departments do not reduce county appropriations for maternal and child

1 health services provided by the local health departments because they have received
2 State appropriations for this purpose.

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

8
9 Requested by: Representative Diamont

10 ---HEALTH PROMOTION NON-SUPPLANTING REQUIREMENT

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

13 "**§ 130A-4.2. State Funds for Health Promotion/non-supplanting.**

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

18
19 Requested by: Representatives Ethridge, H. Hunter

20 ---NON-MEDICAID REIMBURSEMENT

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

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

30 Notwithstanding the provisions of paragraph one of this section, the
31 Department of Environment, Health, and Natural Resources may negotiate with
32 providers of medical services under the various Environment, Health, and Natural
33 Resources programs, other than Medicaid, for rates as close as possible to Medicaid
34 rates for the following purposes: contracts or agreements for medical services and
35 purchases of medical equipment and other medical supplies. These negotiated rates are
36 allowable only to meet the medical needs of its non-Medicaid eligible patients, residents
37 and clients who require such services which cannot be provided when limited to the
38 Medicaid rate.

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

43	Family		All
44	<u>Size</u>	<u>Kidney</u>	<u>Other</u>

1	1	\$ 6,400	\$ 4,200
2	2	8,000	5,300
3	3	9,600	6,400
4	4	11,000	7,500
5	5	12,000	7,900
6	6	12,800	8,300
7	7	13,600	8,800
8	8	14,400	9,300

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

14
15 Requested by: Representatives Ethridge, H. Hunter
16 ---ASBESTOS HAZARD MANAGEMENT FUNDS

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

21
22 Requested by: Representatives Ethridge, H. Hunter
23 ---ADOLESCENT PREGNANCY PREVENTION PROJECTS

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

28 (b) Beginning in fiscal year 1991-92, the Division shall evaluate all of the
29 adolescent pregnancy projects funded as a result of this program at least yearly and shall
30 report its findings to the Commission for Health Services, the Joint Legislative
31 Commission on Governmental Operations, and the Chairmen of the House
32 Appropriations Committee on Environment, Health, and Natural Resources, and the
33 Senate Appropriations Committee on Natural and Economic Resources by April 1 of
34 each year. The evaluation shall be conducted by a firm or individual external to the
35 Department. Funds appropriated to the Department in Section 3 of this act for
36 employing a Public Health Program Consultant in the Division of Maternal and Child
37 Health shall be used by the Department to retain the services of the evaluator required
38 by this subsection. Any evaluation of these projects shall include a study of the
39 effectiveness of the project in reducing the pregnancy rate within the target population.

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

- 1 (1) Applications. Any local agency or organization or combination of
2 agencies and organizations may apply to the Division of Maternal and
3 Child Health for an allocation of money to operate a project aimed at
4 preventing adolescent pregnancy. The application shall contain an
5 analysis of the adolescent pregnancy and related problems in the
6 locality the project would serve, and a description of how the project
7 would attempt, over a period of at least five years, to prevent the
8 problems. The application shall state how much money is needed to
9 operate the project and how the money shall be spent. The Division
10 shall conduct annually a proposal-writing session that shall be attended
11 by a representative of any project that wishes to apply for funding; that
12 session shall define the criteria for accountability and evaluation that
13 the Division requires of projects. That session shall also provide
14 information about additional funding sources to which projects might
15 turn to satisfy the matching requirements of subdivision (5) of this
16 subsection.
- 17 (2) Proposal Requirements. The Division shall apply the following
18 minimum standards to projects applying for first-year funding:
19 a. Each project shall have a plan of action that extends for at least
20 five years for prevention of adolescent pregnancy.
21 b. Each project shall have realistic, specific, and measurable goals
22 and objectives for the prevention of adolescent pregnancy.
23 c. Each project, before submitting its proposal, shall send a
24 representative to the proposal-writing session held by the
25 Division.
- 26 (3) Operating standards. The Division shall apply the following minimum
27 operating standards:
28 a. Each project shall have a Board of Advisors composed of
29 members from outside the sponsoring agency of the project.
30 The Board of Advisors shall include representatives from at
31 least four of the following: media, government, charitable
32 organizations, private business, medical institutions. The
33 Boards of Advisors shall meet at least quarterly and advise
34 project staff on project policies and operations.
35 b. Each project shall comply with reporting, contracting, and
36 evaluation requirements of the Division.
37 c. Each project shall define and maintain cooperative ties with
38 other community institutions.
39 d. Each project shall demonstrate its ability to attract financial
40 support from sources other than the State, including sources in
41 the local community.
- 42 (4) Criteria for Selection. For first-year funding, the Division shall choose
43 from among the applicants that meet the minimum standards in

1 subdivision (2) of this subsection the best selection of projects
2 according to the following criteria:

- 3 a. Adequacy of proposed staff to meet project objectives;
- 4 b. Appropriateness of project strategies to reduce adolescent
5 pregnancy;
- 6 c. Level of community support, including documentation from the
7 appropriate local government entity or from community
8 organizations that opportunity has been given for citizen input
9 into the proposed program, and that there is community support
10 for the proposal. Documentation may include letters or
11 statements of support from citizens or community
12 organizations, or statements that community support was
13 expressed at public hearings;
- 14 d. Degree of need of the locality, including that the county has a
15 significant adolescent pregnancy problem as evidenced by its
16 attributable risk score developed by the Division of Statistics
17 and Information Services; and
- 18 e. Other appropriate criteria.

19 The Division shall make its recommendations for funding to the
20 Commission for Health Services. The Commission shall make the
21 final determination of which projects are to be funded. The
22 Commission shall consider the recommendations of the Division but
23 shall not be bound by them. The Commission shall notify the projects
24 that are to be funded by June 1 of each year.

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

- 32 a. First year, eighty percent (80%) of the project's annual budget
33 not to exceed the maximum award established by the
34 Commission for Health Services,
- 35 b. Second year, ninety percent (90%) of the State appropriations
36 or federal block grant funds awarded in the first year,
- 37 c. Third year, seventy-five percent (75%) of the State
38 appropriations or federal block grant funds awarded in the first
39 year,
- 40 d. Fourth year, sixty-five percent (65%) of the State appropriations
41 or federal block grant funds awarded in the first year, and
- 42 e. Fifth year, fifty percent (50%) of the State appropriations or
43 federal block grant funds awarded in the first year.

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

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

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

15 (8) As adolescent pregnancy prevention project grant funds decrease, a
16 project shall maintain its original budget level, less the amount
17 expended for start-up costs. The Department shall develop guidelines
18 for determining start-up costs, which guidelines shall be uniform for
19 all projects. Local match percentage may come from any in-kind
20 source or newly generated funds, public or private, available to the
21 project.

22
23 Requested by: Representatives Ethridge, H. Hunter

24 ---INFECTION CONTROL PROGRAM/FUNDS TRANSFER

25 Sec. 175. Of the funds appropriated to the Department of Environment,
26 Health, and Natural Resources, Division of Epidemiology, for the 1991-93 biennium,
27 \$85,274 shall be transferred in each fiscal year to the University of North Carolina at
28 Chapel Hill for the School of Medicine of the University of North Carolina at Chapel
29 Hill. Funds transferred pursuant to this section shall be used to support the Health Care
30 Facilities Infection Control Program in investigating and controlling nosocomial
31 infections in hospitals, long-term care facilities, and other medical facilities in
32 cooperation with the Division of Epidemiology. Funds transferred shall also be used to
33 provide training and consultation to hospitals, long-term care facilities, and other
34 medical facilities to prevent and control nosocomial infections.

35
36 Requested by: Representative James

37 ---SOIL AND WATER CONSERVATION DISTRICT SUPERVISORS' EXPENSES

38 Sec. 176. Of the funds appropriated in this Title to the Division of Soil and
39 Water Conservation, Department of Environment, Health, and Natural Resources,
40 \$214,594 for the 1991-92 fiscal year and \$214,594 for the 1992-93 fiscal year shall be
41 used for the per diem and travel expenses of the Soil and Water Conservation District
42 Supervisors.

43
44 Requested by: Representative Gottovi

1 —CHILDREN'S SPECIAL HEALTH SERVICES/REFUNDS

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

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

10

11 Requested by: Representatives Ethridge, H. Hunter

12 —PUBLIC HEALTH PROGRAM FEES/EXEMPTION FOR ELDERLY

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

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30 Requested by: Representative James

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31 —EHNH REDUCTIONS/HOLD COUNTIES HARMLESS

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37 Requested by: Representative Redwine

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38 —TRANSFER LAND RECORDS MANAGEMENT

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

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

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

4 **"§ 147-54.3. Land records management program.**

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

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

17 (1) Uniform indexing of land records;

18 (2) Uniform recording and indexing procedures for maps, plats and
19 condominiums; and

20 (3) Security and reproduction of land records.

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

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

28 (d) Upon the joint request of any board of county commissioners and the register
29 of deeds and subject to available resources of personnel and funds, the Secretary shall
30 make a management study of the office of register of deeds, using assistance from the
31 Office of State Personnel. At the conclusion of the study, the Secretary shall make
32 nonbinding recommendations to the board, the register of deeds, and to the General
33 Assembly.

34 (d1) ~~The Department of Environment, Health, and Natural Resources~~ Secretary of
35 State shall make comparative salary studies periodically of all registers of deeds offices
36 and at the conclusion of each study the Secretary of ~~Environment, Health, and Natural~~
37 ~~Resources~~ State shall present his written findings and shall make recommendations to
38 the board of county commissioners and register of deeds of each county.

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

44 (1) Centralized recording systems;

	<u>1991-92</u>	<u>1992-93</u>
1		
2	<u>Current Operations-General Fund</u>	
3		
4	Judicial Department	\$ 1,000,000 \$ 1,000,000
5		
6	Department of Public Education	54,253,414 72,774,393
7		
8	Department of Justice	229,627 229,627
9		
10	Department of Administration	
11	01. Administration	569,395 606,507
12	02. State Controller	1,037,280 1,037,280
13		
14	Department of Agriculture	205,000 205,000
15		
16	Department of Insurance	964,893 925,349
17		
18	Department of Environment, Health, and	
19	Natural Resources	5,459,644 9,529,095
20		
21	Office of Administrative Hearings	619,776 1,916,466
22		
23	Department of Human Resources	
24	01. DHR - Secretary	43,892 43,892
25	02. Social Services	17,178,708 19,723,832
26	03. Medical Assistance	58,750,817 67,938,215
27	04. School for the Deaf and	
28	Hard of Hearing	496,955 577,151
29	05. Division of Services for the	
30	Blind	944,910 1,639,890
31	06. Division of Mental Health,	
32	Developmental Disabilities, and	
33	Substance Abuse Services	15,368,898 22,196,460
34	07. Division of Youth Services	900,000 960,000
35	Total Department of	
36	Human Resources	93,684,180 113,079,440
37		
38	Department of Correction	- 6,902,493
39		
40	Department of Economic and Community	
41	Development	150,461 393,989
42		
43	Rural Economic Development Center	4,500,000 4,500,000
44		

1	Department of Cultural Resources		70,145	70,145
2				
3	Department of Crime Control			
4	and Public Safety		197,262	197,262
5				
6	University of North Carolina - Board			
7	of Governors			
8	01. University Institutional			
9	Program	8,564,400	9,664,400	
10				
11	State Board of Elections		8,200	-
12				
13	Department of Community			
14	Colleges	14,507,173	14,507,173	
15				
16	Debt Service		3,210,800	14,610,800
17				
18	Salary Increase Reserve (For all			
19	employees except teachers on			
20	Salary Schedule)			<u>- 16,900,000</u>
21				
22	GRAND TOTAL CURRENT OPERATIONS –			
23	GENERAL FUND		\$189,231,650	\$268,049,419
24				
25				

PART 28.—CURRENT OPERATIONS/HIGHWAY FUND

Sec. 183. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 1993, according to the following schedule:

		<u>1991-92</u>	<u>1992-93</u>
34	<u>Current Operations-Highway Fund</u>		
35			
36	Department of Transportation		
37	01. Administration	\$ 552,800	\$ 555,440
38	02. Division of Highways		
39	a. Administration and		
40	Operations	236,824	221,474
41	b. State Maintenance		
42	(01) Primary	8,191,105	5,993,348
43	(02) Secondary	14,396,487	10,533,764
44	(03) Urban	2,233,938	1,634,550

1	03.	Division of Motor Vehicles	822,436 1,184,729
2	04.	Reserve for Asphalt Cleanup	1,000,000 2,000,000
3	05.	Reserve for Pay Increase	<u>1,700,000</u>

4

5 GRAND TOTAL CURRENT OPERATIONS—

6 HIGHWAY FUND

\$ 27,433,590 \$ 23,823,305

7

8

9 PART 29.—GENERAL PROVISIONS

10

11 Requested by: Representative Gardner

12 —STATE AGENCY MAILING LISTS PURGED

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

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

24

25

26 PART 30.—SALARIES AND BENEFITS

27

28 Requested by: Representatives Nesbitt, Diamont

29 —SALARIES/GOVERNMENT EMPLOYEES

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

34

35 Requested by: Representative Nesbitt

36 —RESERVE FOR STATE EMPLOYEES' SALARY INCREASES

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

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

1

2 Requested by: Representative Nesbitt

3 —STATE EMPLOYEE COST OF LIVING PRIORITY

4

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

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

19

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

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

25

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

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

29

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

30 "(b) To guide the Governor and the General Assembly in making appropriations
31 to further the compensation policy of the State, the State Personnel Commission shall
32 conduct annual compensation surveys. ~~The Commission shall determine the percent of~~
33 ~~funds appropriated for salary increases to be reserved for a general increase for all State~~
34 ~~employees and the percent to be reserved for performance-based increases for eligible~~
35 ~~employees.—The Commission shall present its recommendation on the percentages and~~
36 the results of the compensation survey to the Appropriations Committees of the House
37 and Senate no later than two weeks after the convening of the legislature in odd years
38 and May 1st of even years. ~~The amount reserved for performance increases shall not be~~
39 ~~less than twenty five percent (25%) nor more than seventy five percent (75%) of the~~
40 ~~total allocation."~~

41

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

42 "(c) Performance ~~increases~~ increases, if awarded, shall be based on performance
43 appraisals of all employees conducted by each department, agency, and institution. The
44 State Personnel Commission, under the authority of G.S.126-4(8), shall adopt policy

1 and regulations for performance appraisal. The policy and regulations shall include the
2 following:".

3
4 Requested by: Representatives Diamont, Nesbitt

5 —SALARY RELATED CONTRIBUTIONS/EMPLOYERS

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

19 (b) Effective July 1, 1991, the State's employer contribution rates budgeted
20 for retirement and related benefits as a percentage of covered salaries for the 1991-92
21 fiscal year and the 1992-93 fiscal year are (i) ten and ninety-three hundredths percent
22 (10.93%) - Teachers and State Employees; (ii) fifteen and ninety-three hundredths
23 percent (15.93%) - State Law Enforcement Officers; (iii) eight and sixty-six hundredths
24 percent (8.66%) - University Employees' Optional Retirement Program; (iv) twenty-
25 nine and forty-six hundredths percent (29.46%) - Consolidated Judicial Retirement
26 System; and (v) thirty-two and thirty hundredths percent (32.30%) - Legislative
27 Retirement System. Each of the foregoing contribution rates includes two percent (2%)
28 for hospital and medical benefits. The rate for State Law Enforcement Officers includes
29 five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers
30 and State Employees, State Law Enforcement Officers, and for the University
31 Employees' Optional Retirement Program includes forty-two hundredths percent
32 (0.42%) for the Disability Income Plan.

33 (c) The maximum annual employer contributions, payable monthly, by the
34 State for each covered employee or retiree for the 1991-92 fiscal year to the Teachers'
35 and State Employees' Comprehensive Major Medical Plan are: (i) Medicare eligible
36 employees and retirees - \$1,260; and (ii) Non-Medicare eligible employees and retirees
37 - \$1,655.

38 (d) The maximum annual employer contributions, payable monthly, by the
39 State for each covered employee or retiree for the 1992-93 fiscal year to the Teachers'
40 and State Employees' Comprehensive Major Medical Plan are: (i) Medicare eligible
41 employees and retirees - \$1,351; and (ii) Non-Medicare eligible employees and retirees
42 - \$1,774.

1 PART 31.—DEPARTMENT OF INSURANCE

2

3 Requested by: Representative Diamont

4 —INSURANCE STUDY OF HEALTH INSURANCE COVERAGE OF WOMEN
5 NEEDING PRENATAL AND DELIVERY HEALTH SERVICES

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

14 (b) Of the funds appropriated to the Department of Insurance in this act,
15 \$40,000 is allocated for the study required by this act. The Department may contract for
16 clerical or professional staff or any other services it requires in the course of this study.

17

18

19 PART 32.—OFFICE OF STATE AUDITOR

20

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

22 —INFORMATION FROM PRIVATE ORGANIZATIONS RECEIVING STATE
23 FUNDS AND FROM STATE AGENCIES PROVIDING THESE
24 FUNDS/INFORMATION FROM STATE AGENCIES JUSTIFYING
25 APPROPRIATIONS REQUESTS

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

27 "**§ 143-6.1. Information from private organizations receiving State funds; funds;**
28 **information from State departments and agencies providing State funds.**

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

33 Each ~~private person,~~ corporation, organization, and institution which receives, uses
34 or expends State funds in the amount of twenty-five thousand dollars (\$25,000) or more
35 annually, except when the funds are ~~compensation for the purchase of~~ goods or services,
36 shall file annually with the State Auditor and with the Joint Legislative Commission on
37 Governmental Operations ~~a financial statement~~ statements in such form and on such
38 schedule as shall be prescribed by the State Auditor, and shall furnish to the State
39 Auditor for audit all books, records and other information as shall be necessary for the
40 State Auditor to account fully for the receipt, use and expenditure of State funds. Each
41 such ~~private person,~~ corporation, organization, and institution shall furnish such
42 additional financial or budgetary information as shall be requested by the State Auditor
43 or by the Joint Committee on Governmental Operations. All financial statements
44 furnished to the State Auditor or to the Joint Legislative Commission on Governmental

1 Operations pursuant to this section, and any audits or other reports prepared by the State
2 Auditor, shall be public records.

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

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

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

13 **"§ 143-6. Information from departments and agencies asking State aid.**

14 (a) On or before the first day of September ~~biennially,~~ in the even-numbered
15 years, each of the departments, bureaus, divisions, officers, boards, commissions,
16 institutions, and other State agencies and undertakings receiving or asking financial aid
17 from the State, or receiving or collecting funds under the authority of any general law of
18 the State, shall furnish the Director all the information, data and estimates which he may
19 request with reference to past, present and future appropriations and expenditures,
20 receipts, revenue, and income.

21 (b) Any department, bureau, division, officer, board, commission, institution, or
22 other State agency or undertaking desiring to request financial aid from the State for the
23 purpose of constructing or renovating any State building, utility, or other property
24 development (except a railroad, highway, or bridge structure) shall, before making any
25 such request for State financial aid, submit to the Department of Administration a
26 statement of its needs in terms of space and other physical requirements, and shall
27 furnish the Department with such additional information as it may request. The
28 Department of Administration shall then prepare preliminary studies and cost estimates
29 for the use of the requesting department, bureau, division, officer, board, commission,
30 institution, or other State agency or undertaking in presenting its request to the Director
31 of the Budget.

32 (c) On or before the first day of September in the even-numbered years, each of
33 the departments, bureaus, divisions, officers, boards, commissions, institutions, and
34 other State agencies receiving or asking financial aid or support from the State, under
35 the authority of any general law of the State, shall furnish the Director with the
36 following information:

37 (1) The amount of State funds disbursed in the immediately preceding two
38 fiscal years and the purpose for which the funds were disbursed and
39 used, the amount being requested as continuation funds for the
40 upcoming fiscal year, and the justification for continued State support;
41 and

42 (2) Justification for continued State support shall include information on
43 the extent of the public benefit being derived from State support.

1 (d) The Office of State Budget and Management and the Director of the Budget
2 shall provide to the General Assembly, on or before January 15 of each odd-numbered
3 year, a report that adequately and fairly presents the information required in this
4 section."

5 (c) This section does not apply to the General Assembly or its membership.
6
7

8 PART 33.—DEPARTMENT OF CULTURAL RESOURCES
9

10 Requested by: Representative Colton

11 —MUSEUM OF HISTORY/MODIFY DUTIES

12 Sec. 191. (a) G.S. 121-7(b) reads as rewritten:

13 "(b) Insofar as practicable, the North Carolina Museum of History shall accession
14 and maintain records showing provenance, value, location, and other pertinent
15 information on such furniture, furnishings, decorative items, and other objects as have
16 historical or cultural importance and which are owned by or to be acquired by the State
17 for use in the State Capitol, ~~Capitol and the Executive Mansion, and, upon request of the~~
18 ~~Department of Administration, any other state-owned building.~~ When any such item or
19 object has been entered in the accession records of the Museum of History, the
20 custodian of such item or object shall, upon its removal from the premises upon which it
21 was located or when it is otherwise disposed of, submit to the Museum of History
22 sufficient details concerning its removal or disposition to permit an adequate entry in
23 the accession records to the end that its location or disposition, and authority for such
24 change, shall be showed therein."

25 (b) This section is effective upon ratification.
26

27 Requested by: Representative Colton

28 —MUSEUM OF HISTORY CONTRACTS

29 Sec. 192. (a) G.S. 121-4 is amended by adding a new subdivision to read:

30 "(16) To enter into an agreement with a private nonprofit corporation for the
31 management of facilities to provide food and beverages at the North
32 Carolina Museum of History. Any net proceeds received by the private
33 nonprofit corporation shall be devoted to the work of the Department.
34 Any private nonprofit corporation entering into an agreement with the
35 Department with regard to the management of the facilities may enter
36 into further agreements with private persons or corporations
37 concerning the operation of the facilities. The Department may enter
38 into an agreement in regard to obtaining or installing equipment,
39 furniture, and furnishings for such facilities."

40 (b) This section is effective upon ratification.
41
42

43 PART 34.—PUBLIC SCHOOLS
44

1 Requested by: Representatives Barnes, Payne, Fussell

2 ---TEACHER SALARY SCHEDULE

3 Sec. 193. (a) The Director of the Budget may transfer from the Reserve for
4 Teachers Salary Increases for the 1991-92 fiscal year funds necessary to implement the
5 teacher salary schedule set out in subsection (b) of this section, including funds for the
6 employer's retirement and Social Security contributions and funds for annual longevity
7 payments at two and one-half percent (2.5%) of base salary only upon the completion of
8 25 years of State service, commencing with the seventh teacher pay period in the 1991-
9 92 fiscal year for all teachers whose salaries are supported from the State's General
10 Fund. These funds shall be allocated to individuals according to rules adopted by the
11 State Board of Education and the Superintendent of Public Instruction.

12 (b)(1) Beginning with the seventh teacher pay period in the 1991-92 fiscal
13 year the following monthly salary schedule shall apply to certified
14 personnel of the public schools who are classified as "A"teachers. The
15 schedule contains 30 steps with each step corresponding to one year of
16 teaching experience.

17	Years of	1991-92
18	<u>Experience</u>	<u>Salary</u>
19		
20	00	\$1,981
21	01	2,021
22	02	2,061
23	03	2,164
24	04	2,207
25	05	2,251
26	06	2,296
27	07	2,342
28	08	2,389
29	09	2,437
30	10	2,486
31	11	2,536
32	12	2,587
33	13	2,639
34	14	2,692
35	15	2,746
36	16	2,801
37	17	2,857
38	18	2,914
39	19	2,972
40	20	3,031
41	21	3,092
42	22	3,154
43	23	3,217
44	24	3,281

1	25	3,347
2	26	3,414
3	27	3,482
4	28	3,552
5	29+	3,623

(2) Beginning with the seventh 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</u> <u>Experience</u>	<u>1991-92</u> <u>Salary</u>
14	00	\$2,105
15	01	2,147
16	02	2,190
17	03	2,300
18	04	2,346
19	05	2,393
20	06	2,441
21	07	2,490
22	08	2,540
23	09	2,591
24	10	2,643
25	11	2,696
26	12	2,750
27	13	2,805
28	14	2,861
29	15	2,918
30	16	2,976
31	17	3,036
32	18	3,097
33	19	3,159
34	20	3,222
35	21	3,286
36	22	3,352
37	23	3,419
38	24	3,487
39	25	3,557
40	26	3,628
41	27	3,701
42	28	3,775
43	29+	3,851

- 1 (3) The rules adopted by the State Board for allocating funds to
2 individuals shall provide for (i) a seven and one-half percent (7.5%)
3 salary increase for teachers with certification based on academic
4 preparation at the six-year degree level, (ii) a ten percent (10%) salary
5 increase for teachers with certification based on academic preparation
6 at the doctoral degree level, and (iii) annual longevity pay at two and
7 one-half percent (2.5%) of base salary only upon the completion of 25
8 years of State service.
9

10 Requested by: Representatives Payne, Fussell

11 —DIFFERENTIATED PAY FUNDS

12 Sec. 194. Notwithstanding the provisions of Part 4 of Article 16 of Chapter
13 115C of the General Statutes or any other provision of law, no State funds shall be spent
14 for differentiated pay for public school employees for the 1991-93 fiscal biennium,
15 except for funds for employees in career development pilot projects. State funds for
16 differentiated pay plans in career development pilot units shall be phased down for the
17 1991-93 fiscal biennium as provided in Section 7 of Chapter 778 of the 1989 Session
18 Laws, as amended by Section 97 of Chapter 1066 of the 1989 Session Laws.
19

20 Requested by: Representative Diamont

21 —SALARY SCHEDULE FOR ADMINISTRATORS

22 Sec. 195. Prior to February 1, 1992, the State Board of Education shall
23 develop a reasonable salary schedule for superintendents, assistant superintendents,
24 associate superintendents, supervisors, directors, coordinators, evaluators, program
25 administrators, principals, and assistant principals whose salaries are supported from the
26 State's General Fund.

27 The State Board of Education shall also develop a reasonable schedule for
28 implementing this salary schedule.

29 The State Board of Education shall report to the Joint Legislative
30 Commission on Governmental Operations prior to February 1, 1992, on the salary
31 schedule developed pursuant to this section and the proposed implementation schedule
32 for this salary schedule.
33

34 Requested by: Representatives Barnes, Fussell, Payne, Rogers, Diamont, Nesbitt

35 —BASIC EDUCATION PROGRAM

36 Sec. 196. (a) G.S. 115C-81(a) reads as rewritten:

37 "(a) The State Board of Education shall adopt a Basic Education Program for the
38 public schools of the State. Before it adopts or revises the Basic Education Program, the
39 State Board shall consult with an Advisory Committee, including at least eight members
40 of local boards of education, that the State Board appoints from a list of nominees
41 submitted by the North Carolina School Boards Association. The State Board shall
42 report annually to the General Assembly on any changes it has made in the program in
43 the preceding 12 months and any changes it is considering for the next 12 months.

