

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 39
Committee Substitute Favorable 2/21/94
Committee Substitute #2 Favorable 3/18/94
Senate Appropriations Committee Substitute Adopted 3/22/94

Short Title: Crime Control & Budget Act.

(Public)

Sponsors:

Referred to:

February 8, 1994

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CRIME PREVENTION AND ENHANCED PUNISHMENT INITIATIVES, TO AMEND THE LAW TO ENHANCE CRIME CONTROL, AND TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS TO CARRY OUT THE PURPOSES OF THIS ACT TO INCREASE THE PUNISHMENT FOR CERTAIN OFFENSES.

The General Assembly of North Carolina enacts:

TITLE I. APPROPRIATIONS AND SPECIAL PROVISIONS

PART 1. INTRODUCTION

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

Sec. 2. The appropriations made by the 1994 Extra Session of the General Assembly in this act for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

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Requested by: Senators Daniel and Plyler

PART 2. TITLE OF ACT

Sec. 3. This act shall be known as the Budget Modification and Crime Control Act of 1994.

PART 3. GENERAL FUND APPROPRIATIONS

CURRENT OPERATIONS/GENERAL FUND

Sec. 4. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, for one-time expenditures, and for other purposes as enumerated are made for the biennium ending June 30, 1995, according to the schedule that follows: Current Operations - General

Fund 1993-94 1994-95

General Assembly

| | | | | |
|------------------------|---|---------------|-----------|------------------|
| 01. | Create the Legislative Commission on the Causes of Crime (S56) | \$ - | \$ 75,000 | NR |
| 02. | Create the Joint Legislative Corrections Oversight Committee (S76) | - 25,000NR | | |
| 03. | Create the Legislative Study Commission on Farm Camp Programs (S98) | 25,000NR | - | |
| 04. | Create a Legislative Study on Welfare Reform (S82) | <u>20,000</u> | NR | <u>40,000</u> NR |
| Total General Assembly | | | 45,000 | 140,000 |

Judicial Department

| | | | | |
|-----|---|-------------|-----------|--|
| 01. | Structured Sentencing Act effective January 1, 1995- | | | |
| a. | Community Penalties (5 positions) (Hire 7/1/94 and 10/1/94) | 44,622NR | 1,831,375 | |
| b. | Legal and administrative costs (40 positions) (Hire 10/1/94) | - 1,290,983 | | |
| | | 864,973 | NR | |
| 02. | Provide access to the Police Information Network (PIN) to district attorneys throughout the State (S85) | 30,000NR | - | |
| 03. | Continue funding of the Mecklenburg County Drug Court program when the | | | |

| | | | |
|----|---------------------------------------|------------------|-----------|
| 1 | Governor's Crime Commission | | |
| 2 | grant expires March 31, 1995 | | |
| 3 | (S35) - 231,334 | | |
| 4 | 04. Provide one additional | | |
| 5 | assistant district attorney in | | |
| 6 | 13th Judicial District (Bladen, | | |
| 7 | Brunswick, Columbus) (S35) - | 59,927 | |
| 8 | 05. Provide one additional special | | |
| 9 | superior court judge effective | | |
| 10 | July 1, 1994 (S35) - | <u>115,407</u> | |
| 11 | | | |
| 12 | Total Judicial Department | 30,000 | 4,438,621 |
| 13 | | | |
| 14 | <u>Office of the Governor</u> | | |
| 15 | Office of State Budget and Management | | |
| 16 | 01. Development of a statewide | | |
| 17 | Criminal Justice Information | | |
| 18 | Network (CJIN) (S33) <u>100,000</u> | <u>930,000</u> | |
| 19 | Total Office of the Governor | 100,000 | 930,000 |
| 20 | | | |
| 21 | <u>Public Education</u> | | |
| 22 | State Aid to Local School | | |
| 23 | Administrative Units | | |
| 24 | 01. Grants to "Support Our | | |
| 25 | Students" (S.O.S) Pilot Projects | | |
| 26 | (S18) - 5,000,000 | | |
| 27 | 02. Alternative Schools Grant | | |
| 28 | Program (S42) - | <u>2,000,000</u> | |
| 29 | Total Public Education | - | 7,000,000 |
| 30 | | | |
| 31 | <u>Department of Justice</u> | | |
| 32 | 01. Implement and evaluate pilot | | |
| 33 | programs established in the | | |
| 34 | N.C. Drug Treatment Court | | |
| 35 | Program Act (S36) - | 800,000 | |
| 36 | 02. Establish five new positions | | |
| 37 | to be assigned to the Department | | |
| 38 | of Correction—Attorney I, | | |
| 39 | Attorney II, (2) Paralegal II, and | | |
| 40 | Administrative Assistant III | | |
| 41 | (S139)- 202,628 | | |
| 42 | | | |
| 43 | - | <u>22,580</u> | NR |
| 44 | Total Department of Justice | - | 1,025,208 |

1
2 Department of Human Resources
3 DHR - Secretary
4 01. Family Resource Center
5 Grant Program - Maximum Grant
6 \$37,500 and \$180,000
7 administrative costs (S18) - 2,055,000
8 02. Conduct a comprehensive study of
9 the Division of Youth Services'
10 Juvenile Justice System (S24) - 100,000 NR
11 03. Governor's Council on Children,
12 Youth, and Families to develop procedures
13 to evaluate the Family Resource Center
14 Grant Program and the Support Our
15 Students Program (S38) - 150,000
16 Subtotal DHR - Secretary 2,305,000
17
18 Division of Mental Health, Developmental
19 Disabilities, and Substance Abuse Services
20 01. Expand the Student Services Program
21 of the N.C. High School Athletic
22 Association - Coach Mentor
23 Training (S22) - 534,000
24 02. Structured Sentencing Act
25 effective January 1, 1995–
26 To provide substance abuse treatment
27 services to offenders under the
28 Treatment Alternatives to Street Crime
29 (TASC) Program - 1,000,000
30 Subtotal - Mental Health - 1,534,000
31 Division of Youth Services
32 01. Operating funds for one additional
33 Wilderness Camp - 60 slots (S20) - 1,450,000
34 02. Expand the Governor's One-on-One
35 Program and increase the funding
36 for each program (S23) - 1,150,000
37 03. Staff to operate 147 additional
38 beds in existing training
39 schools (S26) - 6,575,768
40 04. Establish Alternatives to Detention
41 Program in selected district court judicial
42 districts (S142) 125,000 500,000
43 05. Outcome-Based Enhancement of the
44 Community-Based Alternatives

| | | | | |
|----|--|----------------|-------------------|------------|
| 1 | Program (S110) _____ | 500,000 | | |
| 2 | Subtotal - Youth Services | <u>125,000</u> | <u>10,175,768</u> | |
| 3 | Total Department of Human Resources | | 125,000 | 14,014,768 |
| 4 | | | | |
| 5 | <u>Department of Correction</u> | | | |
| 6 | 01. Structured Sentencing Act | | | |
| 7 | effective January 1, 1995- | | | |
| 8 | a. Adult Probation and Parole | | | |
| 9 | (325 positions) | | | |
| 10 | (Hire 10/1/94 and 5/1/95) - | 5,885,026 | | |
| 11 | | | 924,610 | NR |
| 12 | b. Administrative Costs for Adult | | | |
| 13 | Probation and Parole - (9 positions) | | | |
| 14 | (Hire 10/1/94 and 2/1/95) 299,631 | | | |
| 15 | | | 9,000 | NR |
| 16 | c. Administrative Costs for Central | | | |
| 17 | Administration Office - (18 positions) | | | |
| 18 | (Hire 10/1/94 and 2/1/95) 892,000 | | | |
| 19 | | | 18,000 | NR |
| 20 | 02. Operating costs for 208 additional | | | |
| 21 | beds at Piedmont, Lumberton, | | | |
| 22 | Pender, Wayne, and Brown Creek | | | |
| 23 | for a total of 1040 additional | | | |
| 24 | beds (S12) - 13,466,330 | | | |
| 25 | | | 2,033,670 | NR |
| 26 | 03. To lease jail space from | | | |
| 27 | local governments (S13) - | 8,358,000 | | |
| 28 | 04. To provide for out-of-state | | | |
| 29 | housing of inmates (S14) - | 24,972,000 | | |
| 30 | 05. To contract for 500 beds in | | | |
| 31 | private alcohol and drug | | | |
| 32 | treatment centers (S15) - | 5,156,740 | | |
| 33 | 16,260 NR | | | |
| 34 | 06. Use existing space more | | | |
| 35 | efficiently in order to house | | | |
| 36 | 500 additional inmates (S16) - | 1,639,500 | | |
| 37 | 07. Operating costs for a new Drug | | | |
| 38 | and Alcohol Recovery Treatment | | | |
| 39 | (DART) Center (S37) - | 1,007,436 | | |
| 40 | - 192,564 NR | | | |
| 41 | 08. Establish a Substance Abuse | | | |
| 42 | Program in each of five prisons | | | |
| 43 | located near urban areas | | | |
| 44 | throughout the State (S128) - | 1,225,345 | | |

| | | | | | |
|----|--|-------------------------------------|---------|------------|------------|
| 1 | | 320,000 | NR | | |
| 2 | 09. | Reserve for the operation of | | | |
| 3 | | a new 90-bed boot camp facility | | | |
| 4 | | for youthful offenders (S21) | - | 1,124,373 | |
| 5 | | 392,293 | NR | | |
| 6 | 10. | Provide a post-boot camp program | | | |
| 7 | | for up to 180 probationers (S21) | - | 452,619 | |
| 8 | 11. | Additional operating funds | | | |
| 9 | | to bring on line the new | | | |
| 10 | | facilities constructed with | - | 18,991,090 | |
| 11 | | \$87.5 million prison bonds | - | 8,235,572 | NR |
| 12 | 12. | Operating costs for new | | | |
| 13 | | facilities coming on line-- | | | |
| 14 | | Eastern Processing Center, | | | |
| 15 | | Marion Close Custody Addition, and | | | |
| 16 | | consolidation of five units | - | 546,720 | |
| 17 | | - | 125,932 | NR | |
| 18 | 13. | Establish pilot programs for | | | |
| 19 | | treatment of parolees and | | | |
| 20 | | probationers with substance | | | |
| 21 | | abuse problems (S53) | 50,000 | 533,000 | |
| 22 | 14. | Greater After Prison Support | | | |
| 23 | | Program - a community-based | | | |
| 24 | | pre-release and aftercare program | | | |
| 25 | | for prison inmates (S116) | - | 85,000 | |
| 26 | 15. | Establish one probation officer | | | |
| 27 | | position to work with Mecklenburg | | | |
| 28 | | County Drug Court Program effective | | | |
| 29 | | April 1, 1995 (S35) | - | 8,750 | |
| 30 | Total Department of Correction | | | 50,000 | 96,911,461 |
| 31 | | | | | |
| 32 | <u>Department of Crime Control and Public Safety</u> | | | | |
| 33 | 01. | Structured Sentencing Act | | | |
| 34 | | effective January 1, 1995-- | | | |
| 35 | | Community Services (19 positions) | - | 532,000 | |
| 36 | | 38,000 | NR | | |
| 37 | 02. | Victims Assistance | | | |
| 38 | | Network (S31) | - | 150,000 | |
| 39 | 03. | Additional Funds to the Crime | - | 800,000 | |
| 40 | | Victims Compensation Fund (S58) | - | 3,000,000 | NR |
| 41 | Total Department of Crime Control | | | | |
| 42 | and Public Safety | | | - | 4,520,000 |
| 43 | | | | | |
| 44 | GRAND TOTAL CURRENT OPERATIONS - | | | | |

| | | | |
|---|--------------------------|---------------|-------------------|
| 1 | GENERAL FUND - RECURRING | 275,000 | 112,501,982 |
| 2 | NONRECURRING | <u>75,000</u> | <u>16,478,076</u> |
| 3 | TOTAL \$ 350,000 | \$128,980,058 | |

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5 **PART 4. CAPITAL IMPROVEMENTS/GENERAL FUND**

6 Sec. 5. Appropriations are made from the General Fund for the 1993-94 and
7 1994-95 fiscal years for use by the State departments, institutions, and agencies to
8 provide for capital improvement projects according to the following schedule:

| | | | |
|---|--|----------------|----------------|
| 9 | <u>Capital Improvements - General Fund</u> | <u>1993-94</u> | <u>1994-95</u> |
|---|--|----------------|----------------|

10

11 Department of Administration

| | | | |
|----|--|------------------|------------|
| 12 | 01. Construct 208 additional beds | | |
| 13 | at Piedmont, Lumberton, | | |
| 14 | Pender, Wayne, and Brown | | |
| 15 | Creek for a total of 1040 | | |
| 16 | additional prison beds (S12) | \$ 21,483,914 | \$ - |
| 17 | 02. Construct Eastern Processing | | |
| 18 | Center. Due to subsurface soil | | |
| 19 | conditions and wetlands that were | | |
| 20 | unknown at time of original project cost | | |
| 21 | estimate, may need up to \$3.0 million | | |
| 22 | more to complete site development for | | |
| 23 | this unit | - 21,006,000 | |
| 24 | 03. Construct an addition at | | |
| 25 | Marion Close Custody Unit | - 5,358,900 | |
| 26 | 04. Consolidation of five prison | | |
| 27 | units (GPAC Recommendations) | - 10,260,500 | |
| 28 | 05. Construction costs of a new | | |
| 29 | Drug and Alcohol Recovery | | |
| 30 | Treatment (DART) Center | 1,425,000 | - |
| 31 | 06. To construct new 90-bed boot | | |
| 32 | camp facility for youthful | | |
| 33 | offenders (S21) | <u>1,100,000</u> | <u>-</u> |
| 34 | Total Department of Administration | 24,008,914 | 36,625,400 |

35

36 Department of Human Resources

| | | | |
|----|-------------------------------------|------------------|----------|
| 37 | 01. To support construction of | | |
| 38 | one additional Wilderness | | |
| 39 | Camp (S20) | 375,000 | - |
| 40 | 02. To construct one 24-bed | | |
| 41 | Detention Center | <u>1,600,000</u> | <u>-</u> |
| 42 | Total Department of Human Resources | 1,975,000 | - |

43

44 GRAND TOTAL CAPITAL IMPROVEMENTS -

1 GENERAL FUND \$ 25,983,914 \$36,625,400

2

3 **PART 5. PROCEDURES FOR DISBURSEMENTS**

4 Sec. 6. The appropriations made by the 1994 Extra Session of the General
5 Assembly for capital improvements shall be disbursed for the purposes provided by this
6 act. Expenditure of funds shall not be made by any State department, institution, or
7 agency, until an allotment has been approved by the Governor as Director of the
8 Budget. The allotment shall be approved only after full compliance with the Executive
9 Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of
10 construction contracts for projects to be financed in whole or in part with self-
11 liquidating appropriations, the Director of the Budget shall approve the elements of the
12 method of financing of those projects including the source of funds, interest rate, and
13 liquidation period. Provided, however, that if the Director of the Budget approves the
14 method of financing a project, the Director shall report that action to the Joint
15 Legislative Commission on Governmental Operations at its next meeting.

16 Where direct capital improvement appropriations include the purpose of
17 furnishing fixed and movable equipment for any project, those funds for equipment
18 shall not be subject to transfer into construction accounts except as authorized by the
19 Director of the Budget. The expenditure of funds for fixed and movable equipment and
20 furnishings shall be reviewed and approved by the Director of the Budget prior to
21 commitment of funds.

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

26

27 **PART 6. GENERAL PROVISIONS**

28

29 Requested by: Senators Daniel and Plyler

30 **SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL**
31 **RECEIPTS/AUTHORIZATION FOR EXPENDITURES**

32 Sec. 7. There is appropriated out of the cash balances, federal receipts, and
33 departmental receipts available to each department, sufficient amounts to carry on
34 authorized activities included under each department's operations. All these cash
35 balances, federal receipts, and departmental receipts shall be expended and reported in
36 accordance with provisions of the Executive Budget Act, except as otherwise provided
37 by statute, and shall be expended at the level of service authorized by the General
38 Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a
39 specific purpose only, collected in a fiscal year by an institution, department, or agency
40 exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then
41 the Director of the Budget shall decrease the amount he allots to that institution,
42 department, or agency from appropriations from that Fund by the amount of the excess,
43 unless the Director of the Budget finds that the appropriations from the Fund are
44 necessary to maintain the function that generated the receipts at the level anticipated in

1 the certified Budget Codes for that Fund. Funds that become available from
2 overrealized receipts in General Fund Codes and Highway Fund Codes, other than gifts
3 and grants that are unanticipated and are for a specific purpose only, shall not be used
4 for new permanent employee positions or to raise the salary of existing employees
5 except:

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

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

23 The Director of the Budget shall develop necessary budget controls,
24 regulations, and systems to ensure that these funds and other State funds subject to the
25 Executive Budget Act, are not spent in a manner which would cause a deficit in
26 expenditures.

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

33
34 Requested by: Senators Daniel and Plyler

35 **BUDGETING OF PILOT PROGRAMS**

36 Sec. 8. (a) Any program designated by the General Assembly as experimental,
37 model, or pilot shall be shown as a separate budget item and shall be considered as an
38 expansion item until a succeeding General Assembly reapproves it.

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

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

1 Requested by: Senators Daniel and Plyler

2 **AUTHORIZED TRANSFERS**

3 Sec. 9. The Director of the Budget may transfer to General Fund budget
4 codes from the General Fund salary adjustment appropriation amounts required to
5 support approved salary adjustments made necessary by difficulties in recruiting and
6 holding qualified employees in State government. The funds may be transferred only
7 when the use of salary reserve funds in individual operating budgets is not feasible.

8

9 Requested by: Senators Daniel and Plyler

10 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

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

13

14 Requested by: Senators Daniel and Plyler

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

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

26

27 Requested by: Senators Daniel and Plyler

28 **BUDGET REFORM STATEMENTS**

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

31 1993-94 1994-95 Non- Non-
32 Recurring Recurring Recurring

33 **AVAILABILITY**

| | | | |
|-----------------------------------|----------------|--------------|--------------|
| 34 Unappropriated Balance from | | | |
| 35 1993 Session | \$4.7 | \$209.6 | \$380.5 |
| 36 | | | |
| 37 Revenue Forecast Increase | 156.0 | 160.0 | - |
| 38 Anticipated Reversions | 184.4 | - | - |
| 39 | | | |
| 40 TOTAL AVAILABILITY | \$345.1 | 369.6 | 380.5 |

41

42 (b) The Unappropriated Balance from the 1993 Session stated in subsection
43 (a) of this section is included in Total Availability as stated in Section 8(b) of Chapter
44 561 of the 1993 Session Laws.

1 (c) The revenue forecast increase and anticipated reversions shown in
2 subsection (a) of this section are in addition to Total Availability stated in Section 8(b)
3 of Chapter 561 of the 1993 Session Laws.

4
5 **PART 7. OFFICE OF STATE BUDGET AND MANAGEMENT**

6
7 Requested by: Senators Odom, Cooper, Ballance, Cochrane, and Sherron

8 **CRIMINAL JUSTICE INFORMATION NETWORK**

9 Sec. 13. (a) Of the funds appropriated in this act from the General Fund to the
10 Office of State Budget and Management the sum of one hundred thousand dollars
11 (\$100,000) for the 1993-94 fiscal year and the sum of nine hundred thirty thousand
12 dollars (\$930,000) for the 1994-95 fiscal year shall be used for the development of a
13 Criminal Justice Information Network that links together data in existing databases and
14 networks. These funds shall be used only for the purposes set forth below:

- 15 (1) Assess the functionality of information currently used by the General
16 Court of Justice, State and local law enforcement agencies, correction
17 agencies, and State departments or agencies related to the criminal
18 justice system and the juvenile justice system, and evaluate the need
19 for systems integration or system enhancements, in particular the need
20 for a comprehensive DWI database;
- 21 (2) Determine the technical feasibility of incorporating all or portions of
22 currently existing information systems and all or portions of new
23 information systems into a comprehensive statewide Criminal Justice
24 Information Network (CJIN);
- 25 (3) Evaluate feasible CJIN designs at no fewer than three alternative levels
26 of costs (both capital and future operating), and to clearly describe the
27 benefits and costs associated with each level;
- 28 (4) Estimate a development and implementation schedule for each level of
29 costs, showing milestones to be achieved during each phase of the
30 schedule, costs to be incurred during each phase, and any benefits and
31 savings expected at intermediate stages of CJIN development and
32 implementation;
- 33 (5) Evaluate alternative structures for CJIN management, including
34 accountability for CJIN operations, criteria for membership or
35 participation, procedures to prevent inappropriate or illegal access, and
36 steps to assure data quality and accuracy;
- 37 (6) Recommend measures for savings, efficiency, and effectiveness that
38 will enable the General Assembly to gauge CJIN performance;
- 39 (7) Assure that the integrated CJIN shall be consistent and compatible
40 with a comprehensive telecommunications plan as approved by the
41 Information Resource Management Commission; and
- 42 (8) Plan a statewide integrated law enforcement communications system
43 and study the costs of making that system available to local
44 governments.

1 (b) There is created within the Office of State Budget and Management a
2 Criminal Justice Information Network study committee to conduct the analysis and
3 study required under this section. The study committee shall be appointed by the
4 Governor in consultation with the Lieutenant Governor, the Attorney General, and the
5 Chief Justice of the North Carolina Supreme Court and shall include an appointee
6 recommended by the Mecklenburg Criminal Justice Commission. The Governor shall
7 appoint no more than nine members to the study committee, and shall make the
8 appointments based upon the appointees' knowledge, expertise, and responsibility
9 within the criminal justice system, the juvenile justice system, and related areas. All
10 State and local government agencies shall cooperate fully with the study committee.
11 The study committee shall provide a monthly report on its progress (i) to the Chairs of
12 the Senate and House Appropriations Committees, (ii) to the Chairs of the Senate and
13 House Justice and Public Safety Appropriations Subcommittees, and (iii) to the
14 Information Resources Management Commission established by G.S. 143B-426.21 at
15 the regularly scheduled meetings of the Commission. The study committee shall report
16 its final findings and recommendations to the General Assembly on or before February
17 1, 1995, and shall make an interim report by November 1, 1994.

18 19 **PART 8. DEPARTMENT OF CORRECTION**

20
21 Requested by: Senators Odom and Cooper

22 **LEASE JAIL SPACE**

23 Sec. 14. (a) Funds appropriated in this act to the Department of Correction for
24 leasing jail space from local governments to house inmates committed to the
25 Department's custody shall be used for this purpose only and shall not be transferred.

26 (b) This section becomes effective July 1, 1994.

27
28 Requested by: Senators Odom and Cooper

29 **OUT-OF-STATE HOUSING OF INMATES**

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

31 **"§ 148-37. Additional facilities authorized; contractual arrangements.**

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

42 (b) The Secretary of Correction may contract with the proper official of the
43 United States States, or of any county or city of this State State, or of any entity
44 described in subsection (c) of this section, for the confinement of federal prisoners after

1 they have been sentenced, county, or city prisoners in facilities of the State prison
2 system or for the confinement of State prisoners in any county or any city facility
3 located in North Carolina, ~~Carolina~~ or any out-of-state facility, or any facility of the
4 United States Bureau of Prisons, when to do so would most economically and
5 effectively promote the purposes served by the Department of Correction. Any contract
6 made under the authority of this section shall be for a period of not more than two years,
7 and shall be renewable from time to time for a period not to exceed two years.
8 Contracts for receiving federal, county and city prisoners shall provide for reimbursing
9 the State in full for all costs involved. The financial provisions shall have the approval
10 of the Department of Administration before the contract is executed. Payments received
11 under such contracts shall be deposited in the State treasury for the use of the State
12 Department of Correction. Such payments are hereby appropriated to the State
13 Department of Correction as a supplementary fund to compensate for the additional care
14 and maintenance of such prisoners as are received under such contracts.

15 (c) Subject to the provisions of subsection (b) of this section, the Secretary of
16 Correction may contract to house offenders in out-of-state correctional facilities with
17 public or private contractors in the business of providing correctional services. Any
18 contracts previously entered into by the Department of Correction for the out-of-state
19 housing of inmates are hereby ratified."

20 (b) The Secretary of Correction shall report semiannually to the Joint
21 Legislative Commission on Governmental Operations on out-of-state housing of prison
22 inmates.

23 (c) This section is effective upon ratification and expires on June 30, 1996.
24

25 Requested by: Senators Cooper and Odom

26 PRIVATE PRISON CONTRACTS/SUBSTANCE ABUSE SERVICES

27 Sec. 16. (a) Chapter 148 of the General Statutes is amended by adding a new
28 Article to read:

29 "ARTICLE 13.

30 "PRIVATE PRISON CONTRACTS.

31 "§ 148-122. Authority to contract.

32 Notwithstanding any other provision of law, the Secretary of Correction may
33 contract with private, for-profit or nonprofit corporations or firms to provide and
34 operate treatment centers that house, care for, and maintain prisoners committed to the
35 custody of the Department of Correction who are diagnosed as needing treatment for
36 alcohol or drug abuse.

37 "§ 148-123. Prison rules applicable.

38 Prisoners housed in privately operated facilities pursuant to this Article shall remain
39 subject to the rules adopted for the conduct of persons committed to the State prison
40 system. The rules regarding good time and gain time, discipline, classification,
41 extension of the limits of confinement, transfers, housing arrangements, and eligibility
42 for parole shall apply to inmates housed in those private prison facilities. Private
43 contractors may promulgate any other rules as may be necessary for the operation of the
44 facilities with the written approval of the Secretary of Correction.