1 The State Board of Education shall review the Basic Education Program in an effort
2 to (i) simplify the Basic Education Program, especially the standard course of study
3 and the core curriculum for all students, and (ii) assure that the Program adopted by the
4 State Board and implemented by the local boards of education carries out the intent of
5 the General Assembly to provide every student in the State equal access to a Basic
6 Education Program. The State Board shall report the results of its review to the Joint
7 Legislative Education Oversight Committee and to the General Assembly prior to
8 March 15, 1992.

9 The State Board shall implement the Basic Education Program within funds
10 appropriated for that purpose by the General Assembly and by units of local
11 government. It is the intent of the General Assembly that until the Basic Education
12 Program is fully funded, the implementation of the Basic Education Program shall be
13 the focus of State educational funding. It is the goal of the General Assembly that the
14 Basic Education Program be fully funded and completely operational in each local
15 school administrative unit by July 1, 1995.

16 It is further a goal of the General Assembly to provide supplemental funds to low-
17 wealth counties to allow those counties to enhance the instructional program and student
18 achievement."

19 (b) G.S. 115C-12(9) reads as rewritten:

20 "(9) Miscellaneous Powers and Duties. – All the powers and duties
21 exercised by the State Board of Education shall be in conformity with
22 the Constitution and subject to such laws as may be enacted from time
23 to time by the General Assembly. Among such duties are:

- 24 a. To certify and regulate the grade and salary of teachers and
25 other school employees.
- 26 b. To adopt and supply textbooks.
- 27 c. To adopt rules requiring all local boards of education to
28 implement the Basic Education Program on an incremental
29 basis within funds appropriated for that purpose by the General
30 Assembly and by units of local government. Beginning with
31 the 1991-92 school year, the rules shall require each local
32 school administrative unit to implement fully the standard
33 course of study in every school in the State in accordance with
34 the Basic Education Program so that every student in the State
35 shall have equal access to the curriculum as provided in the
36 Basic Education Program and the standard course of study.

37 The Board shall establish benchmarks by which to measure
38 the progress that each local board of education has made in
39 implementing the Basic Education Program. The Board shall
40 report to the Joint Legislative Education Oversight Committee
41 and to the General Assembly by December 31, 1991, and by
42 February 1 of each subsequent year on each local board's
43 progress in implementing the Basic Education Program.

1 including the use of State and local funds for the Basic
2 Education Program.

3 The Board shall develop a State accreditation program that
4 meets or exceeds the standards and requirements of the Basic
5 Education Program. The Board shall require each local school
6 administrative unit to comply with the State accreditation
7 program to the extent that funds have been made available to
8 the local school administrative unit for implementation of the
9 Basic Education Program.

10 The Board shall use the State accreditation program to
11 monitor the implementation of the Basic Education Program.

12 c1. To issue an annual 'report card' for the State and for each local
13 school administrative unit, assessing each unit's efforts to
14 improve student performance and taking into account progress
15 over the previous years' level of performance and the State's
16 performance in comparison with other states. This assessment
17 shall take into account demographic, economic, and other
18 factors that have been shown to affect student performance.

19 c2. To develop management accountability indicators to measure
20 the efficiency and appropriate use of staff in each school and at
21 the administrative office. Staff development for school
22 administrators shall be a high priority of the Department of
23 Public Instruction.

24 d. To formulate rules and regulations for the enforcement of the
25 compulsory attendance law.

26 e. To manage and operate a system of insurance for public school
27 property, as provided in Article 38 of this Chapter.

28 In making substantial policy changes in administration, curriculum,
29 or programs the Board should conduct hearings throughout the regions
30 of the State, whenever feasible, in order that the public may be heard
31 regarding these matters."

32 (c) G.S. 115C-238.6(a) reads as rewritten:

33 "(a) Prior to June 30 each year, the State Superintendent shall review local school
34 improvement plans submitted by the local school administrative units in accordance
35 with policies and performance indicators adopted by the State Board of Education. If
36 the State Superintendent approves the plan for a local school administrative unit, that
37 unit shall participate in the Program for the next fiscal year.

38 If a local plan contains a request for a waiver of State laws, regulations, or policies,
39 in accordance with G.S. 115C-238.3(e), the State Superintendent shall determine
40 whether and to what extent the identified laws, regulations, or policies should be
41 waived. The State Superintendent shall present that plan and his determination to the
42 State Board of Education. If the State Board of Education deems it necessary to do so
43 to enable a local unit to reach its local accountability goals, the State Board, only upon
44 the recommendation of the State Superintendent, may grant waivers of:

1 (1) State laws pertaining to class size, teacher certification, assignment of
2 teacher assistants, the use of State-adopted textbooks, and the purposes
3 for which State funds for the public schools may be ~~used, and used:~~
4 Provided, however, the State Board of Education shall not permit the
5 use of funds for teachers for expanded programs under the Basic
6 Education Program for any other purpose;

7 (2) All State regulations and policies, except those pertaining to State
8 salary schedules and employee benefits for school employees, the
9 instructional program that must be offered under the Basic Education
10 Program, the system of employment for public school teachers and
11 administrators set out in G.S. 115C-325, health and safety codes,
12 compulsory school attendance, the minimum lengths of the school day
13 and year, and the Uniform Education Reporting System."

14 (d) The Department of Public Instruction shall report to the Joint Legislative
15 Education Oversight Committee and to the General Assembly before May 1, 1992, on
16 the methods used to measure student achievement.

17 (e) Of the funds appropriated to the Department of Public Education for the
18 1991-93 fiscal biennium, the sum of \$28,907,374 for the 1991-92 fiscal year and the
19 sum of \$28,907,374 for the 1992-93 fiscal year shall be used to complete the funding of
20 teachers for expanded programs under the Basic Education Program. These funds shall
21 be used by local school administrative units to implement fully the standard course of
22 study in every school in the State in accordance with the Basic Education Program so
23 that every student in the State shall have equal access to the curriculum provided for
24 therein.

25 The State Board of Education shall not waive, in accordance with G.S. 115C-
26 238.6(a), the requirement that all local schools use these funds for teachers for expanded
27 programs to implement fully the standard course of study in every school in the State.

28
29 Requested by: Representatives Barnes, Diamont, Nesbitt

30 —EXTENDED SCHOOL DAY

31 Sec. 197. G.S. 115C-84(a) reads as rewritten:

32 "(a) School Day. – The length of the school day shall be determined by the several
33 local boards of education for all public schools in their respective local school
34 administrative units, and the minimum time for which teachers shall be employed in the
35 schoolroom or on the grounds supervising the activities of children shall not be less than
36 six hours: Provided, the several local boards of education may adopt rules and
37 regulations allowing handicapped pupils, kindergarten pupils, and pupils attending the
38 first, second, and third grades to attend school for a period less than six hours. The
39 superintendent of the several local boards of education, in the event of an emergency,
40 act of God, or any other conditions requiring the termination of classes before six hours
41 have elapsed, may suspend the operation of any school for that particular day without
42 loss of credit to the pupil or loss of pay to the teacher.

43 The General Assembly urges the local boards of education to expand the length of
44 the school day so that it includes at least six hours of instructional time."

1

2 Requested by: Representatives Barnes, Fussell, Payne, Diamont, Nesbitt

3 —SCHOOL-TO-WORK TRANSITION

4 Sec. 198. G.S. 115C-81(a1) reads as rewritten:

5 "(a1) The Basic Education Program shall describe the education program to be
6 offered to every child in the public schools. It shall provide every student in the State
7 equal access to a Basic Education Program. Instruction shall be offered in the areas of
8 arts, communication skills, physical education and personal health and safety,
9 mathematics, media and computer skills, science, second languages, social studies, and
10 vocational education.

11 Instruction in vocational education under the Basic Education Program shall be
12 based on factors including:

13 (1) The integration of academic and vocational education;

14 (2) A sequential course of study leading to both academic and
15 occupational competencies;

16 (3) Increased student work skill attainment and job placement;

17 (4) Increased linkages, where geographically feasible, between public
18 schools and community colleges, so the public schools can emphasize
19 academic preparation and the community colleges can emphasize
20 specific job training; and

21 (5) Instruction and experience, to the extent practicable, in all aspects of
22 the industry the students are prepared to enter."

23

24 Requested by: Representatives Nesbitt, Diamont, Barnes

25 —OUTCOME-BASED EDUCATION

26 Sec. 199. (a) Article 16 of Chapter 115C of the General Statutes is amended by
27 adding a new Part to read:

28 **"PART 5. OUTCOME-BASED EDUCATION PROGRAM.**

29 **"§ 115C-238.12. Purpose of program.**

30 An outcome-based education program is a program in which expectations for
31 student achievement are clearly stated in terms of knowledge, skills, and attitudes.
32 Students develop skills and attitudes to maximize the acquisition of knowledge. The
33 program recognizes that achievement occurs as a result of individual and developmental
34 progress towards goals, and reflects that students learn at different rates using varying
35 learning styles. Outcome-based education measures achievement periodically
36 throughout the learning process and is the criteria for high school graduation.
37 Measurement of student achievement is implemented by teachers to complement varied
38 learning growth and styles. The results of those measurements are used to determine
39 when a student understands and has mastered the material and is ready to move forward
40 in the learning process.

41 **"§ 115C-238.13. Implementation of the project by the State Board of Education.**

42 (a) The State Board of Education shall develop and implement an outcome-based
43 education program. The State Board of Education shall select four sites to participate in
44 the program for five fiscal years beginning with the 1992-93 fiscal year. The first year

1 of the project shall be a year for the sites to plan their projects. The remaining four
2 years shall be to implement the projects and to demonstrate their effectiveness.

3 (b) The State Board of Education shall adopt expectations for student
4 achievement, necessary for students to function successfully in the next century. These
5 expectations shall be consistent with national education goals recommended by the
6 National Governors' Association in 1990. The State Board of Education, after
7 consultation with the Board of Governors of The University of North Carolina, the State
8 Board of Community Colleges, representatives of independent colleges, representatives
9 of the business community, representatives of the Department of Public Instruction,
10 representatives of local school administrative units, principals, teachers, and parents,
11 shall adopt proficiencies that are required for graduation from high school. These
12 expectations and proficiencies shall be adopted no later than June 15, 1992, and shall be
13 used by the sites to develop their local outcome-based education projects.

14 The proficiencies that are required for graduation from high school may include:

15 (1) Writing – High school graduates will be able to organize complex,
16 demanding, and extended subject matter clearly and effectively. They
17 will produce structured writings in which relationships between
18 successive paragraphs are signaled by connective words and phrases.
19 They will punctuate their writing so that meaning and structure are
20 clear.

21 (2) Reading – High school graduates will be able to make independent and
22 discriminating selections from a range of reference materials; retrieve
23 information from those materials using techniques such as skimming;
24 and evaluate and synthesize information from different parts of a text
25 or different texts.

26 (3) Mathematics – High school graduates will be able to present a set of
27 complex data in a simplified form using a variety of diagrams and
28 graphs.

29 (c) The State Board of Education, the Board of Governors of The University of
30 North Carolina, and the State Board of Community Colleges shall work jointly to
31 develop a mechanism by which the institutions of higher education accept certification
32 of proficiencies on high school transcripts in lieu of Carnegie units.

33 **§ 115C-238.14. Selection of sites.**

34 (a) No later than October 10, 1991, the State Board of Education shall develop a
35 competitive process for the selection of project sites.

36 (b) No later than November 30, 1991, the Department of Public Instruction shall
37 initiate the competitive process for the selection of project sites and shall conduct
38 regional briefings for local school administrative units interested in submitting
39 proposals. The regional briefings shall provide detailed information about outcome-
40 based education models so local school administrative units can decide whether to
41 compete for selection as a project site.

42 (c) No later than February 29, 1992, local school administrative units shall
43 submit their proposals to the Department of Public Instruction. The proposal may cover
44 all or part of the schools in a local school administrative unit.

1 The proposal shall include information regarding the local school administrative
2 unit's plan for, ability to, and commitment to complying with the following
3 requirements for local programs:

- 4 (1) The program shall ensure that all students have access to a common
5 core of knowledge and that all students are treated equitably.
- 6 (2) Student advancement shall be based on the mastery of the
7 proficiencies adopted by the State Board of Education pursuant to G.S.
8 115C-238.13(b).
- 9 (3) Students shall be allowed to progress at different rates; however,
10 expectations for progress shall be based on the goal that all students
11 master the proficiencies required for high school graduation. Computer
12 assisted, personal education plans shall be available for every student.
- 13 (4) Parents and guardians shall be involved in a student's selection of high
14 school completion options.
- 15 (5) Teachers and principals shall have a major role in development of
16 local projects.
- 17 (6) A majority of the teachers and principals who will participate in the
18 pilot project shall approve the proposal for selection as a pilot site and
19 the plans for the local program before they are submitted to the
20 Department of Public Instruction.
- 21 (7) Programs shall provide each student a school-based adult advocate to
22 foster self-esteem, protect learning options, ensure that student needs
23 are being met, and ensure that students are being treated equitably.
- 24 (8) Projects shall be shared with the public. Annual reports describing
25 program goals, activities, and accomplishments shall be made
26 available to the public. The reports shall contain specific information
27 regarding the contributions of teachers, administrators, and the local
28 board of education to the program, and to student progress under the
29 program.

30 (d) The Department of Public Instruction shall review the proposals and shall
31 transmit its recommendations regarding the sites to the State Board of Education no
32 later than April 30, 1992. The Department of Public Instruction shall involve an
33 advisory committee comprised of business leaders, legislators, school board members,
34 public school administrators, and other educators in the review process.

35 (e) The State Board of Education shall select the project sites no later than June
36 15, 1992. The State Board shall base its decision on the local school administrative
37 units' plans for, ability to, and commitment to complying with the requirements for local
38 programs set out in subsection (c) of this section.

39 **"§ 115C-238.15. Development of local programs by the project sites.**

40 (a) From June 15, 1992, through March 15, 1993, the project sites shall develop
41 their local programs. No later than March 15, 1993, the sites shall submit their plans to
42 the Department of Public Instruction for review. No later than May 30, 1993, the
43 Department shall review the plans and work with the sites to assure that the plans carry
44 out the provisions of this Part.

1 (b) The Department of Public Instruction shall provide technical assistance to the
2 sites in developing their local programs.

3 (c) In developing its local plan, each local school administrative unit shall select
4 the outcome-based education model to be followed. Each local school administrative
5 unit shall determine the instructional programs and strategies used to develop student
6 proficiencies at its site. Under the plan, teachers shall determine when the proficiencies
7 of a group of students are assessed; provided, however, State-administered tests shall be
8 used to test proficiencies at a site no more than four times a year. Student advancement
9 shall be determined by school-based personnel assigned to oversee the instructional
10 program of a group of students.

11 (d) In developing and administering local projects, local boards of education
12 need broad decision-making authority so that teachers and administrators at the sites can
13 experiment with the instructional activities that meet the instructional needs in that
14 particular setting. Each local school administrative unit shall set forth in its plan, with
15 specificity, those aspects of the plan that would be enhanced by flexibility with regard
16 to statutes and regulations. The State Board of Education may grant each local school
17 administrative unit such flexibility with regard to statutes and regulations as it finds
18 necessary and appropriate to implement a local program (i) so long as the projects and
19 activities are carried out within total funds available for that purpose, and (ii) so long as
20 the State Board of Education does not find as a fact that the flexibility is being abused.

21 The State Board of Education shall report such flexibility with regard to statutes and
22 regulations contained in any projects or proposed changes to projects to the Joint
23 Legislative Commission on Governmental Operations.

24 (e) Local projects may include model accountability programs that meet the
25 needs of the project sites. To the extent that the State Board of Education finds that
26 these accountability programs provide sufficient data for oversight, they may be used
27 instead of other State-mandated programs.

28 (f) Local projects shall include plans to train and retrain teachers, administrators,
29 and school board members to implement the projects.

30 **"§ 115C-238.16. Approval and implementation of plans.**

31 (a) Between March 15, 1993, and June 1, 1993, the State Board of Education
32 shall receive plans for projects from the project sites and the comments of the
33 Department of Public Instruction regarding the projects.

34 (b) No later than June 15, 1993, the State Board of Education shall approve the
35 plans for the projects, approve the plans with modifications, or reject the plans.

36 (c) The project sites shall begin implementation immediately of projects
37 approved, or approved with modifications, by the State Board.

38 **"§ 115C-238.17. Annual assessment and reapproval of plans.**

39 (a) Between March 15 and May 15 of each subsequent year of the project, the
40 projects shall submit to the Department of Public Instruction any data requested by the
41 Department of Public Instruction or the State Board of Education and any proposed
42 changes in the projects. No later than May 30 each year, the Department shall review
43 the data and the proposed changes in the plans for the projects and shall work with the
44 project sites to assure that the plans carry out the provisions of this Part.

1 (b) Between March 15 and June 1 of each subsequent year, the State Board of
2 Education shall receive the data requested and the proposed changes in plans for
3 projects from the project sites and shall receive the comments of the Department of
4 Public Instruction regarding the data and the proposed changes in the projects. The
5 State Board shall also consider the results of audits and evaluations performed pursuant
6 to G.S. 115C-238.18.

7 (c) No later than June 15 of each subsequent year, the State Board of Education
8 shall reapprove the plans and any changes for the projects, reapprove the plans and any
9 changes with modifications, or reject the plans.

10 (d) The project sites shall begin implementation immediately of projects
11 reapproved, or reapproved with modifications, by the State Board.

12 **"§ 115C-238.18. Evaluation of program.**

13 (a) State-Level Program Evaluation Procedures. – A program audit shall be
14 conducted by the Office of the State Auditor following the first and second years of the
15 program. The audit shall certify that the State Board of Education and State Department
16 of Public Instruction have implemented procedures as specified by the General
17 Assembly. The audit shall focus on the autonomy and flexibility given to local school
18 administrative units in the development of outcome-based education models and plans
19 so as to determine if the appropriate amount of autonomy and flexibility was sought and
20 granted and if the autonomy and flexibility were used properly.

21 (b) Local-Level Program Evaluation Procedures. –

22 (1) The program audit conducted by the Office of the State Auditor
23 following the second year of the program shall include a local-level
24 procedures component. The audit shall certify that local plans contain
25 elements as specified by the General Assembly. The audit shall also
26 certify that teachers and building level administrators were involved in
27 the development of plans.

28 (2) The Department of Public Instruction shall conduct a process
29 evaluation of each pilot site following the second through sixth years
30 of the program. The evaluation shall determine how well plans have
31 been implemented. The evaluation shall focus on staff development,
32 organizational and instructional activities, and the involvement and
33 acceptance of the project by all concerned groups including the board
34 of education, administrators, teachers, parents, students, and the
35 business community.

36 (c) Student-Level Outcomes Evaluation. –

37 (1) Local pilot sites shall develop and implement accountability models
38 designed to measure student outcomes. The plans shall include the use
39 of tests available through the State's testing program. Accountability
40 models shall be part of the site plans submitted to the State Board for
41 approval.

42 (2) The State Department of Public Instruction shall audit the
43 implementation of accountability models. Audits shall be conducted
44 following the third, fourth, fifth, and sixth years of the program.

1 (3) The State Department of Public Instruction shall conduct a summative
2 evaluation following the sixth year of the program. Student outcomes
3 shall be the focus of the summative evaluation.

4 (d) Reports to the General Assembly. – The State Board of Education shall
5 submit a summative evaluation report on the projects to the General Assembly no later
6 than March 15, 1998.

7 "**§ 115C-238.19. Solicitation of private funds for additional sites.**

8 The State Board of Education shall design and implement a program for soliciting
9 private funds to support the outcome-based education pilot sites. As funds become
10 available, the State Board may request that the General Assembly authorize additional
11 sites to participate in the program."

12 (b) Of the funds appropriated to the Department of Public Education, the sum of
13 \$100,000 for the 1991-92 fiscal year shall be used for advance planning for the
14 outcome-based education program at four sites pursuant to subsection (a) of this section
15 and the sum of \$4,000,000 for the 1992-93 fiscal year shall be used to implement the
16 program at the four pilot sites. These funds shall be allocated on the basis of \$500.00
17 for each State-funded certificated employee participating in the program. These funds
18 shall be used (i) for staff development activities, including planning activities, for
19 teachers, administrators, and school board members, (ii) to pay substitute teachers while
20 teachers are engaged in staff development activities, and (iii) to pay 10-month
21 employees for participating in staff development activities, including planning activities
22 during the summer.

23 It is the intent of the General Assembly to appropriate an additional
24 \$4,000,000 each year for the 1993-94 through 1996-97 fiscal years to complete the
25 implementation of the outcome-based education program at the four sites.

26
27 Requested by: Representatives Diamont, Nesbitt

28 —SCHOOL ADMINISTRATOR TRAINING AND CERTIFICATION

29 Sec. 200. (a) G.S. 115C-284 reads as rewritten:

30 "**§ 115C-284. Method of selection and requirements.**

31 (a) Principals and supervisors shall be elected by the local boards of education
32 upon the recommendation of the superintendent, in accordance with the provisions of
33 G.S. 115C-276(j).

34 (b) In the city administrative units, principals shall be elected by the board of
35 education of such administrative unit upon the recommendation of the superintendent of
36 city schools.

37 (c) The State Board of Education shall have entire control of certifying all
38 applicants for supervisory and professional positions in all public elementary and high
39 schools of North Carolina; and it shall prescribe the rules and regulations for the
40 renewal and extension of all certificates, and shall determine and fix the salary for each
41 grade and type of certificate which it authorizes. Provided, that the State Board of
42 Education shall require each applicant for an initial certificate or graduate certificate to
43 demonstrate his academic and professional preparation by achieving a prescribed
44 minimum score at least equivalent to that required by the Board on November 30, 1972,

1 on a standard examination appropriate and adequate for that purpose: Provided, further,
2 that in the event the Board shall specify the National Teachers Examination for this
3 purpose, the required minimum score shall not be lower than that which the Board
4 required on November 30, ~~1972~~-1972: Provided, further, that the Board shall not issue
5 provisional certificates for principals and assistant principals.

6 (c1) It is the policy of the State of North Carolina to maintain the highest quality
7 principal and assistant principal education programs in order to enhance the competence
8 of professional personnel certified in North Carolina. To ensure that principal and
9 assistant principal preparation programs are upgraded to reflect a more rigorous course
10 of study, the State Board of Education shall submit to the General Assembly not later
11 than March 1, 1992, a plan to promote this policy. In developing this plan, the State
12 Board shall consider (i) requiring these programs to include additional preparation for
13 site-based decision making and for the additional autonomy being granted to local
14 schools units, (ii) enhancing program entrance requirements to include assessment of an
15 applicant's ability to complete the program and to perform as a principal, and (iii)
16 enhancing the overall content of the programs.

17 The State Board of Education, as lead agency in coordination and cooperation with
18 the University Board of Governors and such other public and private agencies as are
19 necessary, shall refine the several certification requirements, standards for approval of
20 institutions of principal and assistant principal education, standards for institution-based
21 innovative and experimental programs, and standards for improved efficiencies in the
22 administration of the approved programs.

23 (d) Repealed by Session Laws 1989, c. 385, s. 1.

24 (d1) It is the policy of the State of North Carolina that, subsequent to the adoption
25 of a system of classroom teacher differentiation and prerequisites to candidacy for
26 principal, a classroom teacher must have attained at least the second level of
27 differentiation, have at least four years of classroom teaching experience, and possess,
28 at least, a Masters Degree in Education Administration. This subsection shall not apply
29 to educational personnel certified as of July 1, 1984.

30 (e) It shall be unlawful for any board of education to employ or keep in service
31 any principal or supervisor who neither holds nor is qualified to hold a certificate in
32 compliance with the provision of the law or in accordance with the regulations of the
33 State Board of Education.

34 (f) The allotment of classified principals shall be one principal for each duly
35 constituted school with seven or more state-allotted teachers and shall be included in the
36 calculation of the allotment of general teachers set out in G.S. 115C-301(b)(i).

37 (g) Local boards of education shall have authority to employ supervisors in
38 addition to those that may be furnished by the State when, in the discretion of the board
39 of education, the schools of the local school administrative unit can thereby be more
40 efficiently and more economically operated and when funds for the same are provided
41 in the current expense fund budget. The duties of such supervisors shall be assigned by
42 the superintendent with the approval of the board of education.

43 (h) All principals and supervisors employed in the public schools of the State or
44 in schools receiving public funds, shall be required either to hold or be qualified to hold

1 a certificate in compliance with the provision of the law or in accordance with the
2 regulations of the State Board of Education: ~~Provided, that nothing herein shall prevent~~
3 ~~the employment of temporary personnel under such rules as the State Board of~~
4 ~~Education may prescribe. Education."~~

5 (b) G.S. 115C-289 reads as rewritten:

6 "**§ 115C-289. Assignment of principal's duties to assistant or acting principal;**
7 **duties of State-funded assistant principals.**

8 (a) Any duty or responsibility assigned to a principal by statute, State Board of
9 Education regulation, or by the superintendent may, with the approval of the local board
10 of education, be assigned by the principal to an assistant principal designated by the
11 local board of education or to an acting principal designated by a principal.

12 (b) ~~Except as provided in subsection (e), all~~ All persons employed as assistant
13 principals in State-allotted positions, or as assistant principals in full-time positions
14 regardless of funding source, in the public schools of the State or in schools receiving
15 public funds, shall, in addition to other applicable requirements, be required either to
16 hold or be qualified to hold a principal's certificate in compliance with applicable law
17 and in accordance with the regulations of the State Board of Education. ~~Except as~~
18 ~~provided in subsection (e), it~~ It shall be unlawful for any board of education to employ
19 or keep in service any assistant principal who neither holds nor is qualified to hold a
20 principal's certificate in compliance with applicable law and in accordance with the
21 regulations of the State Board of Education. ~~Nothing herein shall prevent the~~
22 ~~employment of temporary personnel under such rules as the State Board of Education~~
23 ~~may prescribe.~~

24 (c) ~~Subsection (b) shall not apply to any person who was employed as an~~
25 ~~assistant principal in either a full or part time position during the 1986-87 school term~~
26 ~~until the first day of the 1990-91 school term. Such persons shall meet all other~~
27 ~~requirements which are applicable to teachers generally. In addition, the local board of~~
28 ~~education may in its discretion require that any person employed as an assistant~~
29 ~~principal make satisfactory progress, as determined by the local board, toward meeting~~
30 ~~the requirements for certification as a principal.~~

31 (d) Assistant principals paid from State funds shall not have regularly assigned
32 teaching duties."

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

35 "**§ 115C-12.1. Training of State Board members.**

36 The State Board of Education shall establish minimum training requirements for
37 members of the State Board of Education. All Board members shall participate in
38 training programs, as required by the State Board."

39 (d) Chapter 115C of the General Statutes is amended by adding a new section to
40 read:

41 "**§ 115C-50. Training of board members.**

42 All members of local boards of education shall receive a minimum of 12 clock hours
43 of training annually. The training shall include but not be limited to public school law,
44 public school finance, and duties and responsibilities of local boards of education. The

1 training may be provided by the North Carolina School Boards Association, the Institute
2 of Government, or other qualified sources at the choice of the local board of education."