1 **"§ 148-124. Enforcement of rules at private treatment centers.**

2 Custodial officials employed by a private firm pursuant to this Article are agents of
3 the Secretary of Correction and may use authorized force procedures to defend
4 themselves, to enforce the observance of discipline in compliance with prison rules, to
5 secure the person of an offender, and to prevent escape.

6 **"§ 148-125. Inmate work requirement.**

7 Inmates housed in private facilities pursuant to this Article may be required to
8 perform reasonable work assignments within those facilities. The facility may award
9 gain time to those prisoners that are eligible for gain time within the applicable statutes
10 and rules."

11 (b) G.S. 148-4 reads as rewritten:

12 **"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of**
13 **confinement.**

14 (a) The Secretary of Correction shall have control and custody of all prisoners
15 serving sentence in the State prison ~~system,~~ system and in privately operated facilities,
16 and such prisoners shall be subject to all the rules and regulations legally adopted for
17 the government thereof. Any sentence to imprisonment in any unit of the State prison
18 system, or to jail to be assigned to work under the State Department of Correction, shall
19 be construed as a commitment, for such terms of imprisonment as the court may direct,
20 to the custody of the Secretary of Correction or his authorized representative, who shall
21 designate the places of confinement ~~within the State prison system~~ where the sentences
22 of all such persons shall be served. The authorized agents of the Secretary shall have all
23 the authority of peace officers for the purpose of transferring prisoners from place to
24 place in the State as their duties might require and for apprehending, arresting, and
25 returning to prison escaped prisoners, and may be commissioned by the Governor,
26 either generally or specially, as special officers for returning escaped prisoners or other
27 fugitives from justice from outside the State, when such persons have been extradited or
28 voluntarily surrendered. Employees of departments, institutions, agencies, and political
29 subdivisions of the State hiring prisoners to perform work outside prison confines may
30 be designated as the authorized agents of the Secretary of Correction for the purpose of
31 maintaining control and custody of prisoners who may be placed under the supervision
32 and control of such employees, including guarding and transferring such prisoners from
33 place to place in the State as their duties might require, and apprehending and arresting
34 escaped prisoners and returning them to prison. The governing authorities of the State
35 prison system are authorized to determine by rules and regulations the manner of
36 designating these agents and placing prisoners under their supervision and control,
37 which rules and regulations shall be established in the same manner as other rules and
38 regulations for the government of the State prison system.

39 The Secretary of Correction may extend the limits of the place of confinement of a
40 prisoner, as to whom there is reasonable cause to believe he will honor his trust, by
41 authorizing him, under prescribed conditions, to leave the confines of that place
42 unaccompanied by a custodial agent for a prescribed period of time to

43 (1) Contact prospective employers; or

- 1 (2) Secure a suitable residence for use when released on parole or upon
2 discharge; or
- 3 (3) Obtain medical services not otherwise available; or
- 4 (4) Participate in a training program in the community; or
- 5 (5) Visit or attend the funeral of a spouse, child (including stepchild,
6 adopted child or child as to whom the prisoner, though not a natural
7 parent, has acted in the place of a parent), parent (including a person
8 though not a natural parent, has acted in the place of a parent), brother,
9 or sister; or
- 10 (6) Participate in community-based programs of rehabilitation, including,
11 but not limited to the existing community volunteer and home-leave
12 programs, pre-release and after-care programs as may be provided for
13 and administered by the Secretary of Correction and other programs
14 determined by the Secretary of Correction to be consistent with the
15 prisoner's rehabilitation and return to society; or
- 16 (7) Be on maternity leave, for a period of time not to exceed 60 days. The
17 county departments of social services are expected to cooperate with
18 officials at the North Carolina Correctional Center for Women to
19 coordinate prenatal care, financial services, and placement of the child.

20 The willful failure of a prisoner to remain within the extended limits of his confinement,
21 or to return within the time prescribed to the place of confinement designated by the
22 Secretary of Correction, shall be deemed an escape from the custody of the Secretary of
23 Correction punishable as provided in G.S. 148-45.

24 (b) Notwithstanding any other provision of law, the Secretary of Correction may
25 contract with private corporations and entities for the housing, care, and maintenance of
26 prisoners committed to the custody of the Department of Correction who are diagnosed
27 as needing treatment for alcohol or drug abuse."

28 (c) G.S 148-45 is amended by adding a new subsection to read:

29 "(h) For purposes of this section, persons housed in privately operated facilities
30 pursuant to Article 13 of this Chapter shall be considered persons in the custody of the
31 Department of Correction."

32 (d) G.S. 14-258.1 reads as rewritten:

33 **"§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,**
34 **ammunition or alcoholic beverages to inmates of charitable, mental or**
35 **penal institutions or local confinement facilities.**

36 (a) If any person shall give or sell to any inmate of any charitable, mental or
37 penal institution, or local confinement facility, or if any person shall combine,
38 confederate, conspire, aid, abet, solicit, urge, investigate, counsel, advise, encourage,
39 attempt to procure, or procure another or others to give or sell to any inmate of any
40 charitable, mental or penal institution, or local confinement facility, any deadly weapon,
41 or any cartridge or ammunition for firearms of any kind, or any controlled substances
42 included in Schedules I through VI contained in Article 5 of Chapter 90 of the General
43 Statutes except under the general supervision of a practitioner, poison or poisonous
44 substance, except upon the prescription of a physician, he shall be punished as a Class H

1 felon; and if he be an officer or employee of any institution of the State, or of any local
2 confinement facility, he shall be dismissed from his position or office.

3 (b) Any person who shall knowingly give or sell any alcoholic beverages to any
4 inmate of any ~~State~~ mental or penal institution, or to any inmate of any local
5 confinement facility, except for medical purposes as prescribed by a duly licensed
6 physician and except for an ordained minister or rabbi who gives sacramental wine to an
7 inmate as part of a religious service; or any person who shall combine, confederate,
8 conspire, procure, or procure another or others to give or sell any alcoholic beverages to
9 any inmate of any such ~~State~~ institution or local confinement facility, except for medical
10 purposes as prescribed by a duly licensed physician and except for an ordained minister
11 or rabbi who gives sacramental wine to an inmate as part of a religious service; or any
12 person who shall bring into the buildings, grounds or other facilities of such institution
13 any alcoholic beverages, except for medical purposes as prescribed by a duly licensed
14 physician or sacramental wine brought by an ordained minister or rabbi for use as part
15 of a religious service, shall be guilty of a misdemeanor, and on conviction thereof shall
16 be fined or imprisoned, in the discretion of the court. If such person is an officer or
17 employee of any institution of the State, such person shall be dismissed from office.

18 (c) The term 'penal institution' as used in this section includes private facilities
19 operated in accordance with Article 13 of Chapter 148 of the General Statutes."

20 (e) G.S. 14-258.3 reads as rewritten:

21 "**§ 14-258.3. Taking of hostage, etc., by prisoner.**

22 (a) Any prisoner in the custody of the Department of Correction, including
23 persons in the custody of the Department of Correction pending trial or appellate review
24 or for presentence diagnostic evaluation, or any prisoner in the custody of any local
25 confinement facility (as defined in G.S. 153A-217), or any person in the custody of any
26 local confinement facility (as defined in G.S. 153A-217) pending trial or appellate
27 review or for any lawful purpose, who by threats, coercion, intimidation or physical
28 force takes, holds, or carries away any person, as hostage or otherwise, shall be
29 punished as a Class I felon. The provisions of this section apply to: (i) violations
30 committed by any prisoner in the custody of the Department of Correction, whether
31 inside or outside of the facilities of the North Carolina Department of Correction; (ii)
32 violations committed by any prisoner or by any other person lawfully under the custody
33 of any local confinement facility (as defined in G.S. 153A-217), whether inside or
34 outside the local confinement facilities (as defined in G.S. 153A-217).

35 (b) For purposes of this section, prisoners housed in privately operated facilities
36 pursuant to Article 13 of Chapter 148 of the General Statutes shall be considered
37 persons in the custody of the Department of Correction."

38
39 Requested by: Senators Perdue and Martin of Guilford

40 **BOOT CAMP FUNDS**

41 Sec. 17. (a) Of the funds appropriated in this act from the General Fund to the
42 Department of Correction the sum of one million five hundred sixteen thousand six
43 hundred sixty-six dollars (\$1,516,666) for the 1994-95 fiscal year shall be placed in a
44 reserve for the operation of a new boot camp for youthful offenders to be brought on

1 line in the 1994-95 fiscal year under the construction program provided for in this act.
2 The boot camp shall operate according to the guidelines set forth for the Intensive
3 Motivational Program of Alternative Correctional Treatment (IMPACT) in Chapter
4 1010 of the 1989 Session Laws.

5 (b) Of the funds appropriated in this act from the General Fund to the
6 Department of Correction the sum of four hundred fifty-two thousand six hundred
7 nineteen dollars (\$452,619) for the 1994-95 fiscal year shall be used to provide a post-
8 boot camp program for probationers who are likely to benefit from such a program in
9 order to assist them to become productive citizens and to remain free from criminal
10 activity. The Department shall select up to 180 probationers to participate in the
11 program, which shall include intensive probation supervision, substance abuse treatment
12 and counseling, family contact, involvement, and counseling, consultation with
13 appropriate personnel in the Department of Human Resources in establishing
14 participation by probationers in appropriate community-based services, and other
15 appropriate intervention.

16 (c) The Department of Correction shall evaluate the IMPACT program and
17 the post-Boot Camp probation program funded under this section and report to the Joint
18 Legislative Commission on Governmental Operations, the Joint Legislative Corrections
19 Oversight Committee, and the Fiscal Research Division prior to January 1, 1995, and
20 annually thereafter. The evaluation of the IMPACT program shall compare that
21 program's effectiveness, cost, and recidivism rate to other corrections programs for
22 offenders aged 16-25. The evaluation of the post-Boot Camp probation program shall
23 compare that program's effectiveness, cost, and recidivism rate to other probation
24 programs for offenders aged 16-25.

25
26 Requested by: Senators Daniel and Plyler

27 **EXPAND PRISON SUBSTANCE ABUSE PROGRAMS**

28 Sec. 18. Of the funds appropriated in this act from the General Fund to the
29 Department of Correction the sum of one million five hundred forty-five thousand three
30 hundred forty-five dollars (\$1,545,345) for the 1994-95 fiscal year shall be used to
31 establish a substance abuse program in five or more prisons located near urban areas
32 throughout the State. Each program shall be established in accordance with Article 6 of
33 Chapter 143B of the General Statutes. The funds shall be allocated such that each
34 prison shall provide substance abuse services to no more than 100 inmates.

35
36 Requested by: Senators Shaw, Ballance, and Soles

37 **WORK CAMP PILOT PROGRAM**

38 Sec. 19. (a) The Department of Correction shall develop plans for a pilot
39 program in which the Department enters a partnership with a county or coalition of
40 counties for the operation of a 340-bed work camp located at a site to be agreed upon by
41 the Department of Correction and the county or coalition of counties. The county or
42 coalition of counties shall agree to operate the work camp in exchange for authorization
43 to use the minimum security inmates housed at the camp for work at public facilities

1 and for any other suitable productive labor at sites within the county or coalition of
2 counties entering the agreement.

3 The plan shall provide for making space available in the work camp in such a
4 manner that judges passing sentence in the General Court of Justice within the county or
5 counties participating in the pilot program may assign defendants to the prison work
6 camp.

7 (b) The Department of Correction shall report on the plan developed pursuant
8 to this section to the Joint Legislative Commission on Governmental Operations by June
9 1, 1994.

10
11 Requested by: Senators Martin of Guilford, Odom, and Cooper

12 **SUBSTANCE ABUSE TREATMENT PILOT PROGRAM FOR PAROLEES**
13 **AND PROBATIONERS**

14 Sec. 20. (a) Chapter 148 of the General Statutes is amended by adding a new
15 Article to the end to read:

16 **"ARTICLE 13.**

17 **"PILOT PROGRAMS FOR TREATMENT OF PAROLEES AND**
18 **PROBATIONERS WITH**
19 **HISTORIES OF SERIOUS SUBSTANCE ABUSE.**

20 **"§ 148-130. Pilot programs' purpose.**

21 The purpose of the pilot programs established pursuant to this Article is to provide
22 for the identification, appropriate assessment, and intensive out-patient treatment of
23 high-risk parolees and probationers with substance abuse problems. These programs
24 should give emphasis to serving parolees and probationers with serious substance abuse
25 histories, with first priority given to parolees. The programs should provide intensive
26 treatment, which treatment should be used by the courts as a condition of probation and
27 parole when appropriate. This treatment should start immediately upon the beginning
28 of the probation term or parole discharge.

29 **"§ 148-131. Interagency Task Force; administration of pilot programs;**
30 **membership; staffing.**

31 The Department of Correction, after consultation with the Department of Human
32 Resources, shall convene an Interagency Task Force to design, coordinate, plan,
33 implement, and evaluate the pilot programs established pursuant to this Article. The
34 Interagency Task Force shall consist of staff from the Department of Correction
35 Substance Abuse Program, the Department of Correction Adult Probation and Parole
36 Program, the Department of Human Resources' Substance Abuse Services, the Parole
37 Commission, to be renamed the Post-Release Supervision and Parole Commission as of
38 the effective date of the Structured Sentencing Act, Chapters 538 and 539 of the 1993
39 Session Laws, and any other State or local programs the Department of Correction
40 considers necessary. The Task Force shall also include two representatives of business
41 and industry who have an interest in job placement for ex-offender recovering substance
42 abusers, two ex-offender recovering substance abusers, and representatives of any other
43 organizations the Department of Correction considers necessary.

1 The Department of Correction shall provide the staffing for the Interagency Task
2 Force.

3 **"§ 148-132. Interagency Task Force; Request for Proposal planning and**
4 **development process; identification of funding sources, barriers to**
5 **treatment, and lack of treatment capacity.**

6 (a) The Interagency Task Force shall prepare a process for the development of a
7 Request for Proposal process that will result in the funding of a pilot program for high-
8 risk parolees and probationers with substance abuse problems. As part of the Request
9 for Proposal planning and development process, the Interagency Task Force shall
10 clearly identify the target population to be served, the method of selecting the target
11 population, the appropriate diagnostic instruments for this selection, and the appropriate
12 components and evaluation instruments.

13 (b) The Interagency Task Force shall identify the extent to which current federal
14 and State funding and resources may be used to treat parolees and probationers with
15 substance abuse problems and the extent to which other federal funds can be obtained
16 for this purpose. The Interagency Task Force shall also identify current barriers to
17 effective utilization of existing treatment programs and shall highlight the lack of
18 treatment capacity.

19 **"§ 148-133. Interagency Task Force; Request for Proposal evaluation criteria,**
20 **treatment component requirements.**

21 (a) In its evaluation of the responses to the Request for Proposal process, the
22 Interagency Task Force shall consider:

23 (1) The proposed provider's ability to use existing substance abuse
24 treatment resources and other resources such as education, job training,
25 and placement, in order to build a collaborative approach to the
26 delivery of services to the target population;

27 (2) The proposed provider's ability to develop a plan for how services are
28 to be provided if the resources described in subdivision (1) of this
29 section are not currently available;

30 (3) The proposed provider's identification of local area mental health
31 groups, State-Local Community Partnership participants, and nonprofit
32 organizations as advisors or service providers; and

33 (4) The proposed provider's ability to provide treatment and case
34 management services for up to 60 clients.

35 (b) The Interagency Task Force shall require that the following treatment
36 components are included in all responses to the Request for Proposal process, together
37 with a detailed proposal on how the components will be provided, in order to be
38 considered:

39 (1) Regular drug testing;

40 (2) Regular counseling and self-development treatments;

41 (3) Monitoring by case managers;

42 (4) Establishment of criteria for successful program completion; and

1 (5) Establishment of local advisory boards made up of individuals similar
2 to those making up the Interagency Task Force, with the addition of a
3 superior court judge.

4 **"§ 148-134. Interagency Task Force; pilot program selection; reporting.**

5 (a) The Interagency Task Force shall select one pilot program no later than six
6 months after the effective date of this act.

7 (b) The Department of Correction shall report by March 1, 1995, to the General
8 Assembly on the planning, development, and implementation of the pilot programs, and
9 to the Mental Health Study Commission by November 1, 1995, on the costs and benefits
10 of the pilot programs."

11 (b) Of the funds appropriated from the General Fund to the Department of
12 Correction for the pilot program established under this section, not less than eighty
13 percent (80%) of these funds shall be used to fund the pilot programs. The balance of
14 the funds shall be used to administer the Interagency Task Force and its activities, hire
15 necessary personnel, and use consulting services when necessary. Funds not expended
16 by the end of each fiscal year shall not revert but shall remain available for use in
17 subsequent fiscal years.

18 (c) This section becomes effective April 1, 1994.

19
20 Requested by: Senators Kerr, Odom, and Cooper

21 **PROBATION/PAROLE DIVERSION STUDY**

22 Sec. 21. The Department of Correction, Division of Adult Probation and
23 Parole, shall study the feasibility of diverting probation and parole violators into
24 residential community corrections centers similar to those currently being operated in
25 other states. The study shall examine the possibility of housing probation and parole
26 violators, who currently constitute approximately fifty-three percent (53%) of prison
27 admissions in this State, in separate facilities operated as work camps, substance abuse
28 treatment centers, or any other type of facilities designed to address the special
29 problems of probation and parole violators. The Department of Correction, Division of
30 Adult Probation and Parole, shall report its findings and recommendations to the 1994
31 Regular Session of the 1993 General Assembly.

32
33 Requested by: Senators Hoyle, Odom, Cooper

34 **GREATER AFTER PRISON SUPPORT PROGRAM**

35 Sec. 22. (a) With respect to funds appropriated in this act to the Department
36 of Correction, Division of Prisons, the Greater After Prison Support Program shall
37 report quarterly to the Joint Legislative Commission on Governmental Operations on
38 the expenditure of State appropriations and on the effectiveness of the program,
39 including information on the number of clients served, the number of clients who
40 complete the prerelease component of the program, and the number of clients who
41 participate in the postrelease component of the program.

42 (b) The Department of Correction shall track the Greater After Prison Support
43 program with an evaluation model consistent with existing models that show the impact
44 of the program on participants regarding postrelease parole violations, rearrests, and

1 recidivism rates. The Department shall provide a written evaluation of the program to
2 the Chairs of the House and Senate Appropriations Committees and the Chairs of the
3 House and Senate Subcommittees on Justice and Public Safety, the Joint Legislative
4 Commission on Governmental Operations, and the Fiscal Research Division by May 1,
5 1995.

6 (c) This section becomes effective July 1, 1994.

8 **PART 9. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

10 Requested by: Senators Cooper and Odom

11 **VICTIMS ASSISTANCE NETWORK**

12 Sec. 23. (a) Of the funds appropriated in this act from the General Fund to the
13 Department of Crime Control and Public Safety the sum of one hundred fifty thousand
14 dollars (\$150,000) for the 1994-95 fiscal year shall be used to support the Victims
15 Assistance Network. These funds shall be used by the Victims Assistance Network to
16 perform the following functions under the direction of and as required by the
17 Department of Crime Control and Public Safety:

- 18 (1) Conduct surveys and gather data on crime victims and their needs;
- 19 (2) Act as a clearinghouse for crime victims services;
- 20 (3) Provide an automated crime victims bulletin board for subscribers;
- 21 (4) Coordinate and support the activities of other crime victims advocacy
22 groups;
- 23 (5) Identify training needs of crime victims services providers and
24 criminal justice personnel and coordinate training efforts for those
25 persons; and
- 26 (6) Provide other services as identified by the Governor's Crime
27 Commission or the Department of Crime Control and Public Safety.

28 (b) This section becomes effective July 1, 1994.

30 **PART 10. DEPARTMENT OF HUMAN RESOURCES**

32 Requested by: Senators Martin of Guilford and Perdue

33 **FAMILY RESOURCE CENTER GRANT PROGRAM**

34 Sec. 24. (a) Article 3 of Chapter 143B of the General Statutes is amended by
35 adding a new Part to read:

36 **"PART 5B. FAMILY RESOURCE CENTER GRANT PROGRAM.**

37 **"§ 143B-152.10. Intent.**

38 It is the intent of the General Assembly to encourage and support broad-based
39 collaboration among public and private agencies and among people who reflect the
40 racial and socioeconomic diversity in communities to develop initiatives that (i)
41 prepare children to learn effectively and to have a successful school
42 experience, (ii) enhance the ability of families to become advocates for and supporters
43 of education for the children in their families, and (iii) enhance the ability of families to
44 function as nurturing and effective family units.

1 **§ 143B-152.11. Family Resource Centers Grant Program; creation; purpose.**

2 There is created in the Department of Human Resources the Family Resources Grant
3 Program. The purpose of the program is to provide grants to establish family resource
4 centers that provide services to children from birth through elementary school age and
5 to their families that:

- 6 (1) Enhance the children's development and ability to attain academic and
7 social success;
- 8 (2) Ensure a successful transition from early childhood education
9 programs and child care to the public schools;
- 10 (3) Assist families in achieving economic independence and self-
11 sufficiency; and
- 12 (4) Mobilize public and private community resources to help children and
13 families in need.

14 **§ 143B-152.12. Administration of program.**

15 The Department of Human Resources shall develop and implement the Family
16 Resource Center Grant Program. The Department shall:

- 17 (1) Sponsor an annual statewide conference for teams of interested
18 representatives from each local school administrative unit to provide
19 background information and assistance regarding all aspects of the
20 program;
- 21 (2) Administer funds appropriated by the General Assembly;
- 22 (3) Monitor the grants funded and the ongoing operations of family
23 resource centers;
- 24 (4) Revoke a grant if necessary or appropriate;
- 25 (5) Report annually on program implementation to the Joint Legislative
26 Committee on Education Oversight, the Office of the Governor, and
27 the Governor's Council on Children, Youth, and Families;
- 28 (6) Disseminate information regarding the program to interested local
29 community groups;
- 30 (7) Provide initial technical assistance and ongoing technical assistance to
31 grant recipients; and
- 32 (8) Adopt rules to implement this Part.

33 **§ 143B-152.13. Neighborhood Family Resource Center Councils; applications for**
34 **grants.**

35 (a) A County Council established under G.S. 143B-152.4 shall identify the
36 school or schools whose students and families will be served by a family resource
37 center. Upon this identification, the County Council shall establish a Neighborhood
38 Family Resource Center Council for that center that reflects the racial and
39 socioeconomic diversity of the neighborhood or neighborhoods to be served and that
40 may include the school's principal, a teacher, parents of children who will be eligible for
41 services at the center, a representative of the school's Parent Teacher Association,
42 representatives of local organizations that provide services to children and families,
43 representatives of business and industry or local nonprofit organizations, and any other
44 interested persons.

1 **(b)** The Neighborhood Family Resource Center Council, in consultation with the
2 County Council, shall determine the physical location of the family resource center. If
3 the center is to be established in an elementary school or on school property, the
4 Neighborhood Council shall obtain the approval of the local board of education. Any
5 other location shall be confirmed by the property owner. Upon receipt of the approval
6 of the board of education or the confirmation by the property owner, whichever is
7 appropriate, the Neighborhood Family Resource Center Council, in consultation with
8 the County Council, shall develop an application for the family resource center, and
9 shall submit the application to the Grant Review Committee established under G.S.
10 143B-152.3.

11 **(c)** The grant proposal shall include:

- 12 **(1)** Identification of one or more elementary schools in or reasonably near
13 which a family resource center will be established, based on a needs
14 assessment of existing conditions for children to be served. Data
15 collected for each school to be served by a center shall include (i) the
16 number and percentage of students who participate in the federal
17 subsidized lunch program, (ii) the school's average daily membership,
18 (iii) the number and percentage of students with two working parents
19 or one single parent, (iv) the number of children to be served, and (v)
20 any other relevant or unique local demographic data. The school or
21 schools that are selected shall serve a disproportionate number of low-
22 income children as determined by the percentage of students
23 participating in the federal subsidized lunch program;
- 24 **(2)** A three-year plan, developed in consultation with the building-level
25 school improvement team, appointed in accordance with G.S. 115C-
26 238.3(b1), of each school whose students may be served by the grant,
27 to address the needs of the children and their families to be served by
28 the center;
- 29 **(3)** Goals and anticipated outcomes for initiatives, and a system to
30 measure their success;
- 31 **(4)** A list of services to be offered that are related to the goals and
32 anticipated outcomes of the local plans. These services may include:
33 (i) supervision and enrichment activities for children following the
34 regular school day, (ii) the recruitment of a strong corps of volunteers
35 for involvement in the program, (iii) transportation, (iv) parental
36 involvement activities, and (v) coordinated services offered by local
37 community agencies relative to the needs of the children and their
38 families;
- 39 **(5)** A budget including use of existing resources; and
- 40 **(6)** Any additional necessary information.

41 **(d)** Notwithstanding subsection (c) of this section, a board of county
42 commissioners may apply for a grant under this section if its application provides
43 convincing evidence that genuine interagency collaboration was attempted, but failed, in
44 that county. In this case, the board of county commissioners shall state in its application

1 any future steps it plans to take to encourage and implement local-level collaboration
2 and coordination of services for children and their families.