3 (e) Chapter 116 of the General Statutes is amended by adding a new section
4 to read:

5 **"§ 116-11.2. Duties regarding programs in education administration.**

6 The Board of Governors shall direct the constituent institutions with programs in
7 education administration to revise the programs to reflect any increased standards
8 required for programs approved by the State Board of Education, including new
9 requirements for school-based leadership in the public schools. The Board of
10 Governors shall monitor the programs and devise an assessment plan for all programs
11 leading to certification in education administration."

12 (f) Of the funds appropriated to the Board of Governors of The University of
13 North Carolina for the 1991-93 fiscal biennium, the sum of \$150,000 for the 1991-92
14 fiscal year and the sum of \$570,000 for the 1992-93 fiscal year shall be used to expand
15 the Principals Executive Program operated by the Institute of Government. Of these
16 funds, the sum of \$150,000 for the 1991-92 fiscal year and the sum of \$150,000 for the
17 1992-93 fiscal year shall be used to expand the program at the Chapel Hill site; the sum
18 of \$420,000 for the 1992-93 fiscal year shall be used to provide the program at
19 additional sites throughout the State and to offer the program to assistant principals.

20
21 Requested by: Representative Holt

22 ---NO WAIVERS OF FUNDS FOR SCHOOL HEALTH COORDINATORS

23 Sec. 201. G.S. 115C-238.6(a) reads as rewritten:

24 "(a) Prior to June 30 each year, the State Superintendent shall review local school
25 improvement plans submitted by the local school administrative units in accordance
26 with policies and performance indicators adopted by the State Board of Education. If
27 the State Superintendent approves the plan for a local school administrative unit, that
28 unit shall participate in the Program for the next fiscal year.

29 If a local plan contains a request for a waiver of State laws, regulations, or policies,
30 in accordance with G.S. 115C-238.3(e), the State Superintendent shall determine
31 whether and to what extent the identified laws, regulations, or policies should be
32 waived. The State Superintendent shall present that plan and his determination to the
33 State Board of Education. If the State Board of Education deems it necessary to do so
34 to enable a local unit to reach its local accountability goals, the State Board, only upon
35 the recommendation of the State Superintendent, may grant waivers of:

- 36 (1) State laws pertaining to class size, teacher certification, assignment of
37 teacher assistants, the use of State-adopted textbooks, and the purposes
38 for which State funds for the public ~~schools~~ schools, except for funds
39 for school health coordinators, may be used, and
40 (2) All State regulations and policies, except those pertaining to State
41 salary schedules and employee benefits for school employees, the
42 instructional program that must be offered under the Basic Education
43 Program, the system of employment for public school teachers and
44 administrators set out in G.S. 115C-325, health and safety codes,

1 compulsory school attendance, the minimum lengths of the school day
2 and year, and the Uniform Education Reporting System."
3
4

5 **PART 35.—DEPARTMENT OF COMMUNITY COLLEGES**
6

7 Requested by: Representatives Fussell, Payne

8 **—HOLD HARMLESS/COMMUNITY COLLEGES SERVING MILITARY BASES**

9 Sec. 202. The State Board of Community Colleges may use funds available
10 to it for the 1991-92 fiscal year to allot funds at the 1990-91 budget level to institutions
11 whose enrollments were adversely affected by Operation Desert Storm so that those
12 institutions can serve the returning troops. If the institutions do not need these
13 additional funds to serve returning troops, the additional funds allotted pursuant to this
14 section shall revert at the end of the 1991-92 fiscal year.
15

16 Requested by: Representatives Fussell, Payne

17 **—COMMUNITY COLLEGE TUITION INCREASE**

18 Sec. 203. (a) The State Board of Community Colleges shall adopt tuition
19 rates beginning in the fall quarter of 1991 in the amount of eleven dollars (\$11.00) per
20 credit hour up to a cap of 14 credit hours for in-State students.

21 The State Board of Community Colleges shall adopt tuition rates beginning in
22 the fall quarter of 1991 in the amount of thirty dollars (\$30.00) a course for occupational
23 extension courses.

24 (b) The State Board of Community Colleges shall adopt tuition rates
25 beginning in the fall quarter of 1991 for out-of-State students that require the student to
26 pay the full cost to the State on a per FTE basis.
27
28

29 **PART 36.—COLLEGES AND UNIVERSITIES**
30

31 Requested by: Representatives Payne, Fussell

32 **—CLINICAL FACULTY/NURSE MIDWIFERY EDUCATION PROGRAM**

33 Sec. 204. Of the funds appropriated to the Board of Governors of The
34 University of North Carolina, the sum of \$95,000 for the 1991-92 fiscal year and the
35 sum of \$95,000 for the 1992-93 fiscal year shall be used to hire additional clinical
36 faculty to establish a nurse midwifery education program. The program shall offer
37 multiple track options for participating nurses; the multiple tracks shall take into
38 consideration the varying degrees of preparation, and the only professional prerequisite
39 shall be that applicants be licensed as registered nurses in the State of North Carolina,
40 regardless of their education preparation. The program shall prepare participants for
41 certification as nurse midwives; participants shall not be required to complete a
42 baccalaureate degree or masters degree, although this option may be offered to
43 interested participants. In order to maximize the impact of the training program on
44 service provision in medically underserved areas, a committee composed of a nurse

1 midwife and a physician providing obstetrical services to a medically underserved
2 population, two members of the Division of Maternal and Child Health and two
3 members of the Office of Rural Health and Resource Development shall be established.
4 This committee shall review all applicants to identify priority candidates who will meet
5 the needs of the State's underserved population. The applications of these priority
6 candidates shall then be forwarded to the admissions committee of the nurse midwifery
7 education program for consideration.

8

9 Requested by: Representatives Payne, Fussell

10 —" OTHER" CATEGORY OF HEALTH AFFAIRS STUDENTS FUNDING LIMITS

11 Sec. 205. The Board of Governors of The University of North Carolina shall
12 not provide any additional enrollment increase funds for growth in the "Other" category
13 for continuing education in the Health Affairs budget code at the University of North
14 Carolina at Chapel Hill until the fees budgeted for this category are increased to cover a
15 greater proportion of the costs per contact hour.

16

17 Requested by: Representatives Nesbitt, Diamont

18 —UNC ENROLLMENT/FACULTY

19 Sec. 206. In its allocation of the funds provided to the Board of Governors of
20 The University of North Carolina for enrollment increases, the Board shall consider the
21 impact of the changes in the student faculty ratio on each campus and shall use
22 sufficient resources to insure that no campus has to reduce the number of budgeted
23 teaching positions below the number budgeted for the 1990-91 academic year.

24

25

26 PART 37.—DEPARTMENT OF TRANSPORTATION

27

28 Requested by: Representative Nesbitt

29 —LEGISLATIVE SERVICES COMMISSION TO PAY FOR CHAIRMEN OF
30 TRANSPORTATION SUBCOMMITTEE OF THE HOUSE APPROPRIATIONS
31 COMMITTEE TO ATTEND HIGHWAY OVERSIGHT COMMITTEE MEETINGS

32 Sec. 207. The Legislative Services Commission shall pay the costs of the
33 attendance of the Chairmen of the Transportation Subcommittee of the House
34 Appropriations Committee at all meetings of the Joint Legislative Highway Oversight
35 Committee. These subsistence and travel expenses shall be as provided in G.S. 120-3.1.

36

37 Requested by: Representative Holt

38 —BIENNIAL BILLBOARD REPORT BY DEPARTMENT OF TRANSPORTATION

39 Sec. 208. The Department of Transportation shall make a biennial report to
40 the General Assembly beginning on January 1, 1993, on its Off-Premise Sign
41 Regulatory Program.

42

42 The report shall include:

43

- 43 (1) The number of off-premise signs (billboards) that conform with State
44 and local regulations and the number of off-premise signs that do not

44

- 1 conform with State and local regulations in each county along federal-
2 aid primary highways.
- 3 (2) The number of conforming and nonconforming off-premise signs on
4 State-owned railroad right-of-way.
- 5 (3) The number of nonconforming off-premise signs removed during the
6 fiscal year.
- 7 (4) The number of permitted tree cuttings and the number of illegal tree
8 cuttings in front of off-premise signs.
- 9 (5) Expenses incurred in regulating off-premise signs and receipts from
10 application and renewal permit fees.

11

12 Requested by: Representative McLaughlin

13 ---MAINTENANCE OF STATE HIGHWAY BRIDGES

14 Sec. 209. G.S. 136-97(b) reads as rewritten:

15 "(b) The Department of Transportation, as part of maintaining the highways,
16 bridges, and watercourses of this State, ~~shall~~may haul all debris removed from on,
17 under, or around a bridge to an appropriate disposal site for solid waste, where the
18 debris shall be disposed of in accordance with law. ~~This requirement may be waived~~
19 ~~when bridge closure has an adverse impact on public safety or creates a significant~~
20 ~~hardship to the traveling public by restricting all access or necessitating a significant~~
21 ~~detour. In these instances, the minimum amount of debris which must be removed to~~
22 ~~restore service may be passed downstream."~~

23

24 Requested by: Representative McLaughlin

25 ---DEPARTMENT OF TRANSPORTATION FINANCIAL AND OPERATIONAL
26 AUDIT

27 Sec. 210. (a) The State Auditor shall conduct a financial and operational audit of
28 two Highway Divisions. The audit shall:

- 29 (1) List the functions performed by the Division offices. Calculate the
30 percentage of time spent on each major category of maintenance and
31 construction work;
- 32 (2) Analyze the equipment used in the Highway Divisions, with an
33 emphasis on the amount of rental equipment utilized;
- 34 (3) Study the staffing levels for construction and maintenance operations.
35 Report on the ratio of workers to supervisors. Review Department of
36 Transportation procedures and criteria for establishing the size of
37 maintenance crews;
- 38 (4) Study whether construction and maintenance activities are being
39 properly charged to appropriate accounts; and
- 40 (5) Determine how maintenance workers are used during cold weather
41 months and periods of inclement weather.

42 (b) The Fiscal Research Division shall cooperate with and assist the State
43 Auditor in accomplishing this audit.

44 (c) The audit shall be completed by May 1, 1992.

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PART 38.—DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

—HIGHWAY PATROL SALARIES

Requested by: Representatives Redwine, Anderson

Sec. 211. Notwithstanding G.S. 20-187.83, the salary increase provided by G.S. 20-187.23 is suspended for the 1991-92 fiscal year.

PART 39.—JUDICIAL DEPARTMENT

Requested by: Representatives Redwine, Anderson

—SALARIES/ASSISTANT AND DEPUTY CLERKS OF SUPERIOR COURT

Sec. 212. Notwithstanding the provisions of G.S.7A-102(c), assistant clerks and deputy clerks of superior court shall not receive any automatic increment during the 1991-92 fiscal year.

PART 40.—DEPARTMENT OF HUMAN RESOURCES

Requested by: Representatives Nye, Easterling

—MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FUNDS

Sec. 213. (a) Of the funds appropriated in this Title to the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, \$6,000,000 for the 1991-92 fiscal year and \$6,000,000 for the 1992-93 fiscal year shall be expended in accordance with the Mental Health Study Commission Plans adopted by the General Assembly, in the following amounts:

(1) Services for the mentally ill; \$1,730,000

(2) Services for the developmentally disabled; \$1,960,000

(3) Services for substance abusers.\$2,310,000.

(b) Of the funds allocated in subsection (a) of this section for Services for the developmentally disabled, \$230,000 shall be transferred in the 1991-92 fiscal year and \$230,000 in the 1992-93 fiscal year to the Department of Environment, Health, and Natural Resources, Division of Maternal and Child Health, for the United Cerebral Palsy therapeutic preschools.

Requested by: Representatives Nye, Easterling

—MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FUNDS/SUBSTANCE ABUSE TREATMENT PROGRAMS FOR PREGNANT WOMEN

1 Sec. 214. (a) Effective January 1, 1992, of the funds appropriated in this Title
2 to the Department of Human Resources, Division of Mental Health, Developmental
3 Disabilities, and Substance Abuse Services, \$400,000 for the 1991-92 fiscal year and
4 \$800,000 for the 1992-93 fiscal year shall be used to set up two regional residential and
5 outpatient treatment programs for pregnant women who abuse drugs or alcohol. These
6 programs shall be operated by public or private nonprofit agencies and shall include
7 case management services, transportation, day care, prevention, residential placement,
8 outpatient services, and money for household start-up costs. Outpatient services shall
9 be located in a public health department, community, migrant or rural health center,
10 hospital, or other agency that provides prenatal care.

11 (b) Effective July 1, 1991, of the funds appropriated in this Title to the
12 Department of Human Resources, Division of Mental Health, Mental Retardation, and
13 Substance Abuse Services, \$220,000 for the 1991-92 fiscal year and \$220,000 for the
14 1992-93 fiscal year shall be used to continue support for the residential and outpatient
15 treatment center located in Robeson County.

16
17 Requested by: Representative McLaughlin

18 —STATE SUBSIDY/COUNTY DETENTION HOME

19 Sec. 215. (a) G.S. 134A-38 reads as rewritten:

20 **"§ 134A-38. State subsidy to county detention homes.**

21 The Department shall develop a State subsidy program to pay a county detention
22 home which provides ~~regional~~ juvenile detention services and meets State standards a
23 ~~certain portion of its operating cost and its per capita daily cost per diem per child for~~
24 ~~any child cared for from another county as recommended in said report. In general, this~~
25 ~~subsidy per diem should be fifty percent (50%) of the operating costs of a county~~
26 ~~detention home and one hundred percent (100%) of the per capita daily cost total cost of~~
27 ~~caring for a child from another county; any county placing a child in the county~~
28 ~~detention home of another county providing regional juvenile detention services or a~~
29 ~~regional detention home should pay fifty percent (50%) of the per capita daily cost of~~
30 ~~earing for the child to the Department. from within the county and 100 percent (100%)~~
31 ~~of the total cost of caring for a child from another county. Any county placing a child in~~
32 ~~a detention home in another county shall pay fifty percent (50%) of the total cost of~~
33 ~~caring for the child to the Department.~~ The exact funding formulas may be varied by
34 the Department to operate within existing State appropriations or other funds that may
35 be available to pay for juvenile detention care."

36 (b) Of the funds appropriated to the Department of Human Resources, Division
37 of Youth Services in this Title, \$500,000 for the 1991-92 fiscal year and \$500,000 for
38 the 1992-93 fiscal year shall be used to implement this section.

39
40 Requested by: Representatives Easterling, Nye

41 —COUNTY PROTECTIVE SERVICES ALLOCATION

42 Sec. 216. Of the funds appropriated to the Department of Human Resources,
43 Division of Social Services, in this Title, \$3,250,000 for the 1991-92 fiscal year and

1 \$7,000,000 for the 1992-93 fiscal year shall be allocated to county departments of social
2 services beginning January 1, 1992, according to the following formula:

3 (1) All county departments shall receive a base allocation of \$10,000 for
4 the 1991-92 fiscal year and \$10,000 for the 1992-93 fiscal year.

5 (2) The balance of the funds each year of the fiscal biennium shall be
6 allocated to each county department based upon the percentage of the
7 number of child abuse and neglect reports in that county compared to
8 the total number of reports of child abuse and neglect statewide. These
9 percentages shall be computed from the reports received by the
10 Division of Social Services' Central Registry of Abuse and Neglect for
11 the last two fiscal years.

12 Funds allocated to county departments of social services pursuant to this
13 subsection shall be used to provide additional staff to carry out investigations of reports
14 of child abuse or neglect or to provide protective or preventive services in cases in
15 which the department confirms neglect, abuse, or dependency. However, if a county
16 demonstrates to the Division of Social Services that it has adequate protective services
17 staff, that county department may use these allocated funds to purchase or provide
18 treatment or other support services to children and their families in confirmed cases of
19 child abuse, neglect, or dependency. All expenditures made by any county department
20 of social services from funds allocated pursuant to this subsection shall be in direct
21 support of the department's program of protective services for children. These funds
22 shall not be used to supplant any Social Services Block Grant funds or county
23 appropriations budgeted for protective services for children.

24 The Department of Human Resources, Division of Social Services, shall
25 establish guidelines and criteria to assure that the allocations to county departments of
26 social services pursuant to this subsection are used in accordance with the intent and
27 purpose of this subsection.

28 (f) The Division of Social Services shall prepare a report on the progress
29 achieved in improving child protective services throughout the State. The report shall
30 include an analysis of county staffing patterns, future county staffing and funding
31 requirements needed to meet the Division's recommended guidelines, and analysis of
32 the barriers to recruitment and retention of county child protective services staff, and a
33 summary of the Division's progress in implementing improvements to the State's
34 training and oversight responsibilities. The Division shall present this report to the 1991
35 General Assembly, to the Fiscal Research Division, and to the North Carolina Child
36 Fatality Task Force established pursuant to Article 62 of Chapter 143 of the General
37 Statutes by March 15, 1992.

38
39 Requested by: Representatives Nye, Easterling

40 ---MEDICAID ELIGIBLE PREGNANT WOMEN'S SERVICES

41 Sec. 217. (a) Effective October 1, 1991, the Department of Human Resources,
42 Division of Medical Assistance, shall provide medical coverage for nutritional
43 counseling, psychosocial counseling, and predelivery and postpartum home visits by

1 maternity care coordinators and public health nurses, for Medicaid eligible pregnant
2 women.

3 (b) Of the funds appropriated to the Department of Human Resources,
4 Division of Medical Assistance, in this Title, \$564,400 for the 1991-92 fiscal year and
5 \$664,520 for the 1992-93 fiscal year shall be used to provide the State share of the
6 increased coverage for the services mandated by subsection (a) of this section.

7

8 Requested by: Representative Nye

9 —DEPARTMENT OF HUMAN RESOURCES PHARMACY STUDY

10 Sec. 218. The Department of Human Resources shall contract for a survey
11 study to determine the cost of filling a prescription in North Carolina. The Department
12 shall consider the impact of refills on the dispensing fee and any other issues it
13 considers necessary and shall implement appropriate adjustments to the pharmacy
14 dispensing fee in the State Medicaid Plan based on the outcome of the study if the
15 Department identifies funds available to it sufficient for the implementation. The
16 Department shall include in its adjustments the adjustment of the fee annually to reflect
17 appropriate inflationary increases as established in nationally recognized pricing
18 indexes.

19

20 Requested by: Representative Nye

21 —PHARMACY DISPENSING FEE INCREASE

22 Sec. 219. Effective January 1, 1992, the professional limits fee for dispensing
23 drugs shall be \$5.60 per prescription, adjusted in accordance with subdivision (5) of
24 Section 93, Title 1, of this act.

25

26 Requested by: Representatives Diamont, Nye, Easterling

27 —PURCHASE TRANSPORTATION SERVICES FOR PREGNANT WOMEN AND
28 CHILDREN ON MEDICAID

29 Sec. 220. (a) Of the funds appropriated from the General Fund to the
30 Department of Human Resources, in this Title, \$300,000 for the 1991-92 fiscal year and
31 \$300,000 for the 1992-93 fiscal year shall be transferred to the Department of
32 Transportation, Public Transportation Division, to purchase transportation services for
33 pregnant women and children on Medicaid. All funds distributed by the Department,
34 under this section, to counties are intended to purchase additional transportation services
35 and not to supplant funds now being used by local governments for that purpose. These
36 funds are not to be used towards the purchase of transportation vehicles or equipment,
37 and may not be used to cover State administrative costs. Only those counties
38 maintaining Medicaid transportation services to pregnant women and children at a level
39 that is not reduced from the level of services in place during the 1989-90 fiscal year
40 shall be eligible for additional transportation assistance funds.

41 (b) The Public Transportation Division of the Department of Transportation shall
42 distribute these funds to the counties according to the following formula:

43 (1) Fifty percent (50%) divided equally among all eligible counties;

1 (2) Forty-five percent (45%) on the basis of the number of pregnant
2 women and children receiving Medicaid in the county as a percentage
3 of the total number of pregnant women and children receiving
4 Medicaid statewide; and

5 (3) Five percent (5%) based upon a population density factor that
6 recognizes the higher transportation costs in sparsely populated
7 counties.

8 The Department of Transportation shall develop appropriate procedures for the
9 distribution and use of these funds and shall adopt rules to implement these procedures.

10 (c) Funds distributed by the Department of Transportation under this section
11 shall be used by counties in a manner consistent with implemented transportation
12 development plans which have been approved by the Department of Transportation and
13 the board of county commissioners. To receive funds apportioned for a given fiscal
14 year, a county shall have an approved transportation plan. Funds that are not obligated
15 in a given fiscal year due to the lack of an approved transportation plan shall be
16 distributed to the eligible counties based on the distribution formula in subsection (b) of
17 this section.

18 (d) The Department of Transportation shall report to the Joint Legislative
19 Commission on Governmental Operations by March 15, 1992, on the amount of money
20 that has been received and spent by each county pursuant to this section and the new
21 transportation services provided in each county to pregnant women and children
22 receiving Medicaid pursuant to this section.

23
24 Requested by: Representative Nye

25 ---DOMICILIARY RATE INCREASE

26 Sec. 221. (a) Effective July 1, 1991, the maximum monthly rate for
27 ambulatory residents in domiciliary care facilities shall be \$766.00 and the maximum
28 monthly rate for semiambulatory residents shall be \$803.00. Effective July 1, 1992, the
29 maximum monthly rates for ambulatory residents shall be increased to \$777.00 and for
30 semiambulatory residents to \$814.00.

31 (b) Effective only if there are funds appropriated in this act to fund the
32 increase authorized by this subsection, subsection (a) of this section reads as rewritten:

33 "(a) Effective July 1, 1991, the maximum monthly rate for ambulatory residents in
34 domiciliary care facilities shall be ~~\$766.00~~ \$832.00 and the maximum monthly rate for
35 semiambulatory residents shall be ~~\$803.00~~ \$871.00. Effective July 1, 1992, the
36 maximum monthly rates for ambulatory residents shall be increased to ~~\$777.00~~ \$843.00
37 and for semiambulatory residents to ~~\$814.00~~ \$882.00."

38
39 Requested by: Representatives Nesbitt, Diamont, Nye

40 ---WAKE COUNTY DETENTION FACILITY ALLOCATION

41 Sec. 221.1. Of the funds appropriated from the General Fund to the
42 Department of Human Resources, Division of Youth Services, the sum of \$400,000 for
43 the 1991-92 fiscal year and the sum of \$400,000 for the 1992-93 fiscal year shall be

1 used for the operation of the Wake County Detention facility as a regional detention
2 facility.

3

4 PART 41.—DEPARTMENT OF ECONOMIC AND COMMUNITY
5 DEVELOPMENT

6

7 Requested by: Representatives James, Redwine, Ethridge, Kimsey

8 —VISITOR AND WELCOME CENTER FUNDS

9

10 Sec. 222. (a) Before any other transfers are made pursuant to G.S. 20-81.3(c)
11 or 20-81.3(g), the Secretary of Transportation shall allocate from the "Personalized
12 Registration Plate Fund" \$150,000 for the 1991-92 fiscal year and \$150,000 for the
13 1992-93 fiscal year for personnel to staff Visitor and Welcome Centers as follows:

14 (1) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal
15 year to the Albemarle Regional Planning and Development Office in
16 the Town of Hertford for the Visitor and Welcome Center on U.S.
17 Highway 17 in Camden County;

18 (2) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal
19 year to the Southeastern Welcome Center, Inc., for the Visitor and
20 Welcome Center on U.S. Highway 17 South in Brunswick County;
21 and

22 (3) \$50,000 for the 1991-92 fiscal year and \$50,000 for the 1992-93 fiscal
23 year to Smoky Mountain Hosts of North Carolina, Inc., for the Visitor
24 and Welcome Center on U.S. Highway 441 in Macon County.

25 (b) This section expires June 30, 1993.

26

27 Requested by: Representatives Ethridge, H. Hunter

28 —PETROLEUM OVERCHARGE FUNDS ALLOCATION

29 Sec. 223. (a) The funds and interest thereon received from the case of United
30 States v. Exxon are deposited in the Special Reserve for Oil Overcharge Funds. There
31 is appropriated from the Special Reserve to the Department of Economic and
32 Community Development the sum of \$10,900,000 for the 1991-92 fiscal year and the
33 sum of \$6,001,511 for the 1992-93 fiscal year to be allocated as follows:

34 (1) The sum of \$2,200,000 for the 1991-92 fiscal year and the sum of
35 \$1,200,302 for the 1992-93 fiscal year shall be used for projects under
36 the State Energy Conservation Plan and Energy Extension Service
37 Program:

38 (2) The sum of \$2,500,000 for the 1991-92 fiscal year and the sum of
39 \$1,380,348 for the 1992-93 fiscal year shall be used for energy
40 conservation programs for hospitals and schools:

41 (3) The sum of \$3,200,000 for the 1991-92 fiscal year and the sum of
42 \$1,740,438 for the 1992-93 fiscal year shall be used for the Low
Income Weatherization Program:

1 (4) The sum of \$3,000,000 for the 1991-92 fiscal year and the sum of
2 \$1,680,423 for the 1992-93 fiscal year shall be used for the Low
3 Income Home Energy Assistance Program (LIHEAP).

4 (b) There is appropriated from the funds and interest thereon received from the
5 United States Department of Energy's Stripper Well Litigation (MDL378) which remain
6 in the Special Reserve for Oil Overcharge Funds to the Department of Economic and
7 Community Development the sum of \$4,898,489 for the 1992-93 fiscal year to be
8 allocated as follows:

9 (1) The sum of \$999,698 shall be used for projects under the State Energy
10 Conservation Plan and Energy Extension Service Program;

11 (2) The sum of \$1,119,652 shall be used for energy conservation programs
12 for hospitals and schools;

13 (3) The sum of \$1,459,562 shall be used for the Low Income
14 Weatherization Program; and

15 (4) The sum of \$1,319,577 shall be used for the Low Income Home
16 Energy Assistance Program (LIHEAP).

17 (c) Any funds remaining in the Special Reserve for Oil Overcharge Funds after
18 the allocations made pursuant to subsections (a) and (b) of this section may be expended
19 only as authorized by the General Assembly. All interest or income accruing from all
20 deposits or investments of cash balances shall be credited to the Special Reserve for Oil
21 Overcharge Funds.

22 (d) The funds and interest thereon received from the Diamond Shamrock
23 Settlement which remain in a reserve in the Office of State Budget and Management for
24 the Division of Energy to administer the petroleum overcharge funds pursuant to
25 Section 112 of Chapter 830 of the 1987 Session Laws shall continue to be available to
26 the Division of Energy in the Department of Economic and Community Development
27 on an as-needed basis.

28 (e) The Department of Economic and Community Development shall submit
29 comprehensive annual reports to the General Assembly by May 15, 1992, and January
30 31, 1993, which detail the use of all petroleum overcharge funds. Any State department
31 or agency that has received petroleum overcharge funds shall provide all information
32 requested by the Department of Economic and Community Development for the
33 purpose of preparing these reports.

34

35 Requested by: Representatives Ethridge, H. Hunter, Michaux

36 —ECONOMIC DEVELOPMENT FUNDS

37

38 Sec. 224. (a) Of the funds appropriated in this Title to the North Carolina
39 Rural Economic Development Center, Inc., \$1,500,000 for the 1991-92 fiscal year and
40 \$1,500,000 for the 1992-93 fiscal year, shall be allocated to local community
41 development corporations. These funds shall be used to support community economic
42 development projects and activities within the State's minority community.