3 **"§ 143B-152.14. Grant selection.**

4 (a) The Grant Review Committee shall receive and review applications for grants
5 to establish family resource centers in order to make recommendations to the Secretary
6 of Human Resources. In its review and in making recommendations, the Grant Review
7 Committee shall consider (i) the severity of the local problems as determined by the
8 needs assessment data, (ii) the likelihood that the locally designed plan will result in
9 high quality services for children and their families, (iii) evidence of local collaboration,
10 (iv) any innovative or experimental aspects of the plan that will make it a useful model
11 for replication in other counties, (v) the availability of other resources or funds, and (vi)
12 the amount needed to implement the proposal.

13 (b) The Secretary of Human Resources shall award grants, based upon the
14 recommendations of the Grant Review Committee and the factors set forth in subsection
15 (a) of this section, to county boards of commissioners no later than September 1 of each
16 year.

17 (c) If funding to expand the program becomes available in subsequent years,
18 additional family resource centers shall be funded based on:

19 (1) The quality and performance of any existing family resource center;
20 and

21 (2) Need, as determined by the number and percentage of students
22 participating in the subsidized lunch program.

23 **"§ 143B-152.15. Administration of grant programs at the local level.**

24 (a) The county board of commissioners shall serve as the fiscal agent for any
25 grant awarded by the Secretary under this program to establish a family resource center
26 in that county. However, after the first year, the County Council, if incorporated as a
27 nonprofit 501(c) organization as provided in G.S. 143B-152.5, may serve as the fiscal
28 agent. The Neighborhood Family Resource Center Council shall develop the center's
29 budget and shall monitor the ongoing operations of the center, and shall make
30 recommendations for improvement to the County Council and the board of county
31 commissioners, if appropriate.

32 (b) Fiscal agents may, and are encouraged to, use grant funds to contract for the
33 operation of a family resource center or for the provision of services for children and
34 their families through a family resource center. Staffing should include the use of the
35 community schools coordinator employed under G.S. 115C-209 by the board of
36 education of the local school administrative unit in which the school being served by the
37 family resource center is located.

38 **"§ 143B-152.16. Program evaluation.**

39 County Councils established under G.S. 143B-152.4 in counties that receive grants
40 under this Part shall report by August 1 of each year to the Department of Human
41 Resources on the implementation of the program. This report shall demonstrate the
42 extent to which the program has met the local needs, goals, and anticipated outcomes as
43 set forth in the grant proposal."

1 (b) Funds appropriated in this act from the General Fund to the Department of
2 Human Resources to implement subsection (a) of this section shall be used as follows:

3 (1) \$100,000 shall be used by the Department of Human Resources for
4 training, materials, and consultation services.

5 (2) \$1,875,000 shall be used for grants up to \$37,500 per grant. All 82
6 counties that currently do not have Smart Start programs shall be
7 eligible to receive grant funds. Grant funds shall be used to begin
8 implementation of the Family Resource Center Grant Program
9 established under Part 5B of Chapter 143B of the General Statutes.
10 Notwithstanding G.S. 143B-152.14(b), grants shall be awarded by
11 October 1, 1994. The grants shall be awarded for the six months
12 beginning January 1, 1995. These grants shall be based on the
13 guidelines established under Part 5B of Chapter 143B of the General
14 Statutes. However, no school shall be selected to be served by these
15 initial centers unless at least 50% of its students are eligible for the
16 federal subsidized lunch program. Notwithstanding this requirement,
17 each of the 82 counties is eligible to receive one grant for the 1994-95
18 fiscal year under this section.

19 (3) \$80,000 shall be used by the Division of Family Development,
20 Department of Human Resources, to administer the program and to
21 provide technical assistance to applicants and to family resource
22 centers.

23
24 Requested by: Senators Martin of Guilford and Perdue

25 **ANNUAL EVALUATION OF WILDERNESS CAMP PROGRAM**

26 Sec. 25. (a) The Department of Human Resources, Office of Policy
27 Development and Research, shall conduct an annual evaluation of the Wilderness Camp
28 Program. The results of the evaluation shall be submitted to the State Auditor for further
29 review and comment. The State Auditor shall transmit the evaluation along with any
30 comments to the Joint Legislative Commission on Governmental Operations no later
31 than October 1 of each year covering the program for the prior fiscal year. In
32 conducting the evaluation, among other things, the focus shall be on directing youth
33 toward long-term positive and productive noncriminal behavior. The review shall be
34 qualitative and quantitative.

35 (b) This section becomes effective July 1, 1994.

36
37 Requested by: Senators Martin of Guilford and Perdue

38 **EVALUATION OF COACH MENTOR TRAINING PROGRAM**

39 Sec. 26. (a) The Department of Human Resources, Office of Policy
40 Development and Research, shall conduct an annual evaluation of the Coach Mentor
41 Training Program for which funds have been appropriated in this act. The results of the
42 evaluation shall be submitted to the State Auditor for further review and comment no
43 later than August 31 of each year covering the program for the prior fiscal year. The
44 State Auditor shall transmit the evaluation along with any comments to the Joint

1 Legislative Commission on Governmental Operations no later than October 1 of each
2 year covering the program for the prior fiscal year. In conducting the evaluation, among
3 other things, the focus shall be on directing youth toward long-term positive and
4 productive noncriminal behavior. The review shall be qualitative and quantitative.

5 (b) This section becomes effective July 1, 1994.

6
7 Requested by: Senators Martin of Guilford and Perdue

8 **GOVERNOR'S ONE-ON-ONE PROGRAM**

9 Sec. 27. (a) Funds appropriated in this act from the General Fund to the
10 Department of Human Resources, Division of Youth Services for the Governor's One-
11 on-One Program shall be used to increase the funding for each of the existing programs
12 and to provide funding for new programs to bring the number of programs up to at least
13 a total of 65 programs at funding levels of thirty thousand dollars (\$30,000) for each
14 full-time program, fifteen thousand dollars (\$15,000) for each half-time program, and
15 sixty thousand dollars (\$60,000) for each double program.

16 (b) The Department of Human Resources, Office of Policy Development and
17 Research shall conduct an annual evaluation to assess the performance of the Governor's
18 One-on-One Program. The results of the evaluation shall be submitted to the State
19 Auditor for further review and comment no later than August 31 of each year covering
20 the program for the prior fiscal year. The State Auditor shall transmit the evaluation
21 along with any comments to the Joint Legislative Commission on Governmental
22 Operations no later than October 1 of each year covering the program for the prior fiscal
23 year. In conducting the evaluation, among other things, the focus shall be on directing
24 youth toward long-term positive and productive noncriminal behavior. The review shall
25 be qualitative and quantitative.

26 (c) This section becomes effective July 1, 1994.

27
28 Requested by: Senators Perdue, Martin of Guilford, and Winner of Mecklenburg

29 **ALTERNATIVES TO DETENTION PROGRAM**

30 Sec. 28. (a) Of the funds appropriated in this act from the General Fund to the
31 Department of Human Resources, Division of Youth Services, the sum of one hundred
32 twenty-five thousand dollars (\$125,000) for the 1993-94 fiscal year and the sum of five
33 hundred thousand dollars (\$500,000) for the 1994-95 fiscal year shall be used to
34 establish the Alternatives to Detention Program in selected district court judicial
35 districts that do not currently have them.

36 (b) The Department of Human Resources shall perform an evaluation of how the
37 expanded Alternatives to Detention Program affects admission to juvenile detention
38 facilities and shall report the results of this evaluation to the General Assembly by
39 March 1, 1995.

40 (c) This section becomes effective April 1, 1994.

41
42 Requested by: Senators Perdue, Martin of Guilford, and Tally

43 **OUTCOME-BASED ENHANCEMENT OF COMMUNITY-BASED** 44 **ALTERNATIVES PROGRAM**

1 Sec. 29. (a) G.S. 7A-289.13 reads as rewritten:

2 "**§ 7A-289.13. Legislative intent.**

3 The General Assembly hereby declares its intent to reduce the number of children
4 committed by the courts for delinquency to institutions operated by the Division of
5 Youth Development, Department of Human Resources or other State agencies. The
6 primary intent of this Article is to provide a comprehensive plan for the development of
7 community-based alternatives to training school commitment so that 'status offenders'
8 (defined by this Article to include 'those juveniles guilty of offenses which would not be
9 violations of the law if committed by an adult') may be eliminated from the youth
10 development institutions of this State. Additionally it is the intent of this legislation to
11 provide noninstitutional disposition options in any case before the juvenile court where
12 ~~such this~~ disposition is deemed to be considered in the best interest of the child and the
13 community.

14 The policy and intent of the General Assembly in delinquency prevention and
15 community-based services can be summarized as follows:

16 (1) ~~Such~~ These programs ~~should~~ shall be planned and organized at the
17 community level within the State, and ~~such~~ these planning efforts
18 ~~should~~ shall include appropriate representation from local government,
19 local public and private agencies serving families and ~~children (both~~
20 ~~public and private)~~ children, local business leaders, citizens with an
21 interest in youth problems, youth representatives, and others as may be
22 appropriate in a particular community. The role of the State ~~should~~
23 shall be to provide technical assistance, access to funding, and
24 program information, and to assist local leadership in appropriate
25 planning.

26 (1a) As a prerequisite for receiving funding for Community-Based
27 Alternatives, each county shall appoint a Community-Based
28 Alternatives Youth Services Advisory Committee and shall update and
29 revise the Committee's membership to ensure appropriate
30 representation.

31 (1b) The Community-Based Alternatives Youth Services Advisory
32 Committee required by subdivision (1a) of this section shall annually
33 review the needs of troubled juveniles within its county, develop and
34 advertise a Request for Proposal process, and submit a written Plan of
35 Action for the expenditure of Community-Based Alternatives funds to
36 the county for its approval. Upon the county's authorization, the Plan
37 shall be submitted to the Division of Youth Services for final approval
38 and subsequent implementation.

39 (1c) The Division of Youth Services shall develop and implement uniform
40 standards for each county's Community-Based Alternatives Youth
41 Services Advisory Committee's annual certification and written
42 requirements for program planning including a standard format for the
43 Request for Proposal.

1 (2) When a child is adjudicated to be within the juvenile jurisdiction of the
2 district ~~court~~ court, ~~such~~ this child should be carefully evaluated
3 through the available community-level ~~resources~~ (including resources,
4 including mental health, social services, public health and other
5 available medical services, public schools, and ~~others as appropriate)~~
6 other appropriate services, prior to the juvenile hearing dealing with
7 disposition so that the disposition of the court may be made with an
8 understanding of the needs of the child and after consideration of the
9 resources available to meet these needs.

10 (3) It is contrary to the policy of the State for a court to separate a child
11 from his ~~the~~ child's own family or commit a child to an institution or
12 training school without a careful evaluation of the needs of the child.

13 (4) The General Assembly finds that State and local government ~~should~~
14 shall be responsive to the need for community-based services ~~which~~
15 that would provide a viable alternative to commitment to an institution
16 or training school. The General Assembly intends that State
17 government should be responsive to this need through the Department
18 of Human Resources by helping public and private local groups to
19 plan, ~~develop~~ develop, and fund community-based programs, both
20 residential and nonresidential. ~~It is recognized~~ The General Assembly
21 recognizes that ~~such~~ these efforts will require the cooperation of
22 several major State departments in addition to Human Resources, such
23 as the Department of Public Instruction, the Administrative Office of
24 the Courts, and the Governor's Crime Commission. ~~Commission of the~~
25 Department of Crime Control and Public Safety.

26 (5) It is the intent of the General Assembly that the Secretary of the
27 Department of Human Resources develop a funding mechanism that
28 will provide State support for programs that meet the standards as
29 developed under the provisions of this Article."

30 (b) Of the funds appropriated in this act from the General Fund to the
31 Department of Human Resources, Division of Youth Services, the sum of five hundred
32 thousand dollars (\$500,000) for the 1994-95 fiscal year shall be used to expand
33 Community-Based Alternatives services.

34 (c) It is the intent of the General Assembly that each county receiving these
35 funds use the funds so as to maximize the needed local services for those juveniles
36 identified by the county to be most at risk for commitment to training school. The
37 Division of Youth Services shall allocate these funds as follows:

38 (1) \$500,000, considered as "merit" expansion, allocated among the
39 counties based on their population of 10- to 17-year-olds and on their
40 willingness to submit to the Division of Youth Services a localized,
41 strategic plan of action for enhancing interagency coordination and
42 using Community-Based Alternatives more effectively.

43 The Division of Youth Services shall require that all counties that, in 1993, committed
44 juveniles to training schools at rates that exceeded the overall State average submit to it

1 a goal-specific plan to reduce their dependency on incarceration as a dispositional
2 alternative.

3 (d) These funds shall be matched by each county as currently required by the
4 Division of Youth Services.