43 Of these funds, \$750,000 for each fiscal year shall be used for direct grants
44 to local community development corporations to support operations and project
activities, \$500,000 for each fiscal year shall be used for direct grants to community

1 development corporations classified as being in the emerging or sustaining phase, and
2 \$250,000 for each fiscal year shall be used for matching funds for the North Carolina
3 Association of Community Development Corporations. If these matching funds are not
4 matched before the end of the 1991-92 fiscal year, they shall be used during the 1992-93
5 fiscal year for direct grants to local community development corporations classified as
6 being in the emerging or sustaining phase.

7 The North Carolina Rural Economic Development Center, Inc., shall report
8 quarterly to the Joint Legislative Commission on Governmental Operations on the use
9 of the funds allocated in this subsection.

10 For purposes of this subsection, the term "community development
11 corporation" means a nonprofit corporation, chartered pursuant to Chapter 55A of the
12 General Statutes and tax-exempt pursuant to section 501(c)(3) of the Internal Revenue
13 Code, whose primary mission is to develop and improve low-income communities and
14 neighborhoods through economic and related development, whose activities and
15 decisions are initiated, managed, and controlled by their constituencies, and whose
16 primary function is to act as deal maker and packager of projects and activities that will
17 increase their constituencies' opportunities to become owners, managers, and producers.

18 (b) Of the funds appropriated in this Title to the North Carolina Rural
19 Economic Development Center, Inc., \$500,000 for the 1991-92 fiscal year and \$500,000
20 for the 1992-93 fiscal year shall be used for Land Loss Prevention Project, Inc., to
21 provide free legal representation to low-income financially distressed small farmers.
22 The Land Loss Prevention Project, Inc., shall not use these funds to represent farmers
23 who have income and assets that would make them financially ineligible for legal
24 services pursuant to Title 45, Part 1611 of the Code of Federal Regulations. The North
25 Carolina Rural Economic Development Center, Inc., with the Land Loss Prevention
26 Project, Inc., shall report quarterly to the Joint Legislative Commission on
27 Governmental Operations on the use of these funds.

28 (c) Of the funds appropriated in this Title to the North Carolina Rural
29 Economic Development Center, Inc., \$500,000 for the 1991-92 fiscal year and \$500,000
30 for the 1992-93 fiscal year shall be used for the North Carolina Coalition of Farm and
31 Rural Families, Inc., for its Small Farm Economic Development Project. These funds
32 shall be used to foster economic development within the State's rural farm communities
33 by offering financial, marketing, and technical assistance to small and limited resource
34 farmers. Seventy-five percent (75%) of these funds shall be used for a revolving loan
35 fund, fifteen percent (15%) of these funds shall be used to establish an agricultural
36 market promotion matching fund program, and ten percent (10%) of these funds shall be
37 used for operational and administrative support. The North Carolina Rural Economic
38 Development Center, Inc., with the North Carolina Coalition of Farm and Rural
39 Families, Inc., shall report quarterly to the Joint Legislative Commission on
40 Governmental Operations on the use of these funds.

41 (d) Of the funds appropriated in this Title to the North Carolina Rural
42 Economic Development, Inc., \$300,000 for the 1991-92 fiscal year and \$300,000 for the
43 1992-93 fiscal year for the North Carolina Institute for Minority Economic
44 Development, Inc., shall be used to foster minority economic development within the

1 State through policy analysis, information and technical assistance, and resource
2 expansion. The North Carolina Rural Economic Development Center, Inc., and the
3 North Carolina Institute for Minority Economic Development, Inc., shall research and
4 identify key issues affecting the economic well-being of the State's ethnic minority
5 community and issue annual reports with appropriate recommendations; provide
6 information and technical assistance to organizations with minority economic
7 development-based projects in common areas of need and interests; develop a resource
8 bank of data and information to strengthen minority economic development initiatives;
9 and facilitate training in appropriate areas of need. The North Carolina Rural Economic
10 Development Center, Inc., with the North Carolina Institute for Minority Economic
11 Development, Inc., shall report quarterly to the Joint Legislative Commission on
12 Governmental Operations on the use of these funds.

13 (e) Of the funds appropriated in this Title to the North Carolina Rural
14 Economic Development Center, Inc., \$1,000,000 for the 1991-92 fiscal year and
15 \$1,000,000 for the 1992-93 fiscal year shall be allocated to local minority-owned and
16 operated credit unions and to the North Carolina Minority Credit Union Support Center,
17 Inc. These funds shall be used to foster minority economic development within the
18 State by increasing the lending capacity of minority-owned and operated credit unions.
19 Ninety percent (90%) of these funds shall be allocated to local minority-owned and
20 operated credit unions for capitalization of economic development and housing loans,
21 and ten percent (10%) of these funds shall be allocated to the North Carolina Minority
22 Credit Union Support Center, Inc., for operational and administrative support. The
23 North Carolina Rural Economic Development Center, Inc., shall report quarterly to the
24 Joint Legislative Commission on Governmental Operations on the use of these funds.

25 (f) Of the funds appropriated in this Title to the North Carolina Rural
26 Economic Development Center, Inc., \$650,000 for the 1991-92 fiscal year and \$650,000
27 for the 1992-93 fiscal year shall be used to expand the Microenterprise Loan Program.
28 Of these funds \$325,000 for each fiscal year shall be used as loan loss reserves and
29 \$325,000 for each fiscal year shall be used to cover operational costs. These funds are
30 to be matched on the basis of two dollars of non-State funds for every one dollar of
31 State funds. The North Carolina Rural Economic Development Center, Inc., shall report
32 quarterly to the Joint Legislative Commission on Governmental Operations on the use
33 of these funds.

34 (g) Of the funds appropriated in this Title to the North Carolina Rural
35 Economic Development Center, Inc., \$50,000 for the 1991-92 fiscal year and \$50,000
36 for the 1992-93 fiscal year shall be used for its expenses in administrating this section.

37
38 Requested by: Representatives Ethridge, H. Hunter
39 —HOME PROGRAM FUNDING LIMIT

40 Sec. 225. The Department of Economic and Community Development shall
41 not spend any funds appropriated in this Title for the State administration of the federal
42 HOME Program until Congress appropriates federal funds for the Program.

43
44

1 PART 42.—DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL
2 RESOURCES

3

4 Requested by: Representatives Ethridge, H. Hunter

5 —EHNR USE OF FEES

6 Sec. 226. (a) If the revenues received pursuant to G.S. 113A-119.1 exceed the
7 amount in anticipated revenues from this source for the 1991-92 fiscal year or for the
8 1992-93 fiscal year, then the Department of Environment, Health, and Natural
9 Resources may use up to \$30,000 of this revenue for the 1991-92 fiscal year and up to
10 \$50,000 of this revenue for the 1992-93 fiscal year for permitting, education, and
11 compliance activities, including salaries and necessary support, in the Division of
12 Coastal Management. These funds are in addition to any other funds appropriated for
13 this purpose.

14 (b) If the revenues received pursuant to G.S. 113A-54.2 exceed the amount in
15 anticipated revenues from this source for the 1991-92 fiscal year or the 1992-93 fiscal
16 year, then the Department of Environment, Health, and Natural Resources may use up
17 to \$140,000 of this revenue for the 1991-92 fiscal year and up to \$160,000 of this
18 revenue for the 1992-93 fiscal year for education, erosion control plan approval, and
19 compliance activities in the Sedimentation Control Program, including salaries and
20 necessary support, in the Division of Land Resources. These funds are in addition to
21 any other funds appropriated for this purpose.

22 (c) If the revenues received pursuant to G.S. 143-215.28A exceed the amount in
23 anticipated revenues from this source for the 1991-92 fiscal year or the 1992-93 fiscal
24 year, then the Department of Environment, Health, and Natural Resources may use up
25 to \$20,000 of this revenue for the 1991-92 fiscal year and up to \$20,000 of this revenue
26 for the 1992-93 fiscal year for permitting, education, and compliance activities in the
27 Dam Safety Program, including salaries and necessary support, in the Division of Land
28 Resources. These funds are in addition to any other funds appropriated for this purpose.

29 (d) If the revenues received pursuant to G.S. 143B-290 exceed the amount in
30 anticipated revenues from this source for the 1991-92 fiscal year or for the 1992-93
31 fiscal year, then the Department of Environment, Health, and Natural Resources may
32 use up to \$40,000 of this revenue for the 1991-92 fiscal year and up to \$70,000 of this
33 revenue for the 1992-93 fiscal year for permitting, education, and compliance activities
34 in the Mining Program, including salaries and necessary support, in the Division of
35 Land Resources. These funds are in addition to any other funds appropriated for this
36 purpose.

37

38 Requested by: Representatives Ethridge, H. Hunter

39 —COMMUNITY WATER SYSTEMS PERMITS FEES

40 Sec. 227. If Senate Bill 449, 1991 Session, is ratified, then there is
41 appropriated from the General Fund to the Department of Environment, Health, and
42 Natural Resources the sum of \$258,938 for the 1991-92 fiscal year and the sum of
43 \$621,450 for the 1992-93 fiscal year to support the public water systems program;
44 provided, however, if the revenues raised from Senate Bill 449, 1991 Session, as

1 ratified, are less than \$258,938 for the 1991-92 fiscal year or are less than \$621,450 for
2 the 1992-93 fiscal year, then the appropriation is reduced accordingly.

3
4 Requested by: Representatives Ethridge, H. Hunter

5 ---CLEAN AIR ACT PERMIT FEES

6 Sec. 228. If House Bill 551, 1991 Session, is ratified, then there is
7 appropriated from the Title IV nonreverting account established in G.S. 143-215.3A, as
8 written by House Bill 551, 1991 Session, to the Department of Environment, Health,
9 and Natural Resources the sum of \$999,855 for the 1991-92 fiscal year and the sum of
10 \$3,992,390 for the 1992-93 fiscal year to be used for the development and
11 implementation of the Title V program in accordance with G.S. 143-215.3A, as enacted
12 by House Bill 551, 1991 Session; provided, however, if the revenues raised from House
13 Bill 551, 1991 Session, as ratified, are less than \$999,855 for the 1991-92 fiscal year or
14 are less than \$3,992,390 for the 1992-93 fiscal year, then the appropriation is reduced
15 accordingly.

16
17 Requested by: Representatives Ethridge, H. Hunter

18 ---HAZARDOUS WASTE INSPECTORS

19 Sec. 229. As industry is permitted that is subject to G.S. 130A-295.02
20 requiring the establishment of resident inspectors, the Department of Environment,
21 Health, and Natural Resources may request through the Office of State Budget and
22 Management the authorization to establish new positions and support costs necessary to
23 comply with G.S. 130A-295.02. The Department shall report these positions as a
24 continuation item in its next biennial budget request.

25
26 Requested by: Representatives Ethridge, H. Hunter

27 ---VITAL RECORDS FEES

28 Sec. 230. If Senate Bill 341, 1991 Session, is ratified, then there is
29 appropriated from the Vital Records Automation Fund established under G.S. 130A-
30 93.1 as written in Senate Bill 341, to the Department of Environment, Health, and
31 Natural Resources the sum of \$800,000 for the 1991-92 fiscal year and the sum of
32 \$800,000 for the 1992-93 fiscal year, for defraying the cost of automating the vital
33 records system; provided, however, if the revenues raised from Senate Bill 341, 1991
34 Session, as ratified, are less than \$800,000 for the 1991-92 fiscal year or are less than
35 \$800,000 for the 1992-93 fiscal year, then the appropriation is reduced accordingly.

36
37 Requested by: Representatives Ethridge, H. Hunter

38 ---ASBESTOSIS/SILICOSIS EXAMS FEES

39 Sec. 231. If Senate Bill 359, 1991 Session, is ratified, then there is
40 appropriated from the General Fund to the Department of Environment, Health, and
41 Natural Resources the sum of \$112,124 for the 1991-92 fiscal year and the sum of
42 \$119,479 for the 1992-93 fiscal year for defraying the cost of examinations for
43 screening for asbestosis or silicosis conducted by the Department; provided, however, if
44 the revenues raised from Senate Bill 359, 1991 Session, as ratified, are less than

1 \$112,124 for the 1991-92 fiscal year or are less than \$119,479 for the 1992-93 fiscal
2 year, then the appropriation is reduced accordingly.

3

4 Requested by: Representatives Ethridge, H. Hunter

5 —RURAL OBSTETRICAL CARE INCENTIVE PROGRAM

6 Sec. 232. Of the funds appropriated in this Title from the General Fund to the
7 Department of Environment, Health, and Natural Resources, Division of Maternal and
8 Child Health, the sum of \$300,000 for the 1991-92 fiscal year and the sum of \$500,000
9 for the 1992-93 fiscal year shall be used to expand the Rural Obstetrical Care Incentive
10 Program established under Section 39.3 of Chapter 1100, 1987 Session Laws, Regular
11 Session 1988. The Rural Obstetrical Care Incentive Program will be used to assist with
12 the cost of malpractice insurance for family physicians, obstetricians, and certified nurse
13 midwives who agree to provide prenatal and obstetrical services in medically
14 underserved areas of the State. General surgeons who provide cesarean section backup
15 to family physicians in counties where there are no obstetricians or where there are no
16 obstetricians willing or able to provide such backup are also eligible for the program.
17 Physicians and certified nurse midwives covered under the Rural Obstetrical Care
18 Incentive Program are required to participate in an obstetrical care coverage plan
19 developed by their local health department or community, migrant, or rural health
20 center, and must agree to provide services to pregnant women regardless of their ability
21 to pay for the services.

22

23 Requested by: Representatives Ethridge, H. Hunter

24 —NORTH CAROLINA CHILD FATALITY PREVENTION

25

26 Sec. 233. (a) Chapter 143 of the General Statutes is amended by adding a new
27 Article to read:

28

"ARTICLE 62.

29

**"NORTH CAROLINA CHILD FATALITY REVIEW TEAM; NORTH
30 CAROLINA**

31

CHILD FATALITY TASK FORCE AND STUDY.

32

"§ 143-571. Declaration of public policy.

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The General Assembly finds that it is the public policy of this State to prevent child deaths. The General Assembly further finds that the prevention of child deaths is a community responsibility; that professionals from disparate disciplines have responsibilities for children and have expertise that can promote child safety and well-being; and that multidisciplinary reviews of child deaths can lead to a greater understanding of the causes and methods of preventing these deaths. It is, therefore, the intent of the General Assembly, through this Article, to establish a multidisciplinary task force to study the incidence and causes of child deaths and to develop a mechanism for multidisciplinary child death reviews. It is further the intent of the General Assembly that the task force, based upon its study and its expertise, make recommendations to the General Assembly and the Governor for changes to law, rule, and policy that will support the safe and healthy development of our children. It is also

1 the intent of the General Assembly to establish a State Child Fatality Review Team to
2 review certain child deaths.

3 **"§ 143-572. Definitions.**

4 The following definitions apply in this Article:

- 5 (1) Local team. A local multidisciplinary child abuse and neglect review
6 team established for a county.
- 7 (2) State Team. The North Carolina Child Fatality Review Team.
- 8 (3) Task Force. The North Carolina Child Fatality Task Force.

9 **"§ 143-573. Task Force - creation; membership; vacancies.**

10 (a) There is created the North Carolina Child Fatality Task Force within the
11 Department of Environment, Health, and Natural Resources for budgetary purposes
12 only.

13 (b) The Task Force shall be composed of 24 members, 11 of whom shall be ex
14 officio members, three of whom shall be appointed by the Governor, and eight of whom
15 shall be appointed by the General Assembly, four upon recommendation of the Speaker
16 of the House of Representatives and four upon recommendation of the President Pro
17 Tempore of the Senate. The ex officio members other than the Chief Medical Examiner
18 may designate representatives from their particular departments, divisions, or offices to
19 represent them on the Task Force. The members shall be as follows:

- 20 (1) The Chief Medical Examiner;
- 21 (2) The Attorney General;
- 22 (3) The Director of the Division of Social Services;
- 23 (4) The Director of the State Bureau of Investigation;
- 24 (5) The Director of the Division of Maternal and Child Health of the
25 Department of Environment, Health, and Natural Resources;
- 26 (6) The Director of the Governor's Youth Advocacy and Involvement
27 Office;
- 28 (7) The Superintendent of Public Instruction;
- 29 (8) The President of the State Board of Education;
- 30 (9) The Director of the Division of Mental Health, Developmental
31 Disabilities, and Substance Abuse Services;
- 32 (10) The Secretary of the Department of Human Resources;
- 33 (11) The Secretary of the Department of Environment, Health, and Natural
34 Resources;
- 35 (12) A director of a county department of social services appointed by the
36 Governor upon recommendation of the President of the North Carolina
37 Association of County Directors of Social Services;
- 38 (13) A representative from a Sudden Infant Death Syndrome counseling
39 and education program appointed by the Governor upon
40 recommendation of the Director of the Division of Maternal and Child
41 Health of the Department of Environment, Health, and Natural
42 Resources;

- 1 (14) A representative from the North Carolina Child Advocacy Institute
2 appointed by the Governor upon recommendation of the President of
3 the Institute;
- 4 (15) A representative from a private group, other than the North Carolina
5 Child Advocacy Institute, that advocates for children, appointed by the
6 General Assembly upon recommendation of the Speaker of the House
7 of Representatives upon recommendation of private child advocacy
8 organizations;
- 9 (16) A pediatrician, licensed to practice medicine in North Carolina,
10 appointed by the General Assembly upon recommendation of the
11 Speaker of the House of Representatives upon recommendation of the
12 North Carolina Pediatric Society;
- 13 (17) A representative from the North Carolina League of Municipalities
14 appointed by the General Assembly upon recommendation of the
15 Speaker of the House of Representatives upon recommendation of the
16 League;
- 17 (18) Two public members appointed by the General Assembly upon
18 recommendation of the Speaker of the House of Representatives;
- 19 (19) A county or municipal law enforcement officer appointed by the
20 General Assembly upon recommendation of the President Pro
21 Tempore of the Senate upon recommendation of organizations that
22 represent local law enforcement officers;
- 23 (20) A district attorney appointed by the General Assembly upon the
24 recommendation of the President Pro Tempore of the Senate upon
25 recommendation of the President of the North Carolina Conference of
26 District Attorneys;
- 27 (21) A representative from the North Carolina Association of County
28 Commissioners appointed by the General Assembly upon
29 recommendation of the President Pro Tempore of the Senate upon
30 recommendation of the Association; and
- 31 (22) Two public members appointed by the General Assembly upon
32 recommendation of the President Pro Tempore of the Senate;

33 (c) All members of the Task Force are voting members. Vacancies in the
34 appointed membership shall be filled by the appointing officer who made the initial
35 appointment. The Speaker of the House of Representatives shall call the first meeting
36 no later than October 1, 1991. At the first meeting the members shall elect a chair who
37 shall preside for the duration of the Task Force.

38 **"§ 143-574. Task Force - duties.**

39 The Task Force shall:

- 40 (1) Undertake a statistical study of the incidence and causes of child
41 deaths in this State during 1988 and 1989, and establish a profile of
42 child deaths. The study shall include (i) an analysis of all community
43 and private and public agency involvement with the decedents and

1 their families prior to death, and (ii) an analysis of child deaths by age,
2 cause, and geographic distribution;

3 (2) Develop a system for multidisciplinary review of child deaths. In
4 developing such a system, the Task Force shall study the operation of
5 existing local teams. The Task Force shall also consider the feasibility
6 and desirability of local or regional review teams and, should it
7 determine such teams to be feasible and desirable, develop guidelines
8 for the operation of the teams. The Task Force shall also examine the
9 laws, rules, and policies relating to confidentiality of and access to
10 information that affect those agencies with responsibilities for
11 children, including State and local health, mental health, social
12 services, education, and law enforcement agencies, to determine
13 whether those laws, rules, and policies inappropriately impede the
14 exchange of information necessary to protect children from
15 preventable deaths, and, if so, recommend changes to them;

16 (3) Receive and consider reports from the State Team; and

17 (4) Perform any other studies, evaluations, or determinations the Task
18 Force considers necessary to carry out its mandate.

19 **"§ 143-575. State Team - creation; membership; vacancies.**

20 (a) There is created the North Carolina Child Fatality Review Team within the
21 Department of Environment, Health, and Natural Resources for budgetary purposes
22 only.

23 (b) The State Team shall be composed of eight members of whom seven
24 members are ex officio and one is appointed. The ex officio members other than the
25 Chief Medical Examiner may designate a representative from their departments,
26 divisions, or offices to represent them on the State Team.

27 (1) The Chief Medical Examiner, who shall chair the State Team;

28 (2) The Attorney General;

29 (3) The Director of the Division of Social Services;

30 (4) The Director of the State Bureau of Investigation;

31 (5) The Director of the Maternal and Child Health Division of the
32 Department of Environment, Health, and Natural Resources;

33 (6) The Superintendent of Public Instruction;

34 (7) The Director of the Division of Mental Health, Developmental
35 Disabilities, and Substance Abuse Services; and

36 (8) The pediatrician appointed pursuant to G.S. 143-573(b)(16) to the
37 Task Force.

38 (c) All members of the State Team are voting members. Vacancies in the
39 appointed membership shall be filled by the appointing officer who made the initial
40 appointment.

41 **"§ 143-576. State Team - duties.**

42 The State Team shall:

43 (1) Review current deaths of children when those deaths are attributed to
44 child abuse or neglect or when the decedent was reported as an abused

- 1 or neglected juvenile pursuant to G.S. 7A-543 at any time before
2 death; and
3 (2) Report to the Task Force during the existence of the Task Force, in the
4 format and at the time required by the Task Force, on the State Team's
5 activities and its recommendations for changes to any law, rule, and
6 policy that would promote the safety and well-being of children; and
7 (3) Upon request of a local team, provide technical assistance to the team.

8 **"§ 143-577. Task Force - reports.**

9 (a) The Task Force shall provide a preliminary report to the Governor and
10 General Assembly, within the first week of the convening of the 1992 Session of the
11 1991 General Assembly. This preliminary report shall contain at least a summary of
12 preliminary conclusions and recommendations for each of the Task Force's duties, as
13 well as any other recommendations for changes to any law, rule, and policy that it has
14 determined will promote the safety and well-being of children. Any recommendations
15 of changes to law, rule, or policy shall be accompanied by specific legislative or policy
16 proposals and detailed fiscal notes setting forth the costs to the State.

17 (b) The Task Force shall provide a final report to the Governor and General
18 Assembly within the first week of the convening of the 1993 General Assembly. The
19 final report shall include final conclusions and recommendations for each of the Task
20 Force's duties, as well as any other recommendations for changes to any law, rule, and
21 policy that it has determined will promote the safety and well-being of children. Any
22 recommendations of changes to law, rule, or policy shall be accompanied by specific
23 legislative or policy proposals and detailed fiscal notes setting forth the costs to the
24 State.

25 (c) After the Task Force provides its final report to the Governor and General
26 Assembly, the Task Force shall cease to be in existence.

27 **"§ 143-578. Access to records.**

28 The Task Force and State Team shall have access to all medical records, hospital
29 records, and records maintained by this State, any county, or any local agency as
30 necessary to carry out the purposes of this Article, including police investigations data,
31 medical examiner investigative data, health records, mental health records, and social
32 services records. Task Force and State Team meetings are not subject to the provisions
33 of Article 33C of Chapter 143 of the General Statutes. All otherwise confidential
34 information and records acquired by the Task Force or State Team in the exercise of
35 their duties are confidential; are not subject to discovery or introduction into evidence in
36 any proceedings; and may only be disclosed as necessary to carry out the purposes of
37 the Task Force. No member of the Task Force, State Team, or person who attends such
38 a meeting may testify in any proceeding about what transpired at the meeting, about
39 information presented at the meeting, or about opinions formed by the person as a result
40 of the meetings. This section does not, however, prohibit a person from testifying in a
41 civil or criminal action about matters within that person's independent knowledge.

42 **"§ 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 | | Control 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, Grimmer

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

21 <u>Project Description</u>	<u>Custodial</u>	<u>Beds</u>
22 <u>Level</u>		
23 Nash Correctional Institution	Med	128
24 Marion Correctional Center	Med	906
25 Cherry Correctional Center	Min	500
26 Central Prison	Close	144
27 Pasquotank Youth Institution	Med	440
28 Robeson Correctional Center	Min	100
29 NCCIW	Close/Med	256
30 Lumberton Correctional Center	Med	312
31 Eastern Youth Center	Min	300
32 Fountain Correctional Center	Min	100
33 Brown Creek Sewing Plant		
34 Pender Furniture Refurbishing		
35 Facility		
36 Columbus Sewing Facility		
37 Caswell Sewing and Tailoring		
38 Equipment		
39 Harnett Dining Hall		
40 Subtotal 3,186	\$91,413,514	
41		
42 Contingencies		<u>\$4,466,796</u>
43 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 113A-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, Grimmer

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, Grimmer
—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 (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
13 or 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

~~eigarettes at retail. who sells a tobacco product to the ultimate consumer of the product.~~

~~(10) 'Selling' or 'sale' means any sale, transfer, exchange, barter, gift, or offer for sale and distribution, in any manner or by any means whatsoever. Sale. – A transfer, a trade, an exchange, or a barter, in any manner or by any means, with or without consideration.~~

~~(11) 'Stamp' means any Stamp. – Any impression, device, stamp, label label, or print manufactured, ~~printed~~ printed, or made as prescribed by the Secretary under Part 2 of this Article.~~

~~(11a) Secretary. – The Secretary of Revenue.~~

~~(11b) Smokeless tobacco product. – A tobacco product other than a cigar or a cigarette.~~

~~(12) 'Unstamped' means not Unstamped. Not bearing a North Carolina cigarette tax stamp prescribed by the Secretary under this Article. stamp.~~

~~(13) 'Use' means the Use. – The exercise of any right or power over cigarettes, incident to the ownership or possession thereof, other than the making of a sale thereof in the course of engaging in a business of selling eigarettes and shall include cigarettes. The term includes the keeping or retention of cigarettes for use.~~

~~(14) Tobacco product. – A product that contains tobacco and is intended for inhalation or oral use.~~

~~(15) Wholesale dealer. – A person who makes tobacco products other than cigarettes or who acquires tobacco products other than cigarettes for sale to another wholesale dealer or to a retail dealer."~~

Sec. 264. G.S. 105-113.3 reads as rewritten:

"§ 105-113.3. Purpose. Scope of tax; administration.

~~It is hereby declared to be the intent and purpose of this Article that the incidence of the tax herein provided for shall rest upon the ultimate consumer and not upon the grower or processor of leaf tobacco or upon the manufacturer of cigarettes. This tax shall be paid to the State only once, regardless of the number of times the cigarettes may be sold in this State, but it is the intent of this Article that such tax shall be added to the sales price and passed on from successive sellers to successive purchasers so that it may be included in the ultimate purchase price of the final or last purchaser. The amount of the tax may be stated separately from the price of cigarettes on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price, but it is not required that it be stated in such manner or in any other manner. The provisions of this section shall in no way affect the assessment, levy or collection of the taxes provided for by this Article, as the same may be more specifically provided herein with respect to activities hereinafter described, but merely states the general intent with respect to this Article. (a) Scope. – The taxes imposed by this Article shall be collected only once on the same tobacco product. Except as permitted by Article 2 of this~~

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 (3) Sample smokeless tobacco products and cigars distributed without
18 charge.

19 (b) Primary Liability. – The wholesale dealer who first acquires or otherwise
20 handles tobacco products subject to the tax imposed by this section is liable for the tax
21 imposed by this section. A distributor who brings into this State a tobacco product
22 made outside the State is the first person to handle the tobacco product in this State. A
23 distributor who is the original consignee of a tobacco product that is made outside the
24 State and is shipped into the State is the first person to handle the tobacco product in
25 this State.

26 (c) Secondary Liability. – A retail dealer who acquires non-tax-paid tobacco
27 products subject to the tax imposed by this section from a wholesale dealer is liable for
28 any tax due on the tobacco products. A retail dealer who is liable for tax under this
29 subsection may not deduct a discount from the amount of tax due when reporting the
30 tax."

31 Sec. 266. G.S. 105-113.36 reads as rewritten:

32 "**§ 105-113.36. General administrative provisions of Revenue Act applicable.**
33 **Wholesale dealer and retail dealer must obtain license.**

34 All provisions not inconsistent with this Article contained in Article 9 entitled
35 "General Administration; Penalties and Remedies" of Subchapter I of Chapter 105 of
36 the General Statutes, including but not limited to administration, auditing, making
37 returns, promulgation of administrative rules and regulations by the Secretary,
38 additional taxes, assessment procedure, imposition and collection of taxes of the lien
39 thereof, assessments, refunds and penalties are hereby made a part of this Article and
40 shall be applicable thereto.

41 A wholesale dealer shall obtain for each place of business a continuing tobacco
42 products license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A
43 retail dealer shall obtain for each place of business a continuing tobacco products
44 license and shall pay a fee of ten dollars (\$10.00) for the license. A 'place of business' is

1 a place where a wholesale dealer makes tobacco products other than cigarettes or a
2 wholesale dealer or a retail dealer receives or stores non-tax-paid tobacco products other
3 than cigarettes."

4 Sec. 267. G.S. 105-113.37 reads as rewritten:

5 **"§ 105-113.37. Secretary to make rules and regulations. Payment of tax.**

6 ~~Subject to the provisions of G.S. 105-262, the Secretary is hereby authorized and~~
7 ~~empowered to make all reasonable regulations and administrative rules necessary for~~
8 ~~the efficient administration and enforcement of this Article not inconsistent with the~~
9 ~~provisions of this Article. Upon request, he shall furnish any taxpayer with a copy of~~
10 ~~such rules and regulations. All provisions with respect to reviews and appeals from the~~
11 ~~Secretary's decisions as provided by G.S. 105-241.2, 105-241.3 and 105-241.4 of the~~
12 ~~General Statutes shall be applicable to this Article.~~

13 (a) Monthly Report. – Except for tax on a designated sale under subsection (b),
14 the taxes levied by this Article are payable when a report is required to be filed. A
15 report is due on a monthly basis. A monthly report covers sales and other activities
16 occurring in a calendar month and is due within 20 days after the end of the month
17 covered by the report. A report shall be filed on a form provided by the Secretary and
18 shall contain the information required by the Secretary.

19 (b) Designation of Exempt Sale. – A wholesale dealer who sells a tobacco
20 product to a person who has notified the wholesale dealer in writing that the person
21 intends to resell the item in a transaction that is exempt from tax under G.S. 105-
22 113.35(1) or (2) may, when filing a monthly report under subsection (a), designate the
23 quantity of tobacco products sold to the person for resale. A wholesale dealer shall
24 report a designated sale on a form provided by the Secretary.

25 A wholesale dealer is not required to pay tax on a designated sale when filing a
26 monthly report. The wholesale dealer shall pay the tax due on all other sales in
27 accordance with this section. A wholesale dealer or a customer of a wholesale dealer
28 may not delay payment of the tax due on a tobacco product by failing to pay tax on a
29 sale that is not a designated sale or by overstating the quantity of tobacco products that
30 will be resold in a transaction exempt under G.S. 105-113.35(1) or (2).

31 A person who does not sell a tobacco product in a transaction exempt under G.S.
32 105-113.35(1) or (2) after a wholesale dealer has failed to pay the tax due on the
33 sale of the item to the person in reliance on the person's written notification of intent is
34 liable for the tax and any penalties and interest due on the designated sale. If the
35 Secretary determines that a tobacco product reported as a designated sale is not sold as
36 reported, the Secretary shall assess the person who notified the wholesale dealer of an
37 intention to resell the item in an exempt transaction for the tax due on the sale and any
38 applicable penalties and interest. A wholesale dealer who does not pay tax on a tobacco
39 product in reliance on a person's written notification of intent to resell the item in an
40 exempt transaction is not liable for any tax assessed on the item.

41 (c) Refund. – A wholesale dealer who pays tax on a tobacco product that is
42 exempt from the tax may obtain a refund for the amount of tax paid by filing an
43 application for refund with the Secretary on a form provided by the Secretary. A refund
44 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
On-premises malt beverage, off-premises malt beverage, or both	Retail malt beverage <u>\$100.00</u>	\$20.00

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 Sec. 43.1. G.S. 18B-1004 reads as rewritten:

10 **"§ 18B-1004. Hours for sale and consumption.**

11 (a) Hours. – Except as otherwise provided in this section, it shall be unlawful to
 12 sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the
 13 hours of ~~1:00-2:00~~ 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages
 14 between the hours of ~~1:30-2:30~~ 2:30 A.M. and 7:00 A.M., in any place ~~which~~ that has been
 15 issued a permit under G.S. 18B-1001.

16 (b) Daylight Saving Time. — ~~From the first Sunday in April until the last Sunday~~
 17 ~~in October, sales of alcoholic beverages may continue until 2:00 A.M. rather than 1:00~~
 18 ~~A.M., and consumption of alcoholic beverages may continue until 2:30 A.M. rather than~~
 19 ~~1:30 A.M., on any licensed premises.~~

20 (c) Sunday Hours. – It shall be unlawful to sell or consume alcoholic beverages
 21 on any licensed premises from the time at which sale or consumption must cease on
 22 Sunday morning until 1:00 P.M. on that day.

23 (d) Local Option. – A city may adopt an ordinance prohibiting in the city the
 24 retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the
 25 hours from 1:00 P.M. on Sunday until 7:00 A.M. on the following Monday. A county
 26 may adopt an ordinance prohibiting, in the parts of the county outside any city, the retail
 27 sale of malt beverages, unfortified wine, and fortified wine during any or all of the
 28 hours from 1:00 P.M. on Sunday until 7:00 A.M. on the following Monday. Neither a
 29 city nor a county, however, may prohibit those sales in establishments having brown-
 30 bagging or mixed beverages permits.

31 (e) This section does not prohibit at any time the wholesale delivery and sale of
 32 unfortified wine, fortified wine, and malt beverages to retailers issued permits pursuant
 33 to G.S. 18B-1001."

34
 35

36 PART 52.—SOFT DRINK TAX ADMINISTRATIVE CHANGES

37
 38

39 Sec. 291. G.S. 105-113.44 reads as rewritten:

40 **"§ 105-113.44. Definitions.**

41 ~~As used in this Article, unless the context otherwise requires: The following~~
definitions apply in this Article:

- 42 (1) ~~'Base products' means hot chocolate flavored drink mix, flavored milk~~
 43 ~~shake bases, concentrate products to which milk or other liquid is~~
 44 ~~added to complete a soft drink, and all like items or products as herein~~

- 1 ~~defined which will be taxed as syrups.~~ Base product. The compound
2 mixture or basic ingredients to which liquid milk or another liquid is
3 added to complete a soft drink. The term includes a powder, a simple
4 syrup, a chocolate syrup, other syrups, and a concentrate.
- 5 (2) ~~'Bottled' means enclosed in any closed or sealed glass, metal, paper or~~
6 ~~other type of bottle, can, carton or container, regardless of the size of~~
7 ~~such container.~~ Bottled. In a closed container of any kind.
- 8 (3) ~~'Soft drink' means any complete, finished, ready to use, nonalcoholic~~
9 ~~drink, whether carbonated or not, such as soda water, ginger ale, Nu-~~
10 ~~Grape, Coca-Cola, lime cola, Pepsi-Cola, bud wine, near beer, fruit~~
11 ~~juice, vegetable juice, milk drinks when any flavoring or syrup is~~
12 ~~added, cider, carbonated water and all preparations commonly referred~~
13 ~~to as soft drinks of whatever kind or description.~~
- 14 (4) ~~'Secretary' means the North Carolina Secretary of Revenue.~~
- 15 (5) ~~'Crowns' means crowns, caps and lids bearing any tax indicia other~~
16 ~~than stamps evidencing the payment of the excise tax levied under this~~
17 ~~Article. 'Crowns' shall also include waxed paper or plastic containers~~
18 ~~used by dairies upon which the tax indicia has been imprinted by the~~
19 ~~manufacturer thereof.~~
- 20 (6) ~~'Distributor' includes any person who manufactures, bottles,~~
21 ~~compounds, mixes or purchases for sale to retail dealers or wholesale~~
22 ~~dealers any bottled soft drink, soft drink syrup or powder, or base~~
23 ~~product for mixing, making or compounding soft drinks.~~ Distributor.
24 A person who makes bottled soft drinks or base products or who
25 acquires bottled soft drinks or base products for sale to a wholesale
26 dealer or a retail dealer.
- 27 (7) ~~'Excise tax' means the soft drink tax levied under G.S. 105-113.45.~~
28 ~~Juice. Any of the following:~~
- 29 a. The liquid that results from pressing fresh fruit or fresh
30 vegetables.
- 31 b. The concentrate produced by dehydrating a liquid described in
32 subpart a.
- 33 c. The liquid that results from adding water to a concentrate
34 described in subpart b.
- 35 (8) ~~'In this State' or 'within this State' means within the exterior limits of~~
36 ~~the State of North Carolina and includes all territory within such limits~~
37 ~~owned by, leased by or ceded to the United States of America.~~ Milk.
38 Any of the following:
- 39 a. Liquid milk, regardless of butterfat content.
- 40 b. The powder produced by dehydrating liquid milk.
- 41 c. The liquid that results from adding water to dehydrated liquid
42 milk.
- 43 (9) ~~'Natural fruit juice' means the natural liquid which results from the~~
44 ~~pressing of sound ripe fruit, and the liquid which results from the~~

- 1 reconstitution of natural fruit juice concentrate by the restoration of
2 water to dehydrated natural fruit juice. Natural. Without added
3 ingredients of any kind other than vitamins. Added ingredients include
4 sugar, salt, preservatives, artificial flavoring, coloring, and
5 carbonation.
- 6 (10) ~~'Natural liquid milk' means natural liquid milk regardless of butterfat~~
7 ~~content, and the liquid milk product which results from the~~
8 ~~reconstitution of natural milk concentrate, regardless of butterfat~~
9 ~~content, by the restoration of water to dehydrated or evaporated natural~~
10 ~~milk.~~
- 11 (11) ~~'Natural vegetable juice' means the natural liquid which results from~~
12 ~~the pressing of sound ripe vegetables or the liquid which results from~~
13 ~~the reconstitution of natural vegetable juice concentrate by the~~
14 ~~restoration of water to dehydrated natural vegetable juice.~~
- 15 (12) ~~'Person' includes any Person. An individual, a firm, a partnership,~~
16 ~~joint venture, an association, a corporation, estate, trust, receiver,~~
17 ~~syndicate or any other organization or group or combination acting as~~
18 ~~a unit, the State or any of its political subdivisions, and the plural as~~
19 ~~well as the singular number. unit.~~
- 20 (13) ~~'Powders' means compressed powders, crystals, granules or tablets~~
21 ~~from which soft drinks can be made. Powder. Crystals, granules,~~
22 ~~tablets, and other dry products.~~
- 23 (14) ~~'Retail dealer' includes every person, other than a distributor or~~
24 ~~wholesale dealer, who makes, mixes, compounds or manufactures any~~
25 ~~drink from a soft drink syrup or powder or base product, and sells or~~
26 ~~otherwise dispenses the same to the ultimate consumer, and every~~
27 ~~person, other than a distributor or wholesale dealer, who sells or~~
28 ~~otherwise dispenses any bottled soft drink to the ultimate consumer.~~
29 ~~Retail dealer. A person who sells bottled soft drinks or base products~~
30 ~~to the ultimate consumer or who makes soft drinks from base products~~
31 ~~and sells the soft drinks to the ultimate consumer.~~
- 32 (15) ~~'Selling' or 'sale' means any sale, transfer, exchange, barter, gift or~~
33 ~~offer for sale and distribution, in any manner or by any means~~
34 ~~whatsoever. Sale. A transfer, a trade, an exchange, or a barter, in any~~
35 ~~manner or by any means, with or without consideration.~~
- 36 (16) ~~'Simple syrup' means the product resulting from the making, mixing,~~
37 ~~compounding or manufacturing by dissolving sugar and water or any~~
38 ~~other mixture that will create syrup to which may be added~~
39 ~~concentrates or extracts. Secretary. The Secretary of Revenue.~~
- 40 (17) ~~'Soda fountain' includes all places where soft drinks are compounded~~
41 ~~for sale, including automatic vending machines. Soft drink. A~~
42 ~~beverage that is not an alcoholic beverage, as defined in G.S. 105-~~
43 ~~113.68.~~

- 1 (18) ~~'Soft drink syrups and powders' includes the compound mixture or the~~
 2 ~~basic ingredients, whether dry or liquid, practically and commercially~~
 3 ~~usable in making, mixing or compounding soft drinks by the mixing~~
 4 ~~thereof with carbonated or plain water, ice, fruit juice, milk or any~~
 5 ~~other product suitable to make soft drinks, among such syrups being~~
 6 ~~such products as Coca-Cola syrup, Chero-Cola syrup, Pepsi-Cola~~
 7 ~~syrup, Dr. Pepper syrup, root beer syrup, Nu Grape syrup, lemon~~
 8 ~~syrup, vanilla syrup, chocolate syrup, cherry smash syrup, rock candy~~
 9 ~~syrup, simple syrup, chocolate drink powder, malt drink powder, or~~
 10 ~~any other prepared syrups or powders sold or used for the purpose of~~
 11 ~~mixing soft drinks commercially at soda fountains, restaurants or~~
 12 ~~similar places as well as those powder bases prepared for the purpose~~
 13 ~~of domestically mixing soft drinks such as kool-aid, oh boy drink, tip-~~
 14 ~~top, miracle aid and all other similar products. Concentrated natural~~
 15 ~~frozen or unfrozen fruit juices or vegetable juices when used~~
 16 ~~domestically are specifically excluded from this definition.~~
- 17 (19) ~~'Stamp' means the North Carolina taxpaid stamp evidencing the~~
 18 ~~payment of the excise tax levied by this Article, and which may be~~
 19 ~~used as permitted by the Secretary in lieu of taxpaid crowns.~~
- 20 (20) ~~'Wholesale dealer' includes any person who sells bottled soft drinks,~~
 21 ~~soft drink syrups or powders, or base products for mixing,~~
 22 ~~compounding or making soft drinks to retail dealers or other wholesale~~
 23 ~~dealers for resale purposes. Wholesale dealer. A person who sells~~
 24 ~~bottled soft drinks or base products to another for resale."~~

25 Sec. 292. G.S. 105-113.45 reads as rewritten:

26 **"§ 105-113.45. Taxation rate. Excise taxes on soft drinks and base products.**

27 (a) Bottled Soft Drinks. – A soft drink excise tax is hereby levied and imposed
 28 ~~on and after midnight, September 30, 1969, upon the sale, use, handling and distribution~~
 29 ~~of all soft drinks, soft drink syrups and powders, base products and other items referred~~
 30 ~~to in this section. An excise tax of one cent (1¢) is levied on each bottled soft drink.~~

31 (b) ~~The rate of tax on each bottled soft drink shall be one cent (1¢).~~

32 (c) Liquid Base Products. – The rate of tax on each gallon of soft drink syrup or
 33 ~~simple syrup shall be one dollar (\$1.00), and on a fraction of a gallon the rate shall be an~~
 34 ~~amount which represents one dollar (\$1.00) multiplied by the same fraction of a gallon.~~
 35 ~~The rate of a tax on each ounce or fraction of an ounce of soft drink syrup or simple~~
 36 ~~syrup shall be four fifths of a cent (4/5¢), and no exemption or refund shall be allowed~~
 37 ~~on such syrup even though it may subsequently be diverted to some purpose other than~~
 38 ~~the making of soft drinks. An excise tax of one dollar (\$1.00) a gallon, or four-fifths of~~
 39 ~~a cent (4/5¢) an ounce or fraction of an ounce, is levied on a liquid base product. The~~
 40 ~~tax applies regardless whether the liquid base product is diverted to and used for a~~
 41 ~~purpose other than making a soft drink.~~

42 (d) Dry Base Products. – The rate of tax on dry soft drink powders and base
 43 ~~products which are used to make soft drinks without being converted into syrup shall be~~
 44 ~~one cent (1¢) per ounce or fraction thereof of the dry powder or base product weight.~~

1 However, the tax on dry soft drink powder or base product which is to be converted into
2 syrup shall be the same as that which would be due upon the syrup produced, if the
3 syrup were being taxed according to the rates set out in subsection (c) above. An excise
4 tax is levied on a dry base product at the rate:

5 (1) Of one cent (1¢) an ounce or fraction of an ounce if the dry base
6 product is not converted into a syrup or other liquid base product
7 before it is used to make a soft drink.

8 (2) That would apply under subsection (c) to the resulting liquid base
9 product if the dry base product is converted into a liquid base product
10 before it is used to make a soft drink.

11 (e) ~~The excise tax herein levied on syrups, powders and base products shall not~~
12 ~~apply to syrups, powders and base products used by persons in the manufacture of~~
13 ~~bottled soft drinks which are otherwise subject to tax under this Article. The Secretary~~
14 ~~may by administrative rules or regulation, provide for the storage of such syrups,~~
15 ~~powders and base products when they are not for use in the manufacture of bottled soft~~
16 ~~drinks."~~

17 Sec. 293. G.S. 105-113.46 reads as rewritten:

18 "**§ 105-113.46. Exemption of certain milk drinks. Exemptions.**

19 The taxes imposed by this Article do not apply to an item that is listed in this section
20 and, if the item is a bottled soft drink or a juice concentrate included in subdivisions (2)
21 or (3), is registered with the Secretary in accordance with G.S. 105-113.47:

22 (1) A natural liquid milk drink produced by a farmer or a dairy.

23 (2) A bottled soft drink that contains at least thirty-five percent (35%)
24 natural milk measured by volume and is not exempt under subdivision
25 (1).

26 (3) Natural juice.

27 (4) Natural water.

28 (5) A base product used to make a bottled soft drink subject to tax under
29 this Article.

30 (6) Coffee or tea in any form.

31 (7) A bottled soft drink or base product sold outside the State.

32 (8) A bottled soft drink or base product sold to the federal government.

33 (9) A base product for domestic rather than commercial use, except a base
34 product that does not contain any natural milk and to which natural
35 water is added to make a soft drink.

36 ~~All natural liquid milk drinks produced by farmers or dairies shall be exempt from~~
37 ~~the payment of the soft drink excise tax. Where a product other than the above is~~
38 ~~produced, such product is subject to the tax unless otherwise exempt under this Article."~~

39 Sec. 294. G.S. 105-113.47 reads as rewritten:

40 "**§ 105-113.47. Natural fruit or vegetable juice or natural liquid milk drinks**
41 **exempted from tax. Registration of certain exempt bottled soft drinks**
42 **and juice concentrates.**

43 (a) Requirement. ~~All bottled soft drinks containing thirty five percent (35%) or~~
44 ~~more of natural fruit or vegetable juice and all bottled natural liquid milk drinks~~

1 containing thirty five percent (35%) or more of natural liquid milk, are exempt from the
2 excise tax imposed by this Article, except that this exemption shall not apply to any fruit
3 or vegetable juice drink to which has been added any coloring, artificial flavoring or
4 preservative. Sugar, salt or vitamins shall not be construed to be an artificial flavor or
5 preservative. To be exempt from the tax imposed by this Article, the following items
6 must be registered with the Secretary as an exempt item:

7 (1) A natural milk bottled soft drink that contains at least thirty-five
8 percent (35%) natural milk measured by volume and is not exempt
9 under G.S. 105-113.46(1).

10 (2) A natural juice bottled soft drink.

11 (3) A natural juice concentrate.

12 To register an item as exempt, the person who controls the brand name or formula of
13 the item must file an application for registration with the Secretary on a form provided
14 by the Secretary. An application must include an affidavit stating the complete and
15 itemized formula by volume of the bottled soft drink or juice concentrate that is the
16 subject of the application.

17 (b) Determination. ~~Any bottled soft drink for which exemption is claimed under~~
18 ~~this section must be registered with the Secretary. No bottled soft drink shall be entitled~~
19 ~~to the exemption until registration has been accomplished by the filing of an application~~
20 ~~for exemption on such form as may be prescribed by the Secretary, which form shall~~
21 ~~include an affidavit setting forth the complete and itemized formula by volume of the~~
22 ~~drink therein referred to, and the failure to submit such affidavit shall be prima facie~~
23 ~~evidence that such bottled soft drink is not exempt. All bottled soft drinks which are not~~
24 ~~so registered and do not have affixed thereto the proper stamps or crowns shall be~~
25 ~~subject to confiscation. The Secretary or his duly authorized representative may at any~~
26 ~~time check the formulas or the manufacturing of such bottled soft drinks for which~~
27 ~~exemption is claimed under this section and in addition thereto, the Secretary or his duly~~
28 ~~authorized representative may at any time take samples of any product for which~~
29 ~~exemption has been claimed, from any and all persons offering such product for sale for~~
30 ~~the purpose of ascertaining by analysis the contents thereof. The sample shall be clearly~~
31 ~~marked for identification and such sample may be turned over to any registered chemist~~
32 ~~designated by the Secretary for the purpose of analysis. If such investigation establishes~~
33 ~~that such bottled soft drink contains less than thirty five percent (35%) by volume of~~
34 ~~natural fruit juice, natural vegetable juice or natural liquid milk, or if any person~~
35 ~~engaged in selling, manufacturing, purchasing, consigning, using, shipping or~~
36 ~~distributing for the purpose of sale within this State who has applied for an exemption~~
37 ~~hereunder fails or refuses to allow the Secretary or his duly authorized representative to~~
38 ~~check the formulas or inspect the manufacturing of such bottled soft drinks, the excise~~
39 ~~tax imposed by this Article shall apply to all sales of such products and all such~~
40 ~~products offered for sale and not properly stamped shall be subject to confiscation until~~
41 ~~such person permits the Secretary to examine the formulas or inspect the manufacturing~~
42 ~~of such bottled soft drinks. The Secretary shall determine whether a bottled soft drink or~~
43 ~~a juice concentrate for which an application for registration is filed meets the criteria for~~
44 ~~exemption. To make the determination, the Secretary or a representative of the~~

1 Secretary may require the person who filed the registration application for the item or
2 anyone who sells the item in this State to provide a sample of the item and may have the
3 sample analyzed by a chemist to verify the accuracy of the submitted formula.

4 (c) No Disclosure. – Except as required by law or allowed under this subsection,
5 in accordance with proper judicial order or as otherwise provided by law, it shall be
6 unlawful for the Secretary or any deputy, agent, clerk or other officer or employee or
7 any other person acting in a confidential relationship with an agent or employee of the
8 Secretary to divulge or make known in any manner any formula or any particulars of
9 any may not disclose part or all of the formula of an item pertaining to any drink
10 hereinabove referred to, for which an application for registration is filed. However, such
11 prohibition shall not be construed to prohibit the publication of whether or not such
12 bottled soft drinks contain thirty five percent (35%) or more of natural fruit or vegetable
13 juice or thirty five percent (35%) or more of natural liquid milk, nor shall it be
14 construed to prohibit the inspection by the Attorney General or other legal
15 representative of the State of the formula of any taxpayer who shall bring action to set
16 aside or review the tax base thereon or against whom an action or proceeding has been
17 instituted to recover any tax imposed by this Article. The Secretary may disclose
18 whether an item meets the exemption criteria and the Attorney General or other legal
19 representative of the State may examine the formula for an item if the grant or denial of
20 an exemption for the item is challenged.

21 (d) Effect. – Where any product for which exemption is claimed under this
22 section is found to contain less than thirty five percent (35%) by volume of natural fruit
23 juice, natural vegetable juice, or natural liquid milk, the excise tax imposed by this
24 Article shall apply to all sales of such product, and all such products offered for sale and
25 not properly stamped shall be subject to confiscation. Registration as an exempt item
26 applies prospectively to sales of the registered bottled soft drink or registered juice
27 concentrate made on or after the date of registration. Registration does not relieve a
28 person of liability for taxes due on sales made before the date an item is registered."

29 Sec. 295. G.S. 105-113.50 reads as rewritten:

30 **"§ 105-113.50. Soft drink licenses required.**

31 (a) Distributors and Wholesale Dealers. – Distributors and wholesale dealers
32 shall obtain for each place of business a continuing soft drink license for which a fee of
33 twenty-five dollars (\$25.00) shall be paid. For the purpose of this section, subsection,
34 'place of business' means any place where a distributor makes bottled soft drinks or base
35 products are manufactured by a distributor, or any place where unstamped bottled soft
36 drinks, soft drink syrups and powders, base products and other items taxed under this
37 Article are received or stored by a distributor or wholesale dealer. a distributor or a
38 wholesale dealer receives or stores non-tax-paid bottled soft drinks or non-tax-paid base
39 products.

40 (b) Out of state distributors and wholesale dealers may obtain appropriate
41 distributors' or wholesale dealers' licenses upon compliance with the provisions of this
42 Article and such regulations and administrative rules as may be issued by the Secretary
43 hereunder, for which a fee of twenty five dollars (\$25.00) shall be paid for each such
44 soft drink license.