5
6 Requested by: Senators Martin of Guilford and Perdue

7 **DHR STUDY OF JUVENILE JUSTICE SYSTEM**

8 Sec. 30. (a) The Department of Human Resources shall conduct a
9 comprehensive study of the Division of Youth Services' juvenile justice system in order
10 to ensure the efficacy, cost-effectiveness, and optimal utilization of the system and its
11 continuum of services. The Department may contract with an independent consultant to
12 assist it in its study. The Administrative Office of the Courts, the Department of
13 Correction, and any other State or local agencies the Department considers have a role
14 in the juvenile justice system shall cooperate with the Department in its study.

15 The Department shall convene an advisory panel to assist it in its study. This
16 panel shall consist of the Administrative Officer of the Courts, as many juvenile court
17 judges as the Department considers necessary, three Senators recommended by the
18 President Pro Tempore of the Senate, three Representatives recommended by the
19 Speaker of the House of Representatives, and any others the Department considers
20 necessary.

21 Members of this advisory panel shall receive the subsistence and travel
22 expenses set forth in Chapter 120 and Chapter 138 of the General Statutes, as
23 appropriate.

24 (b) This study shall include:

- 25 (1) An analysis, including an assessment of safety risks to community and
26 staff, of the current training school population;
- 27 (2) An assessment of adult and juvenile recidivism rates of recent training
28 school residents;
- 29 (3) An analysis of the cost and success of dispositions of juvenile
30 offenders who are placed on probation or assigned to other programs;
- 31 (4) An evaluation of the Community-Based Alternative Program;
- 32 (5) An assessment of the juvenile offender systems and programs used in
33 other states;
- 34 (6) The development of an early warning system by which potential
35 youthful offenders are identified at a very early age so that intervention
36 can be made to prevent adverse outcomes;
- 37 (7) An evaluation of vocational education in the training schools;
- 38 (8) An analysis of other services and treatments offered in training
39 schools;
- 40 (9) Alternatives to detention and to training schools;
- 41 (10) Proposals for appropriate reforms of the current dispositional system
42 that will help juvenile offenders become productive citizens, control
43 costs, and protect the public safety;

- 1 (11) Recommendations to enable accountability and evaluation of outcomes
2 of juvenile programs and dispositions, including recommendations for
3 system changes that will enable tracking of participants in juvenile
4 offender programs into the adult criminal and other juvenile offender
5 programs; and
- 6 (12) Recommendations concerning whether a commission should be
7 established to periodically review and evaluate the juvenile justice
8 system and the composition of such a commission if established.
- 9 (c) The study components should be measured by whether the juvenile justice
10 system provides:
- 11 (1) Skills to develop positive self-concept, the ability to analyze and
12 understand consequences of their choices, the ability to accept
13 responsibility for one's own action, and to develop positive
14 interpersonal relationships;
- 15 (2) Opportunity for educational achievement and acquisition of usable job
16 skills;
- 17 (3) Skills for remaining free from substance abuse, violence and criminal
18 activity;
- 19 (4) Opportunity to involve family members and other significant
20 individuals in the rehabilitative and treatment processes;
- 21 (5) Effective support systems for juveniles and their family members that
22 are designed to increase the prospect of achieving and maintaining
23 long-term program goals;
- 24 (6) Program methodologies and staff training and development that is
25 consistent and correlates with program goals; and
- 26 (7) Evidence of effective and efficient client-focused collaborative and
27 cooperative service delivery arrangements with other public and
28 private agencies.
- 29 (d) The Department shall complete this study by October 31, 1994, and shall
30 report the results of this study to the 1995 General Assembly by February 1, 1995.

31
32 Requested by: Senators Martin of Guilford and Perdue

33 **GOVERNOR'S COUNCIL ON CHILDREN, YOUTH, AND FAMILIES**

34 Sec. 31. (a) Article 3 of Chapter 143 of the General Statutes is amended by
35 adding a new Part to read:

36 **"PART 5A. GOVERNOR'S COUNCIL ON CHILDREN, YOUTH, AND**
37 **FAMILIES.**

38 **"§ 143B-152.1. Intent.**

39 It is the intent of the General Assembly to (i)promote and encourage collaboration
40 and collaborative planning and delivery of services among agencies that serve the needs
41 of children, youth, and families, (ii) make more effective use of existing federal, State,
42 and local resources and programs for children, youth, and families, (iii) streamline the
43 delivery of services and eliminate duplication of services for children, youth, and
44 families, and (iv) promote and enhance State-level leadership in achieving these goals.

1 **"§ 143B-152.2. Governor's Council on Children, Youth, and Families; creation;**
2 **meetings.**

3 (a) There is created a Governor's Council on Children, Youth, and Families in the
4 Department of Human Resources for budgetary and staffing purposes only. The
5 Department of Human Resources shall provide staff and clerical support to the Council,
6 but the Council shall exercise its statutory powers and duties independently of the
7 Department.

8 (b) The Council shall consist of the following members:

- 9 (1) One representative of the Office of the Governor, appointed by the
10 Governor;
- 11 (2) The Superintendent of Public Instruction;
- 12 (3) The Secretary of Environment, Health, and Natural Resources;
- 13 (4) The Secretary of Human Resources; and
- 14 (5) The Chair of the State Board of Education.

15 The Governor may appoint any other representatives of State, local, or private
16 entities that provide services and programs for children, youth, and families, and other
17 interested individuals, such as low-income parents, parents of children with special
18 needs, representatives of business and industry, and representatives of County Councils
19 established under this Part, to serve on this Council. The Governor shall appoint or
20 serve as the Chair of the Council.

21 (c) The Governor shall convene the Council within 60 days of the effective date
22 of this Part. Thereafter, the Council shall meet at least biannually upon the call of the
23 Chair of the Council.

24 (d) The Governor shall set the agenda for the Council's first meeting; the Chair,
25 upon consultation with the Governor, shall set the agenda for subsequent meetings. The
26 Governor shall consider the Council's reports in setting State policy for children, youth,
27 and families.

28 **"§ 143B-152.3. Powers and duties of the Council.**

29 (a) The Council shall:

- 30 (1) Provide State-level leadership on issues affecting children and youth,
31 including children with special needs, and their families;
- 32 (2) Foster collaboration and coordination between and among the many
33 State agencies with responsibility for providing services to children,
34 youth, and families;
- 35 (3) Help develop and carry out a unified and comprehensive long-range
36 agenda for children, youth, and families;
- 37 (4) Promote accountability for achieving the State's goals in a timely and
38 effective manner by establishing strategies for evaluating programs
39 affecting children, youth, and families;
- 40 (5) Advise the Governor upon any other matter that the Governor may
41 refer to the Council; and
- 42 (6) Report biannually to the Governor and annually to the General
43 Assembly on its progress in meeting the intent and purpose of this
44 Part.

- 1 (b) In carrying out its duties, the Council may:
- 2 (1) Develop a strategic plan for the development, coordination, and
- 3 implementation of services and programs for children, youth, and
- 4 families. This plan should:
- 5 a. Include a system to evaluate the success of existing and new
- 6 services and programs;
- 7 b. Consider services and programs that are provided by nonpublic
- 8 agencies; and
- 9 c. Consider the establishment of a single portal of entry at the
- 10 local level for the delivery of services by public agencies to
- 11 children, youth, and families;
- 12 (2) Prepare a State-level cooperative agreement among primary State
- 13 agencies involved with providing services to children, youth, and
- 14 families. This agreement should address staffing, technical assistance,
- 15 and other needs of local entities in their development of Family
- 16 Resource Centers and Support Our Students Centers;
- 17 (3) Identify federal, State, local, and private funds and other support for
- 18 services and programs for children, youth, and families;
- 19 (4) Review the programs of all State agencies that provide services to
- 20 children, youth, and families and advise the Governor, Secretary of
- 21 Human Resources, Secretary of Environment, Health, and Natural
- 22 Resources, Superintendent of Public Instruction, and the Chair of the
- 23 State Board of Education on the coordination of programs to prevent
- 24 duplication and overlapping of these services;
- 25 (5) Develop recommendations with regard to laws, rules, and policies so
- 26 as to improve the effective and efficient delivery of services through
- 27 individual agencies and through collaboration among agencies. In
- 28 particular, the Council should evaluate laws, rules, and policies related
- 29 to confidentiality of records so as to make recommendations to remove
- 30 barriers to interagency exchange of information;
- 31 (6) Serve as the agency through which various public and nonpublic
- 32 organizations concerned with children, youth, and families can
- 33 exchange information, coordinate programs, and be helped to engage
- 34 in joint endeavors; and
- 35 (7) Consider the reports of the County Councils in its deliberations and
- 36 recommendations.
- 37 (c) The Chair may establish any standing, ad hoc, or interagency committees and
- 38 task forces as may be necessary to carry out the functions of the Council and may
- 39 appoint Council members or other individuals to serve on these committees and task
- 40 forces.
- 41 (d) The Council shall establish a Grant Review Committee that shall:
- 42 (1) Receive and review applications for grants to establish Support Our
- 43 Students Centers under Part 8 of Article 16 of Chapter 115C of the

1 General Statutes and to establish Family Resource Centers under Part
2 5B of Article 3 of Chapter 143B of the General Statutes;

3 (2) Develop a system for submitting applications and awarding grants for
4 these centers;

5 (3) Make recommendations on grant awards for Support Our Students
6 Centers to the State Board of Education based on the criteria
7 established in Part 8 of Article 16 of Chapter 115C of the General
8 Statutes; and

9 (4) Make recommendations on grant awards for Family Resource Centers
10 to the Secretary of Human Resources based on the criteria established
11 in Part 5B of Article 3 of Chapter 143B of the General Statutes.

12 (e) All appropriate agencies, including the Department of Human Resources, the
13 Department of Public Instruction, the State Board of Education, the Department of
14 Environment, Health, and Natural Resources, the Administrative Office of the Courts,
15 and other public and private providers of services for children, youth, and families shall
16 cooperate with the Council in carrying out its mandate.

17 **§ 143B-152.4. County Councils on Children, Youth, and Families; creation;**
18 **meetings.**

19 (a) Each county may establish a County Council on Children, Youth, and
20 Families.

21 (b) Each County Council shall consist of the following members who shall be
22 generally reflective of the racial and socioeconomic diversity of the county:

23 (1) The superintendent of each local school administrative unit located in
24 the county;

25 (2) The director of the county department of social services;

26 (3) The director of the county department of public health;

27 (4) A local mental health professional, appointed by the director of the
28 area authority established under Chapter 122C of the General Statutes;

29 (5) The local board of education of each local school administrative unit
30 located in the county shall appoint one member of the board of
31 education, one teacher who teaches children in any of the grades
32 between kindergarten through ninth grade, and one public school
33 social worker or other student support personnel;

34 (6) The county board of commissioners shall appoint one commissioner,
35 one representative of the public library, and one local law enforcement
36 officer;

37 (7) The county manager;

38 (8) The Chief District Court Judge shall appoint one District Court Judge
39 with expertise relating to the juvenile justice system; and

40 (9) The President of the Community College that serves the county, or the
41 President's designee.

42 The Council members named above shall appoint one representative of business and
43 industry, one representative of a nonprofit organization that provides services to
44 children, youth, and families, and one representative from a county religious

1 organization. The Council shall appoint no less than three parents of children who are
2 eligible to be served by programs coordinated by any Neighborhood Councils as they
3 are established. These parents also should be members of the Neighborhood Council of
4 the program that serves their children.

5 A County Council may appoint any other representatives of local public, private, or
6 nonprofit agencies that provide services and programs for children, youth, and families
7 in the county, and other interested individuals, such as low-income parents, parents of
8 children with special needs, and representatives of business and industry, to serve as
9 members of the County Council. The Council shall elect a chair from its membership.
10 Vacancies on a County Council shall be filled by the original appointing authority.

11 A local organization formed in accordance with G.S. 143B-168.12 that exists within
12 the county may serve as the basis of the County Council. In this case, the appointing
13 authorities shall add additional members from the entities required to be represented by
14 this subsection.

15 (c) The chair of the county board of commissioners and the chair of the board of
16 education of each local school administrative unit in the county shall jointly call the first
17 meeting and set the agenda for that meeting. Thereafter, the County Council shall meet
18 at least quarterly upon the call of its chair, and the chair shall set the agendas for
19 subsequent meetings.

20 **"§ 143B-152.5. Powers and duties of County Councils.**

21 (a) A County Council shall:

- 22 (1) Provide local-level leadership on issues affecting children and youth,
23 including children with special needs, and their families;
- 24 (2) Foster collaboration and coordination between and among the many
25 local agencies with responsibility for providing services to children,
26 youth, and families;
- 27 (3) Help develop and carry out a unified and comprehensive long-range
28 agenda for children, youth, and families;
- 29 (4) Promote accountability for achieving these goals in a timely and
30 effective manner by establishing strategies for evaluating programs
31 that serve children, youth, and families;
- 32 (5) Identify sources of fiscal and other support for services and programs
33 for children, youth, and families in the county;
- 34 (6) Develop a system for selecting sites for Family Resource Centers and
35 Support Our Students Centers, for assisting Neighborhood Councils in
36 applying for grants to establish these centers, and for assisting in the
37 monitoring of the ongoing operations of these centers as they are
38 established;
- 39 (7) Apply for incorporation no later than one year after formation of the
40 Council; and
- 41 (8) Report annually to the Governor's Council on Children, Youth, and
42 Families on its progress in meeting the intent and purpose of this Part.