1 (c) ~~Retail Dealers. Each retail dealer manufacturing or purchasing not~~
2 ~~previously taxed syrups, powders or base products shall secure. Retail dealers shall~~
3 ~~obtain for each place of business a continuing soft drink license for which a fee of five~~
4 ~~dollars (\$5.00) shall be paid for each place of business at which such unstamped syrups,~~
5 ~~powders or base products are received or at which place such retail dealer manufactures~~
6 ~~them. paid. For the purpose of this subsection, 'place of business' means any place~~
7 ~~where a retail dealer receives non-tax-paid bottled soft drinks or non-tax-paid base~~
8 ~~products.~~

9 (d) ~~Distributors, wholesale dealers and retail dealers licensed under this section~~
10 ~~shall file such reports with the Secretary as he may require not later than the fifteenth~~
11 ~~day of each month showing transactions for the preceding month."~~

12 Sec. 296. G.S. 105-113.50A reads as rewritten:

13 **"§ 105-113.50A. Local taxation.**

14 Except as authorized by G.S. 105-79, ~~no county, city or town shall levy any 105-~~
15 ~~102.5(e), a county or city may not levy a privilege license tax upon the business of~~
16 ~~bottling, manufacturing, producing, purchasing, selling at wholesale or retail, jobbing,~~
17 ~~consigning, using, shipping shipping, or distributing for the purpose of sale within this~~
18 ~~State bottled soft drinks in bottles or other closed containers. drinks or base products."~~

19 Sec. 297. G.S. 105-113.51 reads as rewritten:

20 **"§ 105-113.51. Affixing of crowns and stamps to containers; crowns and stamps not**
21 **transferable. Liability for and payment of excise taxes.**

22 (a) ~~Any bottled soft drink offered for sale shall within 24 hours of its~~
23 ~~manufacture or receipt in this State have affixed to it a North Carolina taxpaid stamp or~~
24 ~~a North Carolina taxpaid crown at the rate provided for in this Article, unless the tax has~~
25 ~~been or will be paid according to some other method available under the provisions of~~
26 ~~this Article.~~

27 (b) ~~The distributor or dealer who first distributes, sells, uses, consumes or~~
28 ~~handles bottled soft drinks, syrups, powders, base products and other items subject to~~
29 ~~the soft drink excise tax is subject to the tax unless taxpaid stamps or crowns have~~
30 ~~previously been affixed. The distributor, wholesale dealer or retail dealer, or any person~~
31 ~~who is the original consignee of any bottled soft drink, soft drink syrup, powder, base~~
32 ~~product or other item subject to the soft drink excise tax manufactured or produced~~
33 ~~outside this State, or who brings such into this State, shall pay the excise tax.~~

34 (c) ~~Taxpaid stamps shall be affixed to each individual container of soft drink~~
35 ~~syrups, powders, and base products by wholesale dealers or distributors within 48 hours~~
36 ~~after such syrups, powders, or base products are received or made by them and by retail~~
37 ~~dealers within 24 hours after such syrups, powders or base products are received by~~
38 ~~them, and in any event the containers must be stamped before such products are used in~~
39 ~~the preparation of soft drinks.~~

40 (d) ~~The payment of the excise tax provided for in this Article shall be evidenced~~
41 ~~by the affixing of taxpaid stamps or crowns to the original containers and the stamps~~
42 ~~and crowns provided for in this Article shall not be transferable to any person other than~~
43 ~~their original purchaser.~~

1 (e) ~~Notwithstanding any other provision of this Article, the excise tax levied~~
2 ~~upon powders, as herein defined, may be made and evidenced in accordance with rules~~
3 ~~and regulations of the Secretary.~~

4 (a) Primary Liability. – The distributor, wholesale dealer, or retail dealer who
5 first distributes, sells, consumes, or otherwise handles bottled soft drinks or base
6 products in this State is liable for the tax imposed by this Article. A distributor,
7 wholesale dealer, or retail dealer who brings into this State a bottled soft drink or base
8 product made outside the State is the first person to handle the bottled soft drink or base
9 product in this State. A distributor, wholesale dealer, or retail dealer who is the original
10 consignee of a bottled soft drink or base product that is made outside the State and is
11 shipped into the State is the first person to handle the bottled soft drink or base product
12 in this State.

13 (b) Secondary Liability. – A retail dealer who acquires non-tax-paid bottled soft
14 drinks or non-tax-paid base products from a distributor or a wholesale dealer is liable
15 for any tax due on the bottled soft drinks or base products. A retail dealer who is liable
16 for tax under this subsection may not deduct a discount from the amount of tax due
17 when reporting the tax.

18 (c) Monthly Report. – Except for tax on a designated sale under subsection (d),
19 the taxes levied by this Article are payable when a report is required to be filed. A
20 report is due on a monthly basis. A monthly report covers sales and other activities
21 occurring in a calendar month and is due within 15 days after the end of the month
22 covered by the report. A report shall be filed on a form provided by the Secretary and
23 shall contain the information required by the Secretary.

24 (d) Designation of Exempt Sale. – A distributor or a wholesale dealer who sells
25 a bottled soft drink or a base product to a person who has notified the distributor or
26 wholesale dealer in writing that the person intends to resell the item in a transaction that
27 is exempt from tax under G.S. 105-113.46(7) or (8) may, when filing a monthly report
28 under subsection (c), designate the quantity of bottled soft drinks or base products sold
29 to the person for resale. A distributor or wholesale dealer shall report a designated sale
30 on a form provided by the Secretary.

31 A distributor or a wholesale dealer is not required to pay tax on a designated sale
32 when filing a monthly report. The distributor or wholesale dealer shall pay the tax due
33 on all other sales in accordance with this section. A distributor, a wholesale dealer, or a
34 customer of a distributor or wholesale dealer may not delay payment of the tax due on a
35 bottled soft drink or base product by failing to pay tax on a sale that is not a designated
36 sale or by overstating the quantity of bottled soft drinks or base products that will be
37 resold in a transaction exempt under G.S. 105-113.46(7) or (8).

38 A person who does not sell a bottled soft drink or base product in a transaction
39 exempt under G.S. 105-113.46(7) or (8) after a distributor or a wholesale dealer has
40 failed to pay the tax due on the sale of the item to the person in reliance on the person's
41 written notification of intent is liable for the tax and any penalties and interest due on
42 the designated sale. If the Secretary determines that a bottled soft drink or a base
43 product reported as a designated sale is not sold as reported, the Secretary shall assess
44 the person who notified the distributor or wholesale dealer of an intention to resell the

1 item in an exempt transaction for the tax due on the sale and any applicable penalties
2 and interest. A distributor or a wholesale dealer who does not pay tax on a bottled soft
3 drink or base product in reliance on a person's written notification of intent to resell the
4 item in an exempt transaction is not liable for any tax assessed on the item.

5 (e) Refund. – A distributor, a wholesale dealer, or a retail dealer who pays tax on
6 a bottled soft drink or a base product that is exempt from the tax may obtain a refund for
7 the amount of tax paid by filing an application for refund with the Secretary on a form
8 provided by the Secretary. A refund for tax paid in the first six months of a calendar
9 year must be submitted by July 15, and a refund for tax paid in the second six months of
10 a calendar year must be submitted by January 15."

11 Sec. 298. G.S. 105-113.52 reads as rewritten:

12 **"§ 105-113.52. Taxpaid stamps; rules and regulations; cancellation; discount. Tax**
13 **reduction and discount.**

14 ~~(a) The Secretary shall make arrangements with some manufacturer to~~
15 ~~manufacture the taxpaid stamps provided for in this Article. The Secretary shall~~
16 ~~prescribe the form, design, denominations and such other matters as may be necessary~~
17 ~~with respect to said stamps. The Secretary may sell such stamps directly to taxpayers~~
18 ~~and may also make arrangements for release of taxpaid stamps to taxpayers by the~~
19 ~~manufacturer. Said manufacturer shall furnish such bond as the Secretary may deem~~
20 ~~advisable, in such penalty and upon such conditions as in the opinion of the Secretary~~
21 ~~will adequately protect the State in the collection of the excise tax imposed by this~~
22 ~~Article. Such bond shall be executed by the manufacturer as principal and by an~~
23 ~~indemnity company licensed to do business under the insurance laws of this State, as~~
24 ~~surety. The costs of manufacture, transportation and distribution of said stamps shall be~~
25 ~~computed in accordance with administrative rules or regulations of the Secretary and~~
26 ~~payment thereof pursuant to such rules and regulations of the Secretary may be required~~
27 ~~in addition to the amount of taxes which said stamps evidence regardless of whether~~
28 ~~said stamps are released or distributed by the Secretary or by the manufacturer pursuant~~
29 ~~to authorization from the Secretary.~~

30 ~~(b) Upon the sale of taxpaid stamps, the Secretary shall allow a discount of five~~
31 ~~percent (5%) of the entire amount of any sale of fifty dollars (\$50.00) or more of said~~
32 ~~stamps. On sales of stamps of less than fifty dollars (\$50.00), no discount shall be~~
33 ~~allowed. Such discount shall apply only to the tax and not the manufacturer's price or~~
34 ~~transportation or distribution costs.~~

35 ~~(c) When stamps are attached to bottled soft drinks, or to containers of soft drink~~
36 ~~powders or base products, no cancellation or obliteration of them shall be required, but~~
37 ~~stamps affixed to containers of syrup to be used at soda fountains shall be canceled by~~
38 ~~the person affixing them by writing or stamping with ink or indelible pencil across the~~
39 ~~stamps his initials or name and the date on which the stamps were affixed. When the~~
40 ~~container to which the stamp has been affixed has been emptied, the stamp must be~~
41 ~~obliterated by making at least three incisions crisscross through the stamp with a knife~~
42 ~~or other sharp instrument.~~

43 ~~(d) Any person who makes use of any stamp to denote the payment of the tax~~
44 ~~imposed by this Article without canceling or obliterating such stamps if required to do~~

1 so by this section shall be guilty of a misdemeanor and, upon conviction, shall be fined
2 not more than one hundred dollars (\$100.00) or be imprisoned for not more than 30
3 days for each offense.

4 (a) Tax Reduction. – The tax on the first 15,000 gross of bottled soft drinks sold
5 at wholesale on or after October 1 of each year by a distributor or wholesale dealer is
6 seventy-two cents (72¢) a gross rather than the amount stated in G.S. 105-113.45.
7 When reporting tax due on bottled soft drinks to which this reduced rate applies, a
8 distributor or wholesale dealer shall pay the reduced amount.

9 (b) Discount. – A distributor, a wholesale dealer, or a retail dealer who is liable
10 for the excise taxes on bottled soft drinks or base products and who files a timely report
11 under G.S. 105-113.51 may deduct from the amount due with the report a discount of
12 four percent (4%). This discount covers losses due to spoilage and breakage, expenses
13 incurred in preparing the records and reports required by this Article, and the expense of
14 furnishing a bond. The discount does not apply to taxes paid at the rate set in subsection
15 (a)."

16 Sec. 299. G.S. 105-113.53 reads as rewritten:

17 "**§ 105-113.53. Stamps not required when crowns used. Bonds.**

18 If a distributor of bottled soft drinks either within or without the State shall use
19 taxpaid crowns as hereinafter provided, such distributor shall be relieved of the duty of
20 affixing taxpaid stamps to each individual bottle. Whenever the Secretary deems it to be
21 advantageous for the effective and efficient enforcement of this Article, he may require
22 that such crowns be used in lieu of stamps. The Secretary may require a distributor, a
23 wholesale dealer, or a retail dealer to furnish a bond in an amount that adequately
24 protects the State from loss if the distributor or dealer fails to pay taxes due under this
25 Article. A bond shall be conditioned on compliance with this Article, shall be payable
26 to the State, and shall be in the form required by the Secretary. The Secretary shall
27 proportion a bond amount to the anticipated tax liability of the distributor, wholesale
28 dealer, or retail dealer. The Secretary shall periodically review the sufficiency of bonds
29 required of distributors, wholesale dealers, and retail dealers and shall increase the
30 amount of a required bond when the amount of the bond furnished no longer covers the
31 anticipated tax liability of the distributor or dealer."

32 Sec. 300. G.S. 105-113.57 reads as rewritten:

33 "**§ 105-113.57. Records required of ingredients received.**

34 Every person engaged in the business of making, mixing or compounding bottled
35 soft drinks, soft drink syrups and powders, base products and other items taxed under
36 this Article shall keep a distinct, legible and permanent record of all extracts, flavoring,
37 sugar, syrup or other ingredients except water received by him that may be useful in
38 making, mixing or compounding soft drinks, and he making bottled soft drinks or base
39 products shall keep a record of the ingredients purchased to make the bottled soft drinks
40 or base products and shall retain invoices on all such the purchases for a period of not
41 less than three years from the date thereof. Such records shall show the quantity of such
42 commodities received, the date of receipt thereof at least three years. The records shall
43 show the quantity of ingredients purchased, the date received, and the name of the
44 person from whom they were secured or received and shall be open at all times for

1 ~~inspection by the Secretary or his duly authorized representative received. The records~~
2 ~~shall be open at all times for inspection by the Secretary or a representative of the~~
3 ~~Secretary."~~

4 Sec. 301. G.S. 105-113.58 reads as rewritten:

5 "**§ 105-113.58. Records of sale-sales, inventories, and purchases to be kept.**

6 Every distributor, wholesale ~~dealer-dealer,~~ and retail dealer shall keep ~~an-accurate~~
7 ~~account of all daily sales, sales slips, bills, invoices, delivery slips, statements, bills of~~
8 ~~lading, freight bills, credit memoranda and similar documents for a period of not less~~
9 ~~than three years from the date shown thereon. All such records of the distributor's or~~
10 ~~dealer's purchases, inventories, and sales of bottled soft drinks and base products.~~
11 ~~These records shall be open at all times for inspection by the Secretary or his duly-an~~
12 ~~authorized representative-representative of the Secretary."~~

13 Sec. 302. G.S. 105-113.43, 105-113.48, 105-113.49, 105-113.54 through
14 105-113.56C, 105-113.59 through 105-113.62, 105-113.66, and 105-113.67 are
15 repealed.

16 Sec. 303. The Secretary of Revenue shall redeem any unused or mutilated
17 but identifiable tax stamps or crowns purchased pursuant to Article 2B of Chapter 105
18 of the General Statutes that a taxpayer presents for redemption and shall refund the face
19 value of the stamps or crowns, less the discount allowed at the time of the purchase of
20 the stamps or crowns by the taxpayer.

21 Sec. 304. The Secretary of Revenue shall review the registrations of bottled
22 soft drinks and juice concentrates made under G.S. 105-113.47 before the effective date
23 of this Part. The Secretary shall notify those registrants who no longer appear to meet
24 the exemption criteria that, for the bottled soft drink or juice concentrate to continue to
25 be exempt from the excise tax imposed by Article 2B of Chapter 105 of the General
26 Statutes, a new registration application must be submitted. The excise tax imposed by
27 Article 2B of Chapter 105 of the General Statutes applies to a previously registered
28 bottled soft drink or juice concentrate unless the Secretary determines from the new
29 application that the bottled soft drink or juice concentrate continues to meet the
30 exemption criteria.

31
32 PART 53.—SALES TAX CHANGES

33
34 Sec. 305. G.S. 105-164.3 is amended by adding a new subdivision to read:

35 "(16b) 'State agency' means a unit of the executive, legislative, or judicial
36 branch of State government, such as a department, a commission, a
37 board, a council, or a constituent institution of The University of North
38 Carolina. The term does not include a local board of education."

39 Sec. 306. G.S. 105-164.4 reads as rewritten:

40 "**§ 105-164.4. Tax imposed on retailers.**

41 (a) A privilege tax is imposed on a retailer at the following percentage rates of
42 the retailer's net taxable sales, ~~or gross receipts from the lease or rental of tangible~~
43 ~~personal property, as appropriate: sales or gross receipts, as appropriate. The general~~
44 ~~rate of tax is three and five-tenths percent (3.5%).~~

- 1 (1) ~~At the rate of three percent (3%) of~~ The general rate of tax applies to
2 the sales price of each item or article of tangible personal property that
3 is sold at retail and is not subject to tax under another subdivision in
4 this section.
- 5 (1a) ~~At the rate of two percent (2%) of~~ The rate of two percent (2%) applies
6 to the sales price of each manufactured home sold at retail, including
7 all accessories attached to the manufactured home when it is delivered
8 to the ~~purhaser, not to exceed three hundred dollars (\$300.00).~~
9 purhaser. The maximum tax is three hundred dollars (\$300.00) per
10 article. Each section of a manufactured home that is transported
11 separately to the site where it is to be erected is a separate article.
- 12 (1b) ~~At the rate of two percent (2%) of~~ The rate of three percent (3%)
13 applies to the sales price of each aircraft, boat, railway car, or
14 locomotive sold at retail, including all accessories attached to the item
15 when it is delivered to the ~~purhaser, not to exceed one thousand five~~
16 hundred dollars (\$1,500). ~~purhaser. The maximum tax is one~~
17 thousand five hundred dollars (\$1,500) per article.
- 18 (1c) ~~At the rate of one percent (1%) of~~ The rate of two percent (2%) applies
19 to the sales price ~~on~~ of the following ~~items:~~ articles:
20 a. Horses or mules by whomsoever sold.
21 b. Semen to be used in the artificial insemination of animals.
22 c. Sales of fuel, other than electricity or piped natural gas, to
23 farmers to be used by them for any farm purposes other than
24 preparing food, heating dwellings and other household
25 purposes. The quantity of fuel purchased or used at any one
26 time shall not in any manner be a determinative factor as to
27 whether any sale or use of fuel is or is not subject to the one
28 percent (1%) rate of tax imposed herein.
29 d. Sales of fuel, other than electricity or piped natural gas, to
30 manufacturing industries and manufacturing plants for use in
31 connection with the operation of such industries and plants
32 other than sales of fuels to be used for residential heating
33 purposes. The quantity of fuel purchased or used at any one
34 time shall not in any manner be a determinative factor as to
35 whether any sale or use of fuel is or is not subject to the ~~one~~
36 percent (1%) rate of tax imposed herein. rate of tax provided in
37 this subdivision.
38 e. Sales of fuel, other than electricity or piped natural gas, to
39 commercial laundries or to pressing and dry-cleaning
40 establishments for use in machinery used in the direct
41 performance of the laundering or the pressing and cleaning
42 service.
43 f. Sales to freezer locker plants of wrapping paper, cartons and
44 supplies consumed directly in the operation of such plant.

1 (1d) ~~At the rate of one percent (1%) of the sales price, subject to a~~
2 ~~maximum tax of eighty dollars (\$80.00) per article, on the following~~
3 ~~items: The rate of two percent (2%) applies to the sales price of the~~
4 ~~following articles. The maximum tax is one hundred sixty dollars~~
5 ~~(\$160.00) per article.~~

- 6 a. Sales of machines and machinery, whether animal or motor
7 drawn or operated, and parts and accessories for such machines
8 and machinery to farmers for use by them in the planting,
9 cultivating, harvesting or curing of farm crops, and sales of
10 machines and machinery and parts and accessories for such
11 machines and machinery to dairy operators, poultry farmers,
12 egg producers, and livestock farmers for use by them in the
13 production of dairy products, poultry, eggs or livestock, except
14 such machines, machinery, equipment, parts, and accessories
15 that come within the provisions of G.S. 105-164.13(4c).

16 The term 'machines and machinery' as used in this
17 subdivision is defined as follows:

18 The term shall include all vehicular implements, designed
19 and sold for any use defined in this subdivision, which are
20 operated, drawn or propelled by motor or animal power, but
21 shall not include vehicular implements which are operated
22 wholly by hand, and shall not include any motor vehicles
23 required to be registered under Chapter 20 of the General
24 Statutes.

25 The term shall include all nonvehicular implements and
26 mechanical devices designed and sold for any use defined in
27 this subdivision, which have moving parts, or which require the
28 use of any motor or animal power, fuel, or electricity in their
29 operation but shall not include nonvehicular implements which
30 have no moving parts and are operated wholly by hand.

31 The term shall also include metal flues sold for use in curing
32 tobacco, whether such flues are attached to handfired furnaces
33 or used in connection with mechanical burners.

- 34 b. Sales of mill machinery or mill machinery parts and accessories
35 to manufacturing industries and plants, and sales to contractors
36 and subcontractors purchasing mill machinery or mill
37 machinery parts and accessories for use by them in the
38 performance of contracts with manufacturing industries and
39 plants, and sales to subcontractors purchasing mill machinery or
40 mill machinery parts and accessories for use by them in the
41 performance of contracts with general contractors who have
42 contracts with manufacturing industries and plants. As used in
43 this paragraph, the term 'manufacturing industries and plants'
44 does not include delicatessens, cafes, cafeterias, restaurants, and

- 1 other similar retailers that are principally engaged in the retail
2 sale of foods prepared by them for consumption on or off their
3 premises.
- 4 c. Sales of central office equipment and switchboard and private
5 branch exchange equipment to telephone companies regularly
6 engaged in providing telephone service to subscribers on a
7 commercial basis, and sales to these companies of prewritten
8 computer programs used in providing telephone service to their
9 subscribers.
- 10 d. Sales to commercial laundries or to pressing and dry cleaning
11 establishments of machinery used in the direct performance of
12 the laundering or the pressing and cleaning service and of parts
13 and accessories thereto.
- 14 e. Sales to freezer locker plants of machinery used in the direct
15 operation of said freezer locker plant and of parts and
16 accessories thereto.
- 17 f. Sales of broadcasting equipment and parts and accessories
18 thereto and towers to commercial radio and television
19 companies which are under the regulation and supervision of
20 the Federal Communications Commission.
- 21 g. Sales to farmers of bulk tobacco barns and racks and all parts
22 and accessories thereto and similar apparatus used for the
23 curing and drying of any farm produce.
- 24 h. Sales to farmers of grain, feed or soybean storage facilities and
25 accessories thereto, whether or not dryers are attached, and all
26 similar apparatus and accessories thereto for the storage of
27 grain, feed or soybeans.
- 28 i. Sales of containers to farmers or producers for use in the
29 planting, producing, harvesting, curing, marketing, packaging,
30 sale, or transporting or delivery of their products when such
31 containers do not go with and become part of the sale of their
32 products at wholesale or retail.
- 33 (2) ~~At the applicable percentage rate of~~ The applicable percentage rate
34 applies to the gross receipts derived from the lease or rental of tangible
35 personal property by a person who is engaged in the business of
36 leasing or renting tangible personal property, or is a retailer and leases
37 or rents property of the type sold by the retailer. The applicable
38 percentage rate is the rate and the maximum tax, if any, that applies to
39 a sale of the property that is leased or rented. A person who leases or
40 rents property shall also collect the tax imposed by this section on the
41 separate retail sale of the property.
- 42 (3) Operators of hotels, motels, tourist homes, tourist camps, and similar
43 type businesses and persons who rent private residences and cottages
44 to transients are considered retailers under this Article. ~~There is levied~~

1 upon every such retailer a tax of three percent (3%) of the gross
 2 receipts derived. A tax at the general rate of tax is levied on the gross
 3 receipts derived by these retailers from the rental of any rooms,
 4 lodgings, or accommodations furnished to transients for a
 5 consideration. This tax does not apply to any private residence or
 6 cottage that is rented for less than 15 days in a calendar year or to any
 7 room, lodging, or accommodation supplied to the same person for a
 8 period of 90 or more continuous days.

9 As used in this subdivision, the term 'persons who rent to transients'
 10 means (i) owners of private residences and cottages who rent to
 11 transients and (ii) rental agents, including 'real estate brokers' as
 12 defined in G.S. 93A-2, who rent private residences and cottages to
 13 transients on behalf of the owners. If a rental agent is liable for the tax
 14 imposed by this subdivision, the owner is not liable.

- 15 (4) ~~Every person, firm or corporation~~ person (i) engaged in the business of
 16 ~~operating a pressing club, cleaning plant, hat blocking establishment,~~
 17 ~~dry cleaning plant, laundry (including wet or damp wash laundries and~~
 18 ~~businesses known as launderettes and launderalls),~~ dry cleaning,
 19 pressing, or hat-blocking establishment, a laundry, or any similar
 20 business, or (ii) engaged in the business of renting clean linen or
 21 towels or wearing apparel, or any similar business, or (iii) engaged in
 22 the business of soliciting cleaning, pressing, hat blocking, laundering
 23 or linen rental business for any of the ~~aforenamed these~~ businesses,
 24 ~~shall be considered "retailers" for the purposes of this Article. is~~
 25 considered a retailer under this Article. There is hereby levied upon
 26 ~~every such person, firm or corporation a tax of three percent (3%) of~~
 27 ~~the gross receipts derived. A tax at the general rate of tax is levied on~~
 28 the gross receipts derived by these retailers from services rendered in
 29 engaging in any of the occupations or businesses named in this
 30 ~~subdivision. subdivision, and every person, firm or corporation subject~~
 31 ~~to the provisions of this subdivision shall register and secure a license~~
 32 ~~in the manner hereinafter provided in this section, and, insofar as~~
 33 ~~practicable, all other provisions of this Article shall be applicable with~~
 34 ~~respect to the tax herein provided for. The tax imposed by this~~
 35 ~~subdivision does not apply to receipts derived from coin or token-~~
 36 ~~operated washing machines, extractors, and dryers. The taxes levied in~~
 37 ~~this subdivision are additional privilege or license taxes for the~~
 38 ~~privilege of engaging in the occupations or businesses named herein.~~
 39 ~~Any person, firm or corporation engaged in cleaning, pressing, hat~~
 40 ~~blocking, laundering for, or supplying clean linen or towels or wearing~~
 41 ~~apparel to, another person, firm or corporation engaged in soliciting~~
 42 ~~shall not be required to pay the three percent (3%) tax on its gross~~
 43 ~~receipts derived through such solicitor, if the soliciting person, firm or~~
 44 ~~corporation has registered with the Department, secured the license~~

1 hereinafter required and has paid the tax at the rate of three percent
2 (3%) of the total gross receipts derived from business solicited. The
3 tax imposed by this subdivision does not apply to gross receipts
4 derived from services performed for resale by a retailer that pays the
5 tax on the total gross receipts derived from the services.

6 (4a) ~~At the rate of three percent (3%) of~~ The rate of three percent (3%)
7 applies to the gross receipts derived by a utility from sales of
8 electricity, piped natural gas, or local telecommunications service as
9 defined by G.S. 105-120(e). A person who operates a utility is
10 considered a retailer under this Article.

11 (4b) A person who sells tangible personal property at a flea market, other
12 than his own household personal property, is considered a retailer
13 under this Article. A tax at the general rate of tax is levied on ~~that~~
14 ~~person at the rate of three percent (3%) of~~ the sales price of each
15 article sold by ~~him~~ the retailer at the flea market. A person who leases
16 or rents space to others at a flea market may not lease or rent this space
17 unless the retailer requesting to rent or lease the space ~~furnishes~~
18 ~~evidence that he has obtained~~ shows the license or a copy of the
19 license required by this Article. ~~Article or other evidence of~~
20 compliance. A person who leases or rents space at a flea market shall
21 keep records of retailers ~~to whom he has~~ who have leased or rented
22 space at the flea market. As used in this subdivision, the term 'flea
23 market' means a place where space is rented to a person for the
24 purpose of selling tangible personal property.

25 (4c) ~~At the~~ The rate of six and one-half percent (6 1/2%) of ~~applies to the~~
26 gross receipts derived from providing toll telecommunications services
27 or private telecommunications services as defined by G.S. 105-120(e)
28 that both originate from and terminate in the State and are not subject
29 to the privilege tax under G.S. 105-120. Any business entity that
30 ~~provides the service outlined above~~ these services is considered a
31 retailer under this Article. This subdivision does not apply to
32 telephone membership corporations as described in Chapter 117 of the
33 General Statutes.

34 (b) The tax levied in this section shall be collected from the retailer and paid by
35 him at the time and in the manner as hereinafter provided. Provided, however, that any
36 person engaging or continuing in business as a retailer shall pay the tax required on the
37 net taxable sales of such business at the rates specified when proper books are kept
38 showing separately the gross proceeds of taxable and nontaxable sales of tangible
39 personal property in such form as may be accurately and conveniently checked by the
40 Secretary or his duly authorized agent. If such records are not kept separately the tax
41 shall be paid as a retailer on the gross sales of business and the exemptions and
42 exclusions provided by this Article shall not be allowed. The tax levied in this section is
43 in addition to all other taxes whether levied in the form of excise, license or privilege or
44 other taxes.