43 (b) In carrying out its duties, a County Council may:

- 1 (1) Develop a strategic plan for the development, coordination, and
2 implementation of services and programs for children, youth, and
3 families in the county. This plan should:
4 a. Include a system to evaluate the success of existing and new
5 services and programs; and
6 b. Consider services and programs for children, youth, and
7 families that are provided by local private or nonprofit agencies;
8 (2) Prepare a local-level cooperative agreement among primary local
9 public agencies involved with providing services to children, youth,
10 and families in the county. This agreement should address staffing,
11 technical assistance, and other needs of Family Resource Centers and
12 Support Our Students Centers;
13 (3) Develop recommendations concerning laws, rules, and policies so as to
14 improve the effective and efficient delivery of services through
15 individual agencies and through collaboration among agencies; and
16 (4) Serve as the local agency through which various public and nonpublic
17 organizations concerned with children, youth, and families can
18 exchange information, coordinate programs, and be helped to engage
19 in joint endeavors.
20 (c) A County Council may establish any standing, ad hoc, and interagency
21 committees and task forces, such as task forces for Support Our Students and Family
22 Resource Center programs, as may be necessary to carry out the functions of the
23 Council and may appoint Council members or other individuals to serve on these
24 committees and task forces.
25 (d) All appropriate agencies and other providers of services for children, youth,
26 and families in the county shall cooperate with the County Council in carrying out its
27 mandate."
28 (b) The Governor's Council on Children, Youth, and Families shall develop
29 procedures to evaluate the Family Resource Center Grant Program established under
30 Part 5B of Article 3 of Chapter 143B of the General Statutes and the Support Our
31 Students (S.O.S.) Program established under Part 8 of Article 16 of Chapter 115C of the
32 General Statutes. The Council may contract with a constituent institution of The
33 University of North Carolina or with a nonprofit agency to carry out the evaluation,
34 which shall include a short-term program evaluation and a system to measure and
35 analyze long-term program goals and outcomes. The Council shall report to the General
36 Assembly by December 31, 1995, on the results of this evaluation.
37 (c) The Governor's Council on Children, Youth, and Families shall file its
38 initial report to the General Assembly under G.S. 143B-152.3(a)(6) no later than
39 December 31, 1994, and annually thereafter.
40 (d) Of the funds appropriated in this act from the General Fund to the
41 Department of Human Resources, the sum of one hundred fifty thousand dollars
42 (\$150,000) for the 1994-95 fiscal year shall be used to carry out the evaluation in
43 subsection (b) of this section.
44

1 Requested by: Senators Daniel and Plyler

2 **TRAINING SCHOOL FUNDS ALLOCATION**

3 Sec. 32. Funds appropriated in this act to the Department of Human
 4 Resources, Division of Youth Services, for additional training school beds shall be used
 5 for staffing requirements as proposed by the Governor, except that the position of
 6 business manager at each of the five training schools shall not be funded, and one
 7 additional business manager position at the Division level may be funded.

8

9 **PART 11. JUDICIAL DEPARTMENT**

10

11 Requested by: Senators Kerr, Odom, and Cooper

12 **DEFERRED PROSECUTION STUDY**

13 Sec. 33. The Administrative Office of the Courts, in consultation with the
 14 North Carolina Conference of District Attorneys, shall study the problem of
 15 underutilization of the deferred prosecution program established in G.S. 143B-475.1
 16 and shall recommend methods for encouraging greater use of the program across the
 17 State. The Administrative Office of the Courts shall report its findings and
 18 recommendations to the 1995 General Assembly.

19

20 Requested by: Senators Conder, Ballance, and Soles

21 **DISTRICT ATTORNEY ACCESS TO POLICE INFORMATION NETWORK**

22 Sec. 34. (a) Funds appropriated in this act to the Judicial Department for the
 23 1993-94 fiscal year to provide access to the Police Information Network that are not
 24 expended by the end of the fiscal year shall not revert, but shall remain available for the
 25 next fiscal year.

26 (b) This section becomes effective April 1, 1994.

27

28 Requested by: Senators Cooper and Odom

29 **DRUG COURT PROGRAM FUNDS/SANCTIONS FOR UNFOUNDED**
 30 **AFFIDAVIT FOR REMOVAL OF DISTRICT ATTORNEY**

31 Sec. 35. (a) G.S. 7A-41(a) reads as rewritten:

32 "(a) The counties of the State are organized into judicial divisions and superior
 33 court districts, and each superior court district has the counties, and the number of
 34 regular resident superior court judges set forth in the following table, and for districts of
 35 less than a whole county, as set out in subsection (b) of this section:

| 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 |
|----|----------|----------|-----------------|----|----|----|----|----|
| | Judicial | Superior | | | | | | |
| | Division | Court | Counties | | | | | |
| | | District | | | | | | |
| | First | 1 | Camden, Chowan, | | | | | |
| | | | Currituck, | | | | | |
| | | | Dare, Gates, | | | | | |
| | | | Pasquotank, | | | | | |
| | | | Perquimans | | | | | |

| | | | |
|----|-----|----------------------|---|
| 1 | 2 | Beaufort, Hyde, | 1 |
| 2 | | Martin, | |
| 3 | | Tyrrell, Washington | |
| 4 | 3A | Pitt | 2 |
| 5 | 3B | Carteret, Craven, | 2 |
| 6 | | Pamlico | |
| 7 | 4A | Duplin, Jones, | 1 |
| 8 | | Sampson | |
| 9 | 4B | Onslow | 1 |
| 10 | 5 | New Hanover, | 3 |
| 11 | | Pender | |
| 12 | 6A | Halifax | 1 |
| 13 | 6B | Bertie, Hertford, | 1 |
| 14 | | Northampton | |
| 15 | 7A | Nash | 1 |
| 16 | 7B | (part of Wilson, | 1 |
| 17 | | part of Edgecombe, | |
| 18 | | see subsection (b)) | |
| 19 | 7C | (part of Wilson, | 1 |
| 20 | | part of Edgecombe, | |
| 21 | | see subsection (b)) | |
| 22 | 8A | Lenoir and Greene | 1 |
| 23 | 8B | Wayne | 1 |
| 24 | 9 | Franklin, Granville, | 2 |
| 25 | | Vance, Warren | |
| 26 | 9A | Person, Caswell | 1 |
| 27 | 10A | (part of Wake, | 2 |
| 28 | | see subsection (b)) | |
| 29 | 10B | (part of Wake, | 2 |
| 30 | | see subsection (b)) | |
| 31 | 10C | (part of Wake, | 1 |
| 32 | | see subsection (b)) | |
| 33 | 10D | (part of Wake, | 1 |
| 34 | | see subsection (b)) | |
| 35 | 11 | Harnett, Johnston, | 2 |
| 36 | | Lee | |
| 37 | 12A | (part of Cumberland, | 1 |
| 38 | | see subsection (b)) | |
| 39 | 12B | (part of Cumberland, | 1 |
| 40 | | see subsection (b)) | |
| 41 | 12C | (part of Cumberland, | 2 |
| 42 | | see subsection (b)) | |
| 43 | 13 | Bladen, Brunswick, | 2 |
| 44 | | Columbus | |

| | | | | |
|----|--------|-----|---|---|
| 1 | | 14A | (part of Durham, see subsection (b)) | 1 |
| 2 | | | | |
| 3 | | 14B | (part of Durham, see subsection (b)) | 3 |
| 4 | | | | |
| 5 | | 15A | Alamance | 2 |
| 6 | | 15B | Orange, Chatham | 1 |
| 7 | | 16A | Scotland, Hoke | 1 |
| 8 | | 16B | Robeson | 2 |
| 9 | Third | 17A | Rockingham | 2 |
| 10 | | 17B | Stokes, Surry | 2 |
| 11 | | 18A | (part of Guilford, see subsection (b)) | 1 |
| 12 | | | | |
| 13 | | 18B | (part of Guilford, see subsection (b)) | 1 |
| 14 | | | | |
| 15 | | 18C | (part of Guilford, see subsection (b)) | 1 |
| 16 | | | | |
| 17 | | 18D | (part of Guilford, see subsection (b)) | 1 |
| 18 | | | | |
| 19 | | 18E | (part of Guilford, see subsection (b)) | 1 |
| 20 | | | | |
| 21 | | 19A | Cabarrus | 1 |
| 22 | | 19B | Montgomery, Randolph | 1 |
| 23 | | | | |
| 24 | | 19C | Rowan | 1 |
| 25 | | 20A | Anson, Moore, Richmond | 2 |
| 26 | | | | |
| 27 | | 20B | Stanly, Union | 2 |
| 28 | | 21A | (part of Forsyth, see subsection (b)) | 1 |
| 29 | | | | |
| 30 | | 21B | (part of Forsyth, see subsection (b)) | 1 |
| 31 | | | | |
| 32 | | 21C | (part of Forsyth, see subsection (b)) | 1 |
| 33 | | | | |
| 34 | | 21D | (part of Forsyth, see subsection (b)) | 1 |
| 35 | | | | |
| 36 | | 22 | Alexander, Davidson, Davie, Iredell | 2 |
| 37 | | | | |
| 38 | | 23 | Alleghany, Ashe, Wilkes, Yadkin | 1 |
| 39 | | | | |
| 40 | Fourth | 24 | Avery, Madison, Mitchell, Watauga, Yancey | 1 |
| 41 | | | | |
| 42 | | | | |
| 43 | | 25A | Burke, Caldwell | 2 |
| 44 | | 25B | Catawba | 2 |

| | | | |
|----|-----|--|-----------------------|
| 1 | 26A | (part of Mecklenburg, see subsection (b)) | 2 <u>3</u> |
| 2 | | | |
| 3 | 26B | (part of Mecklenburg, see subsection (b)) | 2 |
| 4 | | | |
| 5 | 26C | (part of Mecklenburg, see subsection (b)) | 2 |
| 6 | | | |
| 7 | 27A | Gaston | 2 |
| 8 | 27B | Cleveland, Lincoln | 2 |
| 9 | 28 | Buncombe | 2 |
| 10 | 29 | Henderson, | 2 |
| 11 | | McDowell, Polk, | |
| 12 | | Rutherford, | |
| 13 | | Transylvania | |
| 14 | 30A | Cherokee, Clay, | 1 |
| 15 | | Graham, Macon, | |
| 16 | | Swain | |
| 17 | 30B | Haywood, Jackson | 1." |

18 (b) Effective April 1, 1995, the Governor shall appoint the superior court
 19 judge for District 26A authorized by subsection (a) of this section, whose term shall
 20 expire December 31, 1996. This judge's successor shall be chosen in the 1996 general
 21 election.

22 (c) G.S. 7A-45.1(a) reads as rewritten:

23 "(a) Effective November 1, 1993, the Governor may appoint a special superior
 24 court judge to serve a term expiring December 31, 1998. Effective July 1, 1994, the
 25 Governor may appoint a special superior court judge to serve a term expiring December
 26 31, 1996. Successors to the special superior court judges appointed pursuant to this
 27 subsection shall be appointed to four-year terms. A special judge takes the same oath of
 28 office and is subject to the same requirements and disabilities as are or may be
 29 prescribed by law for regular judges of the superior court, save the requirement of
 30 residence in a particular district."

31 (d) G.S. 7A-60(a1) reads as rewritten:

32 "(a1) The counties of the State are organized into prosecutorial districts, and each
 33 district has the counties and the number of full-time assistant district attorneys set forth
 34 in the following table:

| 35 | | | No. of Full-Time |
|------------------|----------------------------|-----------|------------------|
| 36 Prosecutorial | | | Asst. District |
| 37 District | Counties | Attorneys | |
| 38 1 | Camden, Chowan, Currituck, | 7 | |
| 39 | Dare, Gates, Pasquotank, | | |
| 40 | Perquimans | | |
| 41 2 | Beaufort, Hyde, Martin, | 4 | |
| 42 | Tyrrell, Washington | | |
| 43 3A | Pitt | 6 | |
| 44 3B | Carteret, Craven, Pamlico | 6 | |

| | | | |
|----|-----|--|----|
| 1 | 4 | Duplin, Jones, Onslow, 10 | |
| 2 | | Sampson | |
| 3 | 5 | New Hanover, Pender 9 | |
| 4 | 6A | Halifax 3 | |
| 5 | 6B | Bertie, Hertford, 3 | |
| 6 | | Northampton | |
| 7 | 7 | Edgecombe, Nash, Wilson | 10 |
| 8 | 8 | Greene, Lenoir, Wayne 8 | |
| 9 | 9 | Franklin, Granville, 7 | |
| 10 | | Vance, Warren | |
| 11 | 9A | Person, Caswell 2 | |
| 12 | 10 | Wake | 19 |
| 13 | 11 | Harnett, Johnston, Lee 9 | |
| 14 | 12 | Cumberland 12 | |
| 15 | 13 | Bladen, Brunswick, Columbus 6-7 | |
| 16 | 14 | Durham 9 | |
| 17 | 15A | Alamance 6 | |
| 18 | 15B | Orange, Chatham 5 | |
| 19 | 16A | Scotland, Hoke 3 | |
| 20 | 16B | Robeson 7 | |
| 21 | 17A | Rockingham 4 | |
| 22 | 17B | Stokes, Surry 4 | |
| 23 | 18 | Guilford 17 | |
| 24 | 19A | Cabarrus 4 | |
| 25 | 19B | Montgomery, Randolph 5 | |
| 26 | 19C | Rowan 4 | |
| 27 | 20 | Anson, Moore, Richmond, 11 | |
| 28 | | Stanly, Union | |
| 29 | 21 | Forsyth 12 | |
| 30 | 22 | Alexander, Davidson, Davie, 11 | |
| 31 | | Iredell | |
| 32 | 23 | Alleghany, Ashe, Wilkes, 4 | |
| 33 | | Yadkin | |
| 34 | 24 | Avery, Madison, Mitchell, 3 | |
| 35 | | Watauga, Yancey | |
| 36 | 25 | Burke, Caldwell, Catawba 11 | |
| 37 | 26 | Mecklenburg 23 | |
| 38 | 27A | Gaston 8 | |
| 39 | 27B | Cleveland, 5 | |
| 40 | | Lincoln | |
| 41 | 28 | Buncombe 8 | |
| 42 | 29 | Henderson, McDowell, Polk, 8 | |
| 43 | | Rutherford, Transylvania | |
| 44 | 30 | Cherokee, Clay, Graham, 6 | |

1 Haywood, Jackson, Macon,
2 Swain."

3 (e) G.S. 7A-60(a1) reads as rewritten:

4 "(a1) The counties of the State are organized into prosecutorial districts, and each
5 district has the counties and the number of full-time assistant district attorneys set forth
6 in the following table:

| | | | | No. of Full-Time Asst. District |
|----|---------------|-----------------------------|-----------|------------------------------------|
| 7 | | | | |
| 8 | Prosecutorial | | | |
| 9 | District | Counties | Attorneys | |
| 10 | 1 | Camden, Chowan, Currituck, | 7 | |
| 11 | | Dare, Gates, Pasquotank, | | |
| 12 | | Perquimans | | |
| 13 | 2 | Beaufort, Hyde, Martin, | 4 | |
| 14 | | Tyrrell, Washington | | |
| 15 | 3A | Pitt | 6 | |
| 16 | 3B | Carteret, Craven, Pamlico | 6 | |
| 17 | 4 | Duplin, Jones, Onslow, | 10 | |
| 18 | | Sampson | | |
| 19 | 5 | New Hanover, Pender | 9 | |
| 20 | 6A | Halifax | 3 | |
| 21 | 6B | Bertie, Hertford, | 3 | |
| 22 | | Northampton | | |
| 23 | 7 | Edgecombe, Nash, Wilson | | 10 |
| 24 | 8 | Greene, Lenoir, Wayne | 8 | |
| 25 | 9 | Franklin, Granville, | 7 | |
| 26 | | Vance, Warren | | |
| 27 | 9A | Person, Caswell | 2 | |
| 28 | 10 | Wake | | 19 |
| 29 | 11 | Harnett, Johnston, Lee | 9 | |
| 30 | 12 | Cumberland | 12 | |
| 31 | 13 | Bladen, Brunswick, Columbus | 7 | |
| 32 | 14 | Durham | 9 | |
| 33 | 15A | Alamance | 6 | |
| 34 | 15B | Orange, Chatham | 5 | |
| 35 | 16A | Scotland, Hoke | 3 | |
| 36 | 16B | Robeson | 7 | |
| 37 | 17A | Rockingham | 4 | |
| 38 | 17B | Stokes, Surry | 4 | |
| 39 | 18 | Guilford | 17 | |
| 40 | 19A | Cabarrus | 4 | |
| 41 | 19B | Montgomery, Randolph | 5 | |
| 42 | 19C | Rowan | 4 | |
| 43 | 20 | Anson, Moore, Richmond, | 11 | |
| 44 | | Stanly, Union | | |

| | | | |
|----|-----|-----------------------------|-------------------|
| 1 | 21 | Forsyth | 12 |
| 2 | 22 | Alexander, Davidson, Davie, | 11 |
| 3 | | Iredell | |
| 4 | 23 | Alleghany, Ashe, Wilkes, | 4 |
| 5 | | Yadkin | |
| 6 | 24 | Avery, Madison, Mitchell, | 3 |
| 7 | | Watauga, Yancey | |
| 8 | 25 | Burke, Caldwell, Catawba | 11 |
| 9 | 26 | Mecklenburg | 23 -27 |
| 10 | 27A | Gaston | 8 |
| 11 | 27B | Cleveland, | 5 |
| 12 | | Lincoln | |
| 13 | 28 | Buncombe | 8 |
| 14 | 29 | Henderson, McDowell, Polk, | 8 |
| 15 | | Rutherford, Transylvania | |
| 16 | 30 | Cherokee, Clay, Graham, | 6 |
| 17 | | Haywood, Jackson, Macon, | |
| 18 | | Swain." | |

(f) G.S. 7A-66 is rewritten to read:

"§ 7A-66. Removal of district attorneys.

The following are grounds for suspension of a district attorney or for his removal from office:

- (1) Mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent;
- (2) Willful misconduct in office;
- (3) Willful and persistent failure to perform his duties;
- (4) Habitual intemperance;
- (5) Conviction of a crime involving moral turpitude;
- (6) Conduct prejudicial to the administration of justice which brings the office into disrepute; or
- (7) Knowingly authorizing or permitting an assistant district attorney to commit any act constituting grounds for removal, as defined in subdivisions (1) through (6) hereof.

A proceeding to suspend or remove a district attorney is commenced by filing with the clerk of superior court of the county where the district attorney resides a sworn affidavit charging the district attorney with one or more grounds for removal. The clerk shall immediately bring the matter to the attention of the senior regular resident superior court judge for the district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located who shall within 30 days either review and act on the charges or refer them for review and action within 30 days to another superior court judge residing in or regularly holding the courts of that district or set of districts. If the superior court judge upon review finds that the charges if true constitute grounds for suspension, and finds probable cause for believing that the charges are true, he may enter an order suspending the district attorney from performing the duties of his office until a final determination

1 of the charges on the merits. During the suspension the salary of the district attorney
2 continues. If the superior court judge finds that the charges if true do not constitute
3 grounds for suspension or finds that no probable cause exists for believing that the
4 charges are true, he shall dismiss the proceeding.

5 If a hearing, with or without suspension, is ordered, the district attorney should
6 receive immediate written notice of the proceedings and a true copy of the charges, and
7 the matter shall be set for hearing not less than 10 days nor more than 30 days
8 thereafter. The matter shall be set for hearing before the judge who originally examined
9 the charges or before another regular superior court judge resident in or regularly
10 holding the courts of that district or set of districts. The hearing shall be open to the
11 public. All testimony shall be recorded. At the hearing the superior court judge shall
12 hear evidence and make findings of fact and conclusions of law and if he finds that
13 grounds for removal exist, he shall enter an order permanently removing the district
14 attorney from office, and terminating his salary. If he finds that no grounds exist, he
15 shall terminate the suspension, if any.

16 The district attorney may appeal from an order of removal to the Court of Appeals
17 on the basis of error of law by the superior court judge. Pending decision of the case on
18 appeal, the district attorney shall not perform any of the duties of his office. If, upon
19 final determination, he is ordered reinstated either by the appellate division or by the
20 superior court upon remand his salary shall be restored from the date of the original
21 order of removal.

22 If the court finds that any affidavit upon which a proceeding under this section is
23 brought is not grounded in fact, or is unwarranted by existing law or a good faith
24 argument for the extension, modification or reversal of existing law, or is filed for an
25 improper purpose such as harassment, the court, upon motion or upon its own initiative,
26 shall impose sanctions against the person making or filing the affidavit. The sanctions
27 may include an order to pay the district attorney the amount of the reasonable expenses
28 incurred, including reasonable attorneys' fees."

29 (g) There is established a pilot drug court program in the Thirteenth Judicial
30 District, to be administered by the Administrative Office of the Courts. The purpose of
31 the pilot program is to determine whether the establishment of drug courts statewide is
32 feasible and cost-effective. The Administrative Office of the Courts shall evaluate the
33 pilot and file a report on the pilot with the General Assembly on or before the convening
34 of the 1995 General Assembly, Regular Session 1996. The pilot shall terminate on
35 December 31, 1996. The pilot program shall be conducted within existing funds of the
36 Administrative Office of the Courts, except for any appropriations in this act.

37 (h) Of the funds appropriated in this act from the General Fund to the
38 Judicial Department, the sum of two hundred thirty-one thousand three hundred thirty-
39 four dollars (\$231,334) for the 1994-95 fiscal year shall be used to continue funding the
40 Mecklenburg County Drug Court program during the fourth quarter of the 1994-95
41 fiscal year. The Governor's Crime Commission grant supporting this program expires
42 March 31, 1995.

43 (i) Of the funds appropriated in this act from the General Fund to the
44 Department of Correction the sum of eight thousand seven hundred fifty dollars

1 (\$8,750) for the 1994-95 fiscal year shall be used to establish one probation officer
2 position to work with the Mecklenburg County Drug Court Program.

3 (j) Of the funds appropriated from the General Fund to the Judicial
4 Department the sum of fifty-nine thousand nine hundred twenty-seven dollars (\$59,927)
5 for the 1994-95 fiscal year shall be used to fund the assistant district attorney position
6 established in subsection (d) of this section.

7 (k) Of the funds appropriated from the General Fund to the Judicial
8 Department the sum of one hundred fifteen thousand four hundred seven dollars
9 (\$115,407) for the 1994-95 fiscal year shall be used to fund the special superior court
10 judgeship established in subsection (c) of this section.

11 (l) Subsections (c), (d), (g), (j), and (k) of this section become effective July
12 1, 1994. Subsections (a), (b), (e), (h), and (i) of this section become effective April 1,
13 1995. Subsection (f) of this section is effective upon ratification.

14 15 **PART 12. DEPARTMENT OF JUSTICE**

16
17 Requested by: Senators Cooper and Odom

18 **NORTH CAROLINA DRUG COURT PROGRAM**

19 Sec. 36. (a) Subchapter IV of Chapter 7A of the General Statutes is amended
20 by adding a new Article to read:

21 **"ARTICLE 19A.**

22 **"NORTH CAROLINA DRUG TREATMENT COURT PROGRAM ACT.**

23 **"§ 7A-233. Short title.**

24 This Article shall be known and may be cited as the 'North Carolina Drug Treatment
25 Court Program Act of 1994'.

26 **"§ 7A-234. Purpose.**

27 The General Assembly recognizes that there is a critical need in this State for
28 programs within the criminal justice system that will reduce the incidences of drug
29 addiction and crimes committed as a result of drug addiction. It is the intent of the
30 General Assembly by this Article to create a program to facilitate the creation of drug
31 treatment courts in all prosecutorial districts and to fund pilot programs in a minimum
32 of two prosecutorial districts. The General Assembly intends further by this Article to
33 encourage and assist prosecutorial districts in developing programs that will provide
34 intensive treatment for drug users and addicts, reduce the repeat offenses committed by
35 the potential drug abuse population, and expedite the movement of certain felonies and
36 misdemeanors through the court system.

37 **"§ 7A-235. Definitions.**

38 The following definitions apply in this Article:

39 (1) Drug treatment court. A session of district court created under this
40 Article to provide a court-operated rehabilitation program as an
41 alternative to prosecution.

42 (2) Drug treatment court judge. The district court judge who is assigned
43 the special duty of presiding over the drug treatment court.

- 1 (3) Drug offense. A violation of the Controlled Substances Act, Article 5
2 of Chapter 90 of the General Statutes, as set out in G.S. 90-95.
- 3 (4) Post-plea sentence deferral program. A drug treatment court program
4 in which a defendant must enter a plea of guilty to the charges before
5 entering the program.
- 6 (5) Pre-plea diversion program. A drug treatment court program that a
7 defendant may enter before entering any plea to the charges.
- 8 (6) State Drug Treatment Court Program Director. The person employed
9 by the Department of Justice