1 (c) Any person who engages or continues in any business for which a privilege
2 tax is imposed by this Article shall immediately after July 1, 1979, apply for and obtain
3 from the Secretary upon payment of the sum of five dollars (\$5.00) a license to engage
4 in and conduct such business upon the condition that the person shall pay the tax
5 accruing to the State under this Article; the person shall thereby be duly licensed and
6 registered to engage in and conduct such business. Except as hereinafter provided, a
7 license issued under this subsection shall be a continuing license until revoked for
8 failure to comply with the provisions of this Article. However, any person who has
9 heretofore applied for and obtained the license, if the license was in force and effect as
10 of July 1, 1979, shall not be required to apply for and obtain a new license.

11 Any person who ceases to be engaged in any business for which a privilege tax is
12 imposed by this Article, and who remains continuously out of business for a period of
13 five years shall apply for and obtain a new license from the Secretary upon the payment
14 of a tax of five dollars (\$5.00), and any license previously issued under this section shall
15 be void. The burden of proof after such period shall be upon the taxpayer to show that
16 he did engage in such business within the period, and that no new license is required.

17 A retailer who sells tangible personal property at a flea market shall conspicuously
18 display his sales tax license when making sales at the flea market."

19 Sec. 307. G.S. 105-164.6(b) reads as rewritten:

20 "(b) ~~There is hereby levied and there shall be collected from every person, firm, or~~
21 ~~corporation, an excise tax of three percent (3%) of the purchase price of all tangible~~
22 ~~personal property purchased or used which shall enter into or become a part of any~~
23 ~~building or other kind of structure in this State, including all materials, supplies, fixtures~~
24 ~~and equipment of every kind and description which shall be annexed thereto or in any~~
25 ~~manner become a part thereof. The tax shall be levied against the purchaser of such~~
26 ~~property. Provided, that where the purchaser is a contractor, the contractor and owner~~
27 ~~shall be jointly and severally liable for the tax, but the liability of the owner shall be~~
28 ~~deemed satisfied if before final settlement between them the contractor furnishes to the~~
29 ~~owner an affidavit certifying that the tax has been paid. Provided further, that where the~~
30 ~~purchaser is a subcontractor, the contractor and subcontractor shall be jointly and~~
31 ~~severally liable for the tax, but the liability of the contractor shall be deemed satisfied if~~
32 ~~before final settlement between them the subcontractor furnishes to the contractor an~~
33 ~~affidavit certifying that the tax has been paid.~~ An excise tax at the general rate of tax set
34 in G.S. 105-164.4 is imposed on the purchase price of tangible personal property
35 purchased inside or outside the State that becomes a part of a building or other structure
36 in the State. The purchaser of the property is liable for the tax. If the purchaser is a
37 contractor, the contractor and owner are jointly and severally liable for the tax; if the
38 purchaser is a subcontractor, the subcontractor and contractor are jointly and severally
39 liable for the tax. The liability of an owner or contractor who did not purchase the
40 property is satisfied if the purchaser delivers to the owner or contractor before final
41 settlement between them an affidavit certifying that the tax has been paid."

42 Sec. 308. G.S. 105-164.10 reads as rewritten:

43 "**§ 105-164.10. Retail bracket system.**

1 For the convenience of the retailer in collecting the tax due at the rate of three
2 percent (3%) and to facilitate the administration of this Article, every retailer engaged in
3 or continuing within this State in a business for which a license, privilege or excise tax
4 is required by this Article shall add to the sale price and collect from the purchaser on
5 all taxable retail sales an amount equal to the following:

- 6 (1) ~~No amount on sales of less than 10¢.~~
- 7 (2) ~~1¢ on sales of 10¢ and over but not in excess of 35¢.~~
- 8 (3) ~~2¢ on sales of 36¢ and over but not in excess of 70¢.~~
- 9 (4) ~~3¢ on sales of 71¢ and over but not in excess of \$1.16.~~
- 10 (5) ~~Sales over \$1.16—straight 3% with major fractions governing.~~

11 Use of the above bracket does not relieve the retailer from the duty and liability to
12 remit to the Secretary an amount equal to three percent (3%) of the gross receipts
13 derived from all taxable retail sales subject to the three percent (3%) rate during the
14 taxable period.

15 ~~Whenever a sales or use tax is due at a rate of less than three percent (3%), the tax~~
16 ~~shall be computed by multiplying the sales or purchase price by the applicable rate and~~
17 ~~by rounding the result off to the nearest whole cent. The use of this method in~~
18 ~~computing the sales or use tax shall not relieve a taxpayer from the duty and liability of~~
19 ~~remitting to the Secretary an amount equal to the applicable rates times gross receipts~~
20 ~~subject to taxation at the lesser rates. under this Article, the Secretary shall prescribe~~
21 ~~tables that compute the tax due on sales by rounding off the amount of tax due to the~~
22 ~~nearest whole cent. The Secretary shall issue a separate table for each rate of tax that~~
23 ~~may apply to a sale, including the general rate established in G.S. 105-164.4,~~
24 ~~preferential rates, and combined State and local rates. Use of the tables prescribed by~~
25 ~~the Secretary does not relieve a retailer of liability for the applicable rate of tax due on~~
26 ~~the gross receipts or net taxable sales of the retailer.~~"

27 Sec. 309. G.S. 105-164.13, as amended by Chapters 45 and 79 of the 1991
28 Session Laws, reads as rewritten:

29 "**§ 105-164.13. Retail sales and use tax.**

30 The sale at retail, the use, storage or consumption in this State of the following
31 tangible personal property is specifically exempted from the tax imposed by this Article:

32
33 **AGRICULTURAL GROUP.**

- 34
35 (1) Commercial fertilizer on which the inspection tax is paid and lime and
36 land plaster used for agricultural purposes whether the inspection tax is
37 paid or not.
- 38 (2) Seeds; remedies, vaccines, medications, litter materials, and feeds for
39 livestock and poultry; rodenticides, insecticides, herbicides,
40 fungicides, and pesticides for livestock, poultry, and agriculture;
41 defoliants for use on cotton or other crops; plant growth inhibitors,
42 regulators, or stimulators for agriculture including systemic and
43 contact or other sucker control agents for tobacco and other crops.

- 1 (3) Products of forests and mines in their original or unmanufactured state
2 when such sales are made by the producer in the capacity of producer.
- 3 (4) Cotton, tobacco, peanuts or other farm products sold to manufacturers
4 for further manufacturing or processing.
- 5 (4a) Baby chicks and poults sold for commercial poultry or egg production.
- 6 (4b) Products of a farm sold in their original state by the producer of the
7 products if the producer is not primarily a retail merchant and ice used
8 to preserve agriculture, aquaculture and commercial fishery products
9 until the products are sold at retail.
- 10 (4c) Commercially manufactured swine, livestock, and poultry facilities to
11 be used for commercial purposes for housing, raising, or feeding of
12 swine, livestock, or poultry or for housing equipment necessary for
13 these commercial activities; building materials, supplies, fixtures, and
14 equipment to be used in the construction, repair, or improvement and
15 that become a part of an enclosure or structure specifically designed,
16 constructed and used for such above commercial purposes; and
17 commercially manufactured swine, livestock, and poultry equipment,
18 parts and accessories therefor placed or installed in or affixed to such
19 facilities, enclosures, or structures.
- 20 (4d) The lease or rental of burlap tobacco sheets used in handling tobacco
21 in the warehouse and transporting tobacco to and from the warehouse.
- 22

INDUSTRIAL GROUP.

- 23
- 24
- 25 (5) Manufactured products produced and sold by manufacturers or
26 producers to other manufacturers, producers, or registered wholesale
27 or retail merchants, for the purpose of resale except as modified by
28 Division I, G.S. 105-164.3, subdivision (23). Provided, however, this
29 exemption shall not extend to or include retail sales to users or
30 consumers not for resale.
- 31 (6) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1068, s. 1.
- 32 (7) Sales of products of waters in their original or unmanufactured state
33 when such sales are made by the producer in the capacity of producer.
34 Fish and seafoods are likewise exempt when sold by the fisherman in
35 that capacity.
- 36 (8) Sales of tangible personal property to a manufacturer which enters into
37 or becomes an ingredient or component part of tangible personal
38 property which is manufactured.
- 39 (8a) ~~(Effective July 1, 1991)~~ Sales to a small power production facility, as
40 defined in 16 U.S.C. § 796(17)(A), of fuel used by the facility to
41 generate electricity.
- 42 (9) Sales of boats, fuel oil, lubricating oils, machinery, equipment, nets,
43 rigging, paints, parts, accessories, and supplies to persons for use by
44 them principally in commercial fishing operations within the meaning

1 of G.S. 113-152, except when the property is for use by persons
2 principally to take fish for recreation or personal use or consumption.
3 As used in this subdivision, "fish" is defined as in G.S. 113-129(7).

- 4 (10) Sales to commercial laundries or to pressing and dry cleaning
5 establishments of articles or materials used for the identification of
6 garments being laundered or dry cleaned, wrapping paper, bags,
7 hangers, starch, soaps, detergents, cleaning fluids and other
8 compounds or chemicals applied directly to the garments in the direct
9 performance of the laundering or the pressing and cleaning service.

10
11 **MOTOR FUELS GROUP.**

- 12
13 (11) Gasoline or other motor fuel on which the tax levied in G.S. 105-434
14 and/or G.S. 105-435 is due and has been paid, and the fact that a
15 refund of the tax levied by either of said sections is made pursuant to
16 the provisions of Subchapter V of Chapter 105 shall not make the sale
17 or the seller of such fuels subject to the tax levied by this Article.

18
19 **MEDICAL GROUP.**

- 20
21 (12) Therapeutic, prosthetic, or artificial devices, such as pulmonary
22 respirators or medical beds, that are designed for individual personal
23 use to correct or alleviate physical illness, disease, or incapacity and
24 that are sold on the written prescription of a physician, dentist, or other
25 professional person licensed to prescribe, and crutches, artificial limbs,
26 artificial eyes, hearing aids, false teeth, eyeglasses ground on
27 prescription of a physician or an optometrist, and orthopedic
28 appliances designed to be worn by the purchaser or user. This
29 subdivision does not apply to a motor vehicle.
30 (13) Medicines sold on prescription of physicians, dentists, or veterinarians;
31 insulin whether or not sold on prescription.

32
33 **PRINTED MATERIALS GROUP.**

- 34
35 (14) Public school books on the adopted list, the selling price of which is
36 fixed by State contract.
37 (14a) Printed material which is sold by a printer to a purchaser within or
38 without this State, when such printed material is delivered in this
39 State to a common carrier or to the United States Postal Service for
40 delivery to the purchaser or the purchaser's designees outside this
41 State, if the purchaser does not thereafter use the printed material in
42 this State.

43
44 **TRANSACTIONS GROUP.**

- 1
2 (15) Accounts of purchasers, representing taxable sales, on which the tax
3 imposed by this Article has been paid, that are found to be worthless
4 and actually charged off for income tax purposes may, at
5 corresponding periods, be deducted from gross sales, provided,
6 however, they must be added to gross sales if afterwards collected.
7 (16) Sales of used articles taken in trade, or a series of trades, as a credit or
8 part payment on the sale of a new article. "New article" means the
9 original stock in trade of the merchant, and is not limited to newly
10 manufactured articles. The resale of articles repossessed by the vendor
11 shall likewise be exempt from gross sales taxable under this Article.
12

13 EXEMPT STATUS GROUP.

- 14
15 (17) Sales which a state would be without power to tax under the
16 limitations of the Constitution or laws of the United States or under the
17 Constitution of this State.
18

19 UNCLASSIFIED GROUP.

- 20
21 (18) Funeral expenses, including coffins and caskets, not to exceed one
22 thousand five hundred dollars (\$1,500). All other funeral expenses,
23 including gross receipts for services rendered, shall be taxable at the
24 rate of three percent (3%). general rate of tax set in G.S. 105-164.4.
25 However, 'services rendered' shall not include those services which
26 have been taxed pursuant to G.S. 105-164.4(4), or to those services
27 performed by any beautician, cosmetologist, hairdresser or barber
28 employed by or at the specific direction of the family or personal
29 representative of a deceased; and 'funeral expenses' and 'services
30 rendered' shall not include death certificates procured by or at the
31 specific direction of the family or personal representative of a
32 deceased. Where coffins, caskets or vaults are purchased direct and a
33 separate charge is paid for services, the provisions of this subdivision
34 shall apply to the total for both.
35 (19) Sales by concession stands operated by the State prison system within
36 the confines of the prisons where such sales are made to prison
37 inmates and guards therein while on duty.
38 (20) Sales by blind merchants operating under supervision of the
39 Department of Human Resources.
40 (21) The lease or rental of motion picture films used for exhibition purposes
41 where the lease or rental of such property is an established business or
42 part of an established business or the same is incidental or germane to
43 said business of the lessee.

- 1 (22) The lease or rental of films, motion picture films, transcriptions and
2 recordings to radio stations and television stations operating under a
3 certificate from the Federal Communications Commission.
- 4 (23) Sales of wrapping paper, labels, wrapping twine, paper, cloth, plastic
5 bags, cartons, packages and containers, cores, cones or spools, wooden
6 boxes, baskets, coops and barrels, including paper cups, napkins and
7 drinking straws and like articles sold to manufacturers, producers and
8 retailers, when such materials are used for packaging, shipment or
9 delivery of tangible personal property which is sold either at wholesale
10 or retail and when such articles constitute a part of the sale of such
11 tangible personal property and are delivered with it to the customer.
- 12 (24) Sales of fuel and other items of tangible personal property for use or
13 consumption by or on ocean-going vessels which ply the high seas in
14 interstate or foreign commerce in the transport of freight and/or
15 passengers for hire exclusively, when delivered to an officer or agent
16 of such vessel for the use of such vessel; provided, however, that sales
17 of fuel and other items of tangible personal property made to officers,
18 agents, members of the crew or passengers of such vessels for their
19 personal use shall not be exempted from payment of the sales tax.
- 20 (25) Sales by merchants on the Cherokee Indian Reservation when such
21 merchants are authorized to do business on the Reservation and are
22 paying the tribal gross receipts levy to the Tribal Council.
- 23 (26) Lunches to school children when such sales are made within school
24 buildings and are not for profit.
- 25 (27) Meals and food products served to students in dining rooms regularly
26 operated by State or private educational institutions or student
27 organizations thereof.
- 28 (28) Sales of newspapers by newspaper street vendors and by newspaper
29 carriers making door-to-door deliveries and sales of magazines by
30 magazine vendors making door-to-door sales.
- 31 (29) Sales to the North Carolina Museum of Art of paintings and other
32 objects or works of art for public display, the purchases of which are
33 financed in whole or in part by gifts or donations.
- 34 (30) Sales from vending machines when sold by the owner or lessee of said
35 machines at a price of one cent (1¢) per sale.
- 36 (31) Sales of meals not for profit to elderly and incapacitated persons by
37 charitable or religious organizations not operated for profit which are
38 entitled to the refunds provided by G.S. 105-164.14(b), when such
39 meals are delivered to the purchasers at their places of abode.
- 40 (31a) Food sold by a church or religious organization not operated for
41 profit when the proceeds of the sales are actually used for religious
42 activities.
- 43 (32) Sales of motor vehicles, the sale of a motor vehicle body to be
44 mounted on a motor vehicle chassis when a certificate of title has not

1 been issued for the chassis, and the sale of a motor vehicle body
2 mounted on a motor vehicle chassis that temporarily enters the State so
3 the manufacturer of the body can mount the body on the chassis.

- 4 (33) Tangible personal property purchased solely for the purpose of export
5 to a foreign country for exclusive use or consumption in that or some
6 other foreign country, either in the direct performance or rendition of
7 professional or commercial services, or in the direct conduct or
8 operation of a trade or business, all of which purposes are actually
9 consummated, or purchased by the government of a foreign country
10 for export which purpose is actually consummated. "Export" shall
11 include the acts of possessing and marshalling such property, by either
12 the seller or the purchaser, for transportation to a foreign country, but
13 shall not include devoting such property to any other use in North
14 Carolina or the United States. "Foreign country" shall not include any
15 territory or possession of the United States.

16 In order to qualify for this exemption, an affidavit of export
17 indicating compliance with the terms and conditions of this exemption,
18 as prescribed by the Secretary of Revenue, must be submitted by the
19 purchaser to the seller, and retained by the seller to evidence
20 qualification for the exemption.

21 If the purposes qualifying the property for exemption are not
22 consummated, the purchaser shall be liable for the tax which was
23 avoided by the execution of the aforesaid affidavit as well as for
24 applicable penalties and interest and the affidavit shall contain express
25 provision that the purchaser has recognized and assumed such liability.

26 The principal purpose of this exemption is to encourage the flow of
27 commerce through North Carolina ports that is now moving through
28 out-of-state ports. However, it is not intended that property acquired
29 for personal use or consumption by the purchaser, including gifts, shall
30 be exempt hereunder.

- 31 (34) Sales of items by a nonprofit civic, charitable, educational, scientific or
32 literary organization when the net proceeds of the sales will be given
33 or contributed to the State of North Carolina or to one or more of its
34 agencies or instrumentalities, or to one or more nonprofit charitable
35 organizations, one of whose purposes is to serve as a conduit through
36 which such net proceeds will flow to the State or to one or more of its
37 agencies or instrumentalities.

- 38 (35) Sales by a nonprofit civic, charitable, educational, scientific, literary or
39 fraternal organization continuously chartered or incorporated within
40 North Carolina for at least two years when such sales are conducted
41 only upon an annual basis for the purpose of raising funds for its
42 activities, and when the proceeds thereof are actually used for such
43 purposes; provided, however, that no such sale shall be exempt if not

1 actually consummated within 60 days after the first solicitation of any
2 sale made during said organization's annual sales period.

3 (36) Advertising supplements and any other printed matter ultimately to be
4 distributed with or as part of a newspaper.

5 (37) Spirituous liquor. This exemption does not prohibit the levy of sales
6 and use taxes on mixed beverages. As used in this subdivision, the
7 terms "spirituous liquor" and "mixed beverage" have the same
8 meanings as in G.S. 18B-101(14) and G.S. 18B-101(10) respectively.

9 (38) Food and other items lawfully purchased with coupons issued under
10 the Food Stamp Program, 7 U.S.C. § 51, and supplemental foods
11 lawfully purchased with a food instrument issued under the Special
12 Supplemental Food Program, 42 U.S.C. § 1786.

13 (39) Sales of paper, ink, and other tangible personal property to commercial
14 printers and commercial publishers for use as ingredient or component
15 parts of free circulation publications, and sales by printers of free
16 circulation publications to the publishers of these publications. As used
17 in this subdivision, the term "free circulation publications" means
18 shoppers' guides that:

19 (1) Are published on a periodic basis at recurring intervals;

20 (2) Are mailed or are distributed house-to-house, by street
21 distributors, in racks, or in any other manner at other locations
22 without charge to the recipient;

23 (3) Contain advertising of a general nature; and

24 (4) Make space available to all advertisers for the purpose of
25 inducing readers to purchase the goods and services of the
26 advertisers.

27 The term does not include house organs or trade, professional, or
28 similar types of publications. The ratio of news to advertising in a
29 publication is not a factor in determining whether the publication is a
30 free circulation publication.

31 ~~(40) Sales to the Department of Transportation."~~

32 Sec. 310. G.S. 105-164.14 reads as rewritten:

33 **"§ 105-164.14. Certain refunds authorized.**

34 (a) Interstate Carriers. Any person engaged in transporting persons or property in
35 interstate commerce for compensation who is subject to regulation by, and to the
36 jurisdiction of, the Interstate Commerce Commission or the United States Department
37 of Transportation and who is required by either such federal agency to keep records
38 according to its standard classification of accounting or, in the case of a small
39 certificated air carrier, is required by the U.S. Department of Transportation to make
40 reports of financial and operating statistics, may secure a refund from the Secretary of
41 Revenue with respect to sales or use tax paid by such person on purchases or
42 acquisitions of lubricants, repair parts and accessories in this State for motor vehicles,
43 railroad cars, locomotives, and airplanes operated by such person, upon the conditions
44 described below. The Secretary of Revenue shall prescribe the periods of time, whether

1 monthly, quarterly, semiannually or otherwise, with respect to which refunds may be
2 claimed, and shall prescribe the time within which, following such periods, an
3 application for refund may be made. An applicant for refund shall furnish such
4 information as the Secretary may require, including detailed information as to
5 lubricants, repair parts and accessories wherever purchased, whether within or without
6 the State, acquired during the period with respect to which a refund is sought, and the
7 purchase price thereof, detailed information as to sales and use tax paid in this State
8 thereon, and detailed information as to the number of miles such motor vehicles,
9 railroad cars, locomotives, and airplanes were operated both within this State, and
10 without this State, during such period, together with satisfactory proof thereof. The
11 Secretary shall thereupon compute the tax which would be due with respect to all
12 lubricants, repair parts and accessories acquired during the refund period as though all
13 such purchases were made in this State, but only on such proportion of the total
14 purchase prices thereof as the total number of miles of operation of such applicants'
15 motor vehicles, railroad cars, locomotives, and airplanes within this State bears to the
16 total number of miles of operation of such applicants' motor vehicles, railroad cars,
17 locomotives and airplanes within and without this State, and such amount of sales and
18 use tax as the applicant has paid in this State during said refund period in excess of the
19 amounts so computed shall be refunded to the applicant.

20 (b) Nonprofit Corporations. The Secretary of Revenue shall make refunds
21 semiannually to hospitals not operated for profit (including hospitals and medical
22 accommodations operated by an authority created under the Hospital Authorities Law,
23 Article 2 of Chapter 131E), educational institutions not operated for profit, churches,
24 orphanages and other charitable or religious institutions and organizations not operated
25 for profit of sales and use taxes paid under this Article, except under G.S. 105-164.4(4a)
26 and G.S. 105-164.4(4c), by such institutions and organizations on direct purchases of
27 tangible personal property for use in carrying on the work of such institutions or
28 organizations. Sales and use tax liability indirectly incurred by such institutions and
29 organizations on building materials, supplies, fixtures and equipment which shall
30 become a part of or annexed to any building or structure being erected, altered or
31 repaired for such institutions and organizations for carrying on their nonprofit activities
32 shall be construed as sales or use tax liability incurred on direct purchases by such
33 institutions and organizations, and such institutions and organizations may obtain
34 refunds of such taxes indirectly paid. The Secretary of Revenue shall also make refunds
35 semiannually to all other hospitals (not specifically excluded herein) of sales and use tax
36 paid by them on medicines and drugs purchased for use in carrying out the work of such
37 hospitals. This subsection does not apply to organizations, corporations, and institutions
38 that are owned and controlled by the United States, the State, or a unit of local
39 government, except hospital facilities created under Article 2 of Chapter 131E of the
40 General Statutes and nonprofit hospitals owned and controlled by a unit of local
41 government that elect to receive semiannual refunds under this subsection instead of
42 annual refunds under subsection (c). In order to receive the refunds herein provided for,
43 such institutions and organizations shall file a written request for refund covering the
44 first six months of the calendar year on or before the fifteenth day of October next

1 following the close of said period, and shall file a written request for refund covering
2 the second six months of the calendar year on or before the fifteenth day of April next
3 following the close of that period. Such requests for refund shall be substantiated by
4 such proof as the Secretary of Revenue may require, and no refund shall be made on
5 applications not filed within the time allowed by this section and in such manner as the
6 Secretary may require. ~~Notwithstanding the foregoing provisions of this subsection, the~~
7 ~~constituent institutions of The University of North Carolina may obtain in the manner~~
8 ~~prescribed by this Article the refund of sales and use tax paid by them on or after~~
9 ~~January 1, 1992, for tangible personal property acquired by them through the~~
10 ~~expenditure of contract and grant funds.~~

11 (c) Certain Governmental Entities. Upon receipt of timely applications for
12 refund, the Secretary of Revenue shall make refunds annually to all governmental
13 entities, as hereinafter defined, of sales and use tax paid under this Article, except under
14 G.S. 105-164.4(4a) and G.S. 105-164.4(4c), by said governmental entities on direct
15 purchases of tangible personal property. Sales and use tax liability indirectly incurred by
16 such governmental entities on building materials, supplies, fixtures and equipment
17 which shall become a part of or annexed to any building or structure being erected,
18 altered or repaired which is owned or leased by such governmental entities shall be
19 construed as sales or use tax liability incurred on direct purchases by such governmental
20 entities, and such entities may obtain refunds of such taxes indirectly paid. The refund
21 provisions contained in this subsection shall not apply to any governmental entities not
22 specifically named herein. In order to receive the refund herein provided for,
23 governmental entities shall file a written request for said refund within six months of the
24 close of the fiscal year of the governmental entities seeking said refund, and such
25 request for refund shall be substantiated by such records, receipts and information as the
26 Secretary may require. No refunds shall be made on applications not filed within the
27 time allowed by this section and in such manner as the Secretary may otherwise require.
28 The term 'governmental entities,' for the purposes of this subsection, shall mean all
29 counties, incorporated cities and towns, water and sewer authorities created and existing
30 under the provisions of Chapter 162A of the General Statutes, lake authorities created
31 by a board of county commissioners pursuant to an act of the General Assembly,
32 sanitary districts, regional councils of governments created pursuant to G.S. 160A-470,
33 area mental health, mental retardation, and substance abuse authorities (other than
34 single-county area authorities) established pursuant to Article 4 of Chapter 122C of the
35 General Statutes, district health departments, regional planning and economic
36 development commissions created pursuant to G.S. 158-14, regional sports authorities
37 created pursuant to G.S. 160A-479, regional economic development commissions
38 created pursuant to G.S. 158-8, regional planning commissions created pursuant to G.S.
39 153A-391, metropolitan sewerage districts and metropolitan water districts in this State,
40 the North Carolina Low-Level Radioactive Waste Management Authority created
41 pursuant to Chapter 104G of the General Statutes, the North Carolina Hazardous Waste
42 Management Commission created pursuant to Chapter 130B of the General Statutes,
43 and the Rockingham County Airport Authority. Notwithstanding the foregoing
44 provisions of this subsection, the constituent institutions of The University of North

1 Carolina may obtain in the manner prescribed by this subsection a refund of sales and
2 use tax paid by them on or after January 1, 1992, for tangible personal property acquired
3 by them through the expenditure of contract and grant funds.

4 (d) Penalties for Late Applications. Refunds made pursuant to applications filed
5 after the dates specified in subsections (b) and (c) above shall be subject to the
6 following penalties for late filing: applications filed within 30 days after said dates,
7 twenty-five percent (25%); applications filed after 30 days but within six months after
8 said dates, fifty percent (50%). However, refunds which are applied for after six months
9 following said dates shall be barred.

10 (e) State Agencies. The State is allowed quarterly refunds of local sales and use
11 taxes paid by a State agency on direct purchases of tangible personal property and local
12 sales and use taxes paid indirectly by the State agency on building materials, supplies,
13 fixtures, and equipment that become a part of or annexed to a building or structure that
14 is being erected, altered, or repaired and is owned or leased by the State agency. This
15 subsection does not apply to purchases for which a State agency is allowed a refund
16 under subsection (c) of this section.

17 A person who pays local sales and use taxes on building materials or other tangible
18 personal property for a State building project shall give the State agency for whose
19 project the property was purchased a signed statement containing all of the following
20 information:

21 (1) The date the property was purchased.

22 (2) The type of property purchased.

23 (3) The project for which the property was used.

24 (4) If the property was purchased in this State, the county in which it was
25 purchased.

26 (5) If the property was not purchased in this State, the county in which the
27 property was used.

28 (6) The amount of sales and use taxes paid.

29 If the property was purchased in this State, the person shall attach a copy of the sales
30 receipt to the statement. A State agency to whom a statement is submitted shall verify
31 the accuracy of the statement.

32 Within 15 days after the end of each calendar quarter, every State agency shall file
33 with the Secretary a written application for a refund of taxes to which this subsection
34 applies paid by the agency during the quarter. The application shall contain all
35 information required by the Secretary. The Secretary shall credit the local sales and use
36 tax refunds for which the Department of Transportation applies as follows: seventy-five
37 percent (75%) directly to the Highway Fund and twenty-five percent (25%) directly to
38 the Highway Trust Fund. The Secretary shall credit all other local sales and use tax
39 refunds directly to the General Fund."

40 Sec. 311. The title of Article 39 of Chapter 105 of the General Statutes reads
41 as rewritten:

42 **"ARTICLE 39.**

43 **"ONE-CENT (1¢) LOCAL GOVERNMENT SALES AND USE TAX."**

44 Sec. 312. G.S. 105-463 reads as rewritten:

1 **"§ 105-463. Short title.**

2 This Article shall be known as the ~~'Local'~~'One-cent (1¢) Local Government Sales
3 and Use Tax Act.'"

4 Sec. 313. G.S. 105-465 reads as rewritten:

5 **"§ 105-465. County election as to adoption of local sales and use tax.**

6 The board of elections of any county, upon the written request of the board of county
7 commissioners thereof, or upon receipt of a petition signed by qualified voters of the
8 county equal in number to at least fifteen percent (15%) of the total number of votes
9 cast in the county, at the last preceding election for the office of Governor, shall call a
10 special election for the purpose of submitting to the voters of the county the question of
11 whether a one percent (1%) sales and use tax as hereinafter provided will be levied.

12 The special election shall be held under the same rules and regulations applicable to
13 the election of members of the General Assembly. No new registration of voters shall be
14 required. All qualified voters in the county who are properly registered not later than 21
15 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at
16 said election. The county board of elections shall give at least 20 days' public notice
17 prior to the closing of the registration books for the special election.

18 The county board of election shall prepare ballots for the special election which shall
19 contain the words, 'FOR the one percent (1%) local sales and use tax only on those
20 items presently covered by the ~~three percent (3%)~~three and five-tenths percent (3.5%)
21 sales and use tax,' and the words, 'AGAINST the one percent (1%) local sales and use
22 tax only on those items presently covered by the ~~three percent (3%)~~three and five-
23 tenths percent (3.5%) sales and use tax,' with appropriate squares so that each voter may
24 designate his vote by his cross (X) mark.

25 The county board of elections shall fix the date of the special election; provided,
26 however, that the special election shall not be held on the date of any biennial election
27 for county officers, nor within 60 days thereof, nor within one year from the date of the
28 last preceding special election under this section."

29 Sec. 314. G.S. 105-467 reads as rewritten:

30 **"§ 105-467. Scope of sales tax.**

31 The sales tax which may be imposed under this Article is limited to a tax at the rate
32 of one percent (1%) of:

- 33 (1) The sales price of those articles of tangible personal property now
34 subject to the ~~three percent (3%)~~general rate of sales tax imposed by
35 the State under G.S. 105-164.4(a)(1) and (4b);
- 36 (2) The gross receipts derived from the lease or rental of tangible personal
37 property when the lease or rental of the property is subject to the ~~three~~
38 ~~percent (3%)~~general rate of sales tax imposed by the State under G.S.
39 105-164.4(a)(2);
- 40 (3) The gross receipts derived from the rental of any room or lodging
41 furnished by any hotel, motel, inn, tourist camp or other similar
42 accommodations now subject to the ~~three percent (3%)~~general rate of
43 sales tax imposed by the State under G.S. 105-164.4(a)(3); and

1 (4) The gross receipts derived from services rendered by laundries, dry
2 cleaners, ~~cleaning plants and similar type and other~~ businesses now
3 subject to the ~~three percent (3%) general rate of~~ sales tax imposed by
4 the State under G.S. 105-164.4(a)(4).

5 The sales tax authorized by this Article does not apply to sales that are taxable by the
6 State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through
7 (4) of this section.

8 The exemptions and exclusions contained in G.S. 105-164.13 and the refund
9 provisions contained in G.S. 105-164.14 shall apply with equal force and in like manner
10 to the local sales and use tax authorized to be levied and imposed under this Article. A
11 taxing county shall have no authority, with respect to the local sales and use tax
12 imposed under this Article to change, alter, add to or delete any refund provisions
13 contained in G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-
14 164.13 or which are elsewhere provided for.

15 The local sales tax authorized to be imposed and levied under the provisions of this
16 Article shall apply to such retail sales, leases, rentals, rendering of services, furnishing
17 of rooms, lodgings or accommodations and other taxable transactions which are made,
18 furnished or rendered by retailers whose place of business is located within the taxing
19 county. The tax imposed shall apply to the furnishing of rooms, lodging or other
20 accommodations within the county which are rented to transients. For the purpose of
21 this Article, the situs of a transaction is the location of the retailer's place of business."

22 Sec. 315. G.S. 105-468 reads as rewritten:

23 **"§ 105-468. Scope of use tax.**

24 The use tax which may be imposed under this Article shall be at the rate of one
25 percent (1%) of the cost price of each item or article of tangible personal property when
26 it is not sold but used, consumed or stored for use or consumption in the taxing county,
27 except that no tax shall be imposed upon tangible personal property when the property
28 would be taxed by the State at a rate of ~~other than three percent (3%) other than the~~
29 general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6.

30 Every retailer engaged in business in this State and in the taxing county and required
31 to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent (1%)
32 use tax when such property is to be used, consumed or stored in the taxing county, one
33 percent (1%) use tax to be collected concurrently with the State's use tax; but no retailer
34 not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect
35 the one percent (1%) use tax. The use tax contemplated by this section shall be levied
36 against the purchaser, and the purchaser's liability for the use tax shall be extinguished
37 only upon payment of the use tax to the retailer, where the retailer is required to collect
38 the tax, or to the Secretary of Revenue, or to the taxing county, as appropriate, where
39 the retailer is not required to collect the tax.

40 Where a local sales or use tax has been paid with respect to tangible personal
41 property by the purchaser, either in another taxing county within the State, or in a taxing
42 jurisdiction outside the State where the purpose of the tax is similar in purpose and
43 intent to the tax which may be imposed pursuant to this Article, the tax paid may be
44 credited against the tax imposed under this section by a taxing county upon the same

1 property. If the amount of sales or use tax so paid is less than the amount of the use tax
2 due the taxing county under this section, the purchaser shall pay to the Secretary of
3 Revenue or to the taxing county, as appropriate, an amount equal to the difference
4 between the amount so paid in the other taxing county or jurisdiction and the amount
5 due in the taxing county. The Secretary of Revenue or the taxing county, as
6 appropriate, may require such proof of payment in another taxing county or jurisdiction
7 as is deemed to be necessary. The use tax levied under this Article is not subject to
8 credit for payment of any State sales or use tax not imposed for the benefit and use of
9 counties and municipalities. No credit shall be given under this section for sales or use
10 taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not
11 grant similar credit for sales taxes paid under this Article."

12 Sec. 316. G.S. 105-470, 105-485, and 105-500 and Article 41 of Chapter 105
13 of the General Statutes are repealed.

14 Sec. 317. Chapter 1096 of the 1967 Session Laws is amended as follows:

- 15 (1) The title is amended by deleting the phrase "THREE PER CENT
16 SALES AND USE TAX." and substituting the phrase "SALES AND
17 USE TAX AT THE GENERAL STATE RATE OF TAX SET IN G.S.
18 105-164.4."
- 19 (2) Section 4 is amended by deleting the phrase "three per cent (3%)" each
20 time it appears and substituting the phrase "general rate of".
- 21 (3) Section 5 is amended by deleting the phrase "of other than three
22 percent (3%)" and substituting the phrase "other than the general rate
23 of tax set in G.S. 105-164.4".
- 24 (4) Section 7 is repealed.
- 25 (5) Section 10.1(d) is amended by deleting the phrase "Items on Which the
26 State Now Imposes a Three Percent (3%) Sales Tax." and substituting
27 the phrase "Scope."

28 Sec. 318. (a) Approval under the Local Government Sales and Use Tax Act,
29 Article 39 of Chapter 105 of the General Statutes, or under the Mecklenburg County
30 Sales and Use Tax Act, Chapter 1096 of the 1967 Session Laws, as amended, of one
31 percent (1%) local sales and use taxes in addition to the three percent (3%) State sales
32 and use taxes constitutes approval of one percent (1%) local sales and use taxes in
33 addition to the three and five-tenths percent (3.5%) State sales and use taxes.

34 (b) Approval under the Supplemental Local Government Sales and Use Tax Act,
35 Article 40 of Chapter 105 of the General Statutes, of one-half percent (1/2%) local sales
36 and use taxes in addition to the one percent (1%) local sales and use taxes and three
37 percent (3%) State sales and use taxes constitutes approval of one-half percent (1/2%)
38 local sales and use taxes in addition to the one percent (1%) local sales and use taxes
39 and the three and five-tenths percent (3.5%) State sales and use taxes.

40 (c) Approval under the Additional Supplemental Local Government Sales and
41 Use Tax Act, Article 42 of Chapter 105 of the General Statutes, of one-half percent
42 (1/2%) local sales and use taxes in addition to the one and one-half percent (1-1/2%)
43 local sales and use taxes and three percent (3%) State sales and use taxes constitutes
44 approval of one-half percent (1/2%) local sales and use taxes in addition to the one and

1 one-half percent (1-1/2%) local sales and use taxes and the three and five-tenths percent
2 (3.5%) State sales and use taxes.

3 Sec. 319. The title of Article 40 of Chapter 105 of the General Statutes reads
4 as rewritten:

5 **"ARTICLE 40.**

6 **"SUPPLEMENTAL FIRST ONE-HALF-CENT (1/2¢) LOCAL GOVERNMENT**
7 **SALES**
8 **AND USE TAXES. TAX."**

9 Sec. 320. G.S. 105-480 reads as rewritten:

10 **"§ 105-480. Short title.**

11 This Article shall be known as the Supplemental First One-half-cent (1/2¢) Local
12 Government Sales and Use Tax Act."

13 Sec. 321. The title of Article 42 of Chapter 105 of the General Statutes reads
14 as rewritten:

15 **"ARTICLE 42.**

16 **"ADDITIONAL SUPPLEMENTAL SECOND ONE-HALF-CENT (1/2¢) LOCAL**
17 **GOVERNMENT SALES AND USE TAXES. TAX."**

18 Sec. 322. G.S. 105-495 reads as rewritten:

19 **"§ 105-495. Short title.**

20 This Article shall be known as the Additional Supplemental Second One-half-cent
21 (1/2¢) Local Government Sales and Use Tax Act."

22 Sec. 323. Subchapter VIII of Chapter 105 of the General Statutes is amended
23 by adding a new Article to read:

24 **"ARTICLE 43.**

25 **"THIRD ONE-HALF-CENT (1/2¢) LOCAL GOVERNMENT**
26 **SALES AND USE TAX.**

27 **"§ 105-505. Short title.**

28 This Article shall be known as the Third One-half-cent (1/2¢) Local Government
29 Sales and Use Tax Act.

30 **"§ 105-506. Purpose.**

31 This Article gives the counties and cities of this State an opportunity to obtain an
32 added source of revenue with which to meet their growing financial needs. It provides
33 all counties of the State that are subject to this Article with authority to levy one-half
34 percent (1/2%) sales and use taxes.

35 **"§ 105-507. Limitations.**

36 This Article applies only to counties that levy the one percent (1%) sales and use tax
37 under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the
38 first one-half percent (1/2%) local sales and use tax under Article 40 of this Chapter,
39 and the second one-half percent (1/2%) local sales and use tax under Article 42 of this
40 Chapter.

41 **"§ 105-508. Levy and collection of additional taxes.**

42 A county subject to this Article may levy one-half percent (1/2%) local sales and use
43 taxes in addition to any other State and local sales and use taxes levied pursuant to law.
44 Except as provided in this Article, the adoption, levy, collection, distribution,

1 administration, and repeal of these additional taxes shall be in accordance with Article
2 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this
3 Article, references to 'this Article' mean 'Article 43 of Chapter 105 of the General
4 Statutes'. Taxes levied pursuant to this Article shall be collected by the Secretary and
5 may not be collected by a taxing county or city. Notwithstanding the provisions of G.S.
6 105-466(b), only five days' public notice is required before a public hearing is held on
7 the question of the levy of the tax authorized in this Article. Notwithstanding the
8 provisions of G.S. 105-466(c), the effective date of a tax levied under this Article, as set
9 out in the resolution levying the tax, may be the first day of any calendar month after the
10 adoption of the resolution.

11 **"§ 105-509. Form of ballot.**

12 (a) The form of the question to be presented on a ballot for a special election
13 concerning the levy of the taxes authorized by this Article shall be: 'FOR one-half
14 percent (1/2%) local sales and use taxes in addition to the current two percent (2%)
15 local sales and use taxes' or 'AGAINST one-half percent (1/2%) local sales and use
16 taxes in addition to the current two percent (2%) local sales and use taxes.'

17 (b) The form of the question to be presented on a ballot for a special election
18 concerning the repeal of any additional taxes levied pursuant to this Article shall be:
19 'FOR repeal of the additional one-half percent (1/2%) local sales and use taxes' or
20 'AGAINST repeal of the additional one-half percent (1/2%) local sales and use taxes.'

21 **"§ 105-510. Distribution of additional taxes.**

22 The Secretary shall, on a quarterly basis, distribute the net proceeds of the additional
23 one-half percent (1/2%) sales and use taxes levied under this Article among the taxing
24 counties and the cities located in the taxing counties in proportion to the total amount of
25 funds each county and city was entitled by statute to receive during the 1989-90 fiscal
26 year from the Local Government Tax Reimbursement Reserve created in Section 52 of
27 Chapter 752 of the 1989 Session Laws. 'Net proceeds' means gross proceeds less taxes
28 refunded, the cost to the State of collecting and administering the tax in the taxing
29 county, and other deductions properly charged to the taxing county.

30 If any taxes levied under this Article by a county have not been collected in that
31 county for a full quarter because of the levy or repeal of the taxes, the Secretary shall
32 distribute a pro rata share to that county and the cities located in that county for that
33 quarter based on the number of months the taxes were collected in that county during
34 the quarter.

35 **"§ 105-511. City sales tax.**

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

37 (1) City. Defined in G.S. 153A-1.

38 (2) City council. The governing body of a city.

39 (b) Levy of Tax. If the board of commissioners of a county where a city is
40 located has not adopted a resolution levying the tax authorized in this Article to become
41 effective on or before August 1, 1991, or has repealed the tax authorized in this Article,
42 the city council may, by resolution, levy in the city the tax authorized in this Article. If
43 a city is located in more than one county, the city may not levy a tax under this Article if
44 any of the counties in which the city is located has adopted a resolution levying the tax

1 under this Article. The levy and collection of the taxes and the form of the ballot shall
2 be in accordance with G.S. 105-508 and G.S. 105-509 and the taxing city is governed
3 by the same provisions of law that apply to a taxing county under those sections. The
4 distribution of tax proceeds to a taxing city shall be in accordance with G.S. 105-510 as
5 if the county in which the city is located had levied the tax.

6 (c) Effect of County Tax. If a city levies a tax under this Article, and the board
7 of commissioners of a county in which the city is located subsequently adopts a
8 resolution levying a tax in that county under this Article, the city's authority to levy the
9 tax under this Article is repealed as of the effective date of the county levy."

10 Sec. 324. The provisions of this Part increasing the State sales and use tax
11 from three percent (3%) to three and five-tenths percent (3.5%) do not apply to
12 construction materials purchased to fulfill a lump sum or unit price contract entered into
13 or awarded before the effective date of the increase or entered into or awarded pursuant
14 to a bid made before the effective date of the increase when the construction materials
15 would otherwise be subject to the State sales and use tax at the rate of three and five-
16 tenths percent (3.5%). A tax levied under Article 43 of Chapter 105 of the General
17 Statutes, as enacted by this Part, does not apply to construction materials purchased to
18 fulfill a lump sum or unit price contract entered into or awarded before the effective
19 date of the levy or entered into or awarded pursuant to a bid made before the effective
20 date of the levy when the construction materials would otherwise be subject to the tax
21 levied under Article 34 of Chapter 105 of the General Statutes.

22 PART 54.—REPEAL LOCAL REIMBURSEMENTS

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 the preceding fiscal year of:

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

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

41 To distribute the appropriation, the Secretary of Revenue shall keep a separate
42 record by counties of the taxes collected under this Article and shall certify to the State
43 Controller and to the State Treasurer the amount to be distributed to each county and
44

1 municipality in the State. The State Controller shall then issue a warrant on the State
2 Treasurer to each county and municipality in the amount certified.

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

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

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

36 Sec. 326. G.S. 105-164.44C, 105-213.1, 105-275.1, 105-277A, and 105-
37 277.1A are repealed.

38

39

40 PART 54A.— TAX CREDIT FOR USING STATE PORTS

41

42 Sec. 326.1. Division I of Article 4 of Chapter 105 of the General Statutes is
43 amended by adding a new section to read:

1 **"§ 105-130.41. Credit for North Carolina State Ports Authority wharfage and**
2 **handling charges on exports.**

3 (a) Any corporation utilizing the deepwater docks at the Wilmington or
4 Morehead City ports for the export of cargo that is loaded on an ocean carrier calling at
5 either port shall be allowed a credit against the tax imposed by this Division. The credit
6 shall be equal to the excess of the charges paid by the corporation on exported,
7 processed cargo for the current taxable year over an amount equal to the average of the
8 charges paid by the corporation on exported, processed cargo for the current taxable
9 year and the two preceding taxable years. The credit shall apply to the following
10 charges on exported, processed cargo assessed by the Ports Authority: wharfage,
11 handling charges on break bulk cargo, LCL (less-than-container-load) cargo, bulk
12 through put charges, and the equivalent or like charges on container cargo. This credit
13 may not exceed fifty percent (50%) of the amount of tax imposed by this Division for
14 the taxable year reduced by the sum of all credits allowable under this Division, except
15 tax payments made by or on behalf of the corporation. If the credit allowed by this
16 section exceeds fifty percent (50%) of the tax imposed under this Division, the excess
17 may be carried forward and applied to the tax imposed under this Division for the
18 succeeding five years. To obtain the credit, a corporation shall provide to the Secretary
19 a statement from the State Ports Authority certifying the amount of charges paid by the
20 corporation for which a credit is claimed and any other information required by the
21 Secretary to enable the Secretary to determine the amount of credit due the corporation.
22 The maximum cumulative credit that may be claimed by any corporation under this
23 section may not exceed one million dollars (\$1,000,000).

24 (b) For purposes of this section, the terms 'handling' and 'wharfage' shall have the
25 meaning as defined in the State Ports Tariff Publications, 'Wilmington Tariff, Terminal
26 Tariff #6,' and 'Morehead City Tariff, Terminal Tariff #1.' For purposes of this section,
27 the term 'through put' shall have the same meaning as 'wharfage' but is applicable only
28 to bulk products, both dry and liquid."

29 Sec. 326.2. Article IV of Chapter 105 of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 105-151.18. Credit for North Carolina State Ports Authority wharfage and**
32 **handling charges on exports.**

33 (a) Any person utilizing the deepwater docks at the Wilmington or Morehead
34 City ports for the export of cargo that is loaded on an ocean carrier calling at either port
35 shall be allowed a credit against the tax imposed by this Division. The credit shall be
36 equal to the excess of the charges paid by the taxpayer on exported, processed cargo for
37 the current taxable year over an amount equal to the average of the charges paid by the
38 taxpayer on exported, processed cargo for the current taxable year and the two
39 preceding years. The credit shall apply to the following charges on exported, processed
40 cargo assessed by the Ports Authority: wharfage, handling charges on break bulk cargo,
41 LCL (less-than-container-load) cargo, bulk through put charges, and the equivalent or
42 like charges on container cargo. This credit may not exceed fifty percent (50%) of the
43 amount of tax imposed by this Division for the taxable year reduced by the sum of all
44 credits allowable under this Division, except tax payments made by or on behalf of the

1 taxpayer. If the credit allowed by this section exceeds fifty percent (50%) of the tax
2 imposed under this Division, the excess may be carried forward and applied to the tax
3 imposed under this Division for the succeeding five years. To obtain the credit, the
4 taxpayer shall provide to the Secretary a statement from the State Ports Authority
5 certifying the amount of charges paid by the taxpayer for which a credit is claimed and
6 any other information required by the Secretary to enable the Secretary to determine the
7 amount of credit due the taxpayer. The maximum cumulative credit that may be
8 claimed by any taxpayer under this section may not exceed one million dollars
9 (\$1,000,000).

10 (b) For purposes of this section, the terms 'handling' and 'wharfage' shall have the
11 meaning as defined in the State Ports Tariff Publications, 'Wilmington Tariff, Terminal
12 Tariff #6,' and 'Morehead City Tariff, Terminal Tariff #1.' For purposes of this section,
13 the term 'through put' shall have the same meaning as 'wharfage' but is applicable only
14 to bulk products, both dry and liquid."

15 Sec. 326.3. The North Carolina State Ports Authority shall report annually to
16 the General Assembly regarding the impact of this Part on shipping and economic
17 growth. Each report shall show the overall annual increase in shipping at each port
18 affected by this Part for the most recent year for which data is available and for each of
19 the previous ten years. Each report shall estimate the number of jobs created at each
20 port and in businesses related to port activity at each port since January 1, 1992, as
21 compared to the number of similar jobs created during the ten years preceding January
22 1, 1992. Each report shall state the net economic impact on the State as a result of the
23 allowance of tax credits under this Part. The Ports Authority shall file a report on May
24 1 of 1993, 1994, and 1995, by submitting a copy to the Speaker of the House of
25 Representatives and the President Pro Tempore of the Senate. The Department of
26 Revenue and the Department of Economic and Community Development shall
27 cooperate with the Ports Authority in providing the information required in the annual
28 reports."

31 TITLE V. - OTHER

33 PART 55.—MISCELLANEOUS APPROPRIATIONS PROVISIONS

35 Requested by: Representatives Nesbitt, Diamont

36 —EFFECT OF HEADINGS

37 Sec. 327. The headings to the Parts and sections of this act are a convenience
38 to the reader and are for reference only. The headings do not expand, limit, or define
39 the text of this act.

41 Requested by: Representatives Nesbitt, Diamont

42 —EXECUTIVE BUDGET ACT REFERENCE

1 Sec. 328. The provisions of the Executive Budget Act, Chapter 143, Article 1
2 of the General Statutes, are reenacted and shall remain in full force and effect and are
3 incorporated in this act by reference.

4
5 Requested by: Representatives Nesbitt, Diamont

6 —COMMITTEE REPORT

7 Sec. 329. The House Appropriations Committee Report on Base Budget
8 Reductions and Expansion Budget dated June 3, 1991, which was distributed in the
9 House and used to explain this act, shall indicate action by the General Assembly on
10 this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the
11 Executive Budget Act, and for these purposes shall be considered a part of this act.

12
13 Requested by: Representatives Nesbitt, Diamont

14 —MOST TEXT APPLIES ONLY TO 1991-93

15 Sec. 330. Except for statutory changes or other provisions that clearly
16 indicate an intention to have effects beyond the 1991-93 biennium, the textual
17 provisions of Titles I, II, and III of this act shall apply only to funds appropriated for
18 and activities occurring during the 1991-93 biennium.

19
20 Requested by: Representatives Nesbitt, Diamont

21 —SEVERABILITY CLAUSE

22 Sec. 331. If any section or provision of this act is declared unconstitutional or
23 invalid by the courts, it does not affect the validity of the act as a whole or any part
24 other than the part so declared to be unconstitutional or invalid.

25
26 Requested by: Representatives Nesbitt, Diamont

27 —EFFECTIVE DATE

28 Sec. 332. Except as otherwise provided, Titles I, II, and III of this act
29 becomes effective July 1, 1991.

30
31
32 **PART 56.—MISCELLANEOUS REVENUE PROVISIONS**

33
34 Sec. 333. The amendment to G.S. 115C-546.1 in Part 46 of this act becomes
35 effective October 1, 1991, and applies to remittances made on or after that date; the
36 remainder of Part 46 of this act is effective for taxable years beginning on or after
37 January 1, 1991. Part 47 of this act is effective for taxable years beginning on or after
38 January 1, 1991. Part 48 of this act becomes effective July 1, 1991. Part 49 of this act
39 becomes effective January 1, 1992. Part 50 of this act becomes effective July 1, 1991.
40 The amendments to G.S. 18B-804 and G.S. 18B-805 in Part 51 of this act become
41 effective August 1, 1991, and apply to sales made on or after that date; the amendments
42 to G.S. 18B-1004 in Part 51 of this act become effective August 1, 1991; the remainder
43 of Part 51 of this act becomes effective May 1, 1992, and applies to permits and licenses
44 issued or renewed on or after that date. Part 52 of this act becomes effective October 1,

1 1991. G.S. 105-164.14(e), as enacted by Part 53 of this act, applies to property
2 purchased on or after April 1, 1991; Article 43 of Chapter 105 of the General Statutes,
3 as enacted by Part 53 of this act, is effective upon ratification; the remainder of Part 53
4 of this act becomes effective July 1, 1991, and applies to sales made on or after that
5 date. Part 54 of this act becomes effective July 1, 1991; no distributions shall be made
6 on or after that date. Part 54A of this act is effective for taxable years beginning on or
7 after January 1, 1992. Part 56 of this act is effective upon ratification. The remainder
8 of Title IV of this act is effective upon ratification.

9 Sec. 334. This act does not affect the rights or liabilities of the State, a
10 taxpayer, or another person arising under a statute amended or repealed by this Part
11 before its amendment or repeal; nor does it affect the right to any refund or credit of a
12 tax that would otherwise have been available under the amended or repealed statute
13 before its amendment or repeal.

14 Sec. 335. To pay for the additional costs of implementing the provisions of
15 Title IV of this act in a timely manner, the Department of Revenue shall retain the sum
16 of five hundred thousand dollars (\$500,000) from collections received by the
17 Department during July 1991 under Article 5 of Chapter 105 of the General Statutes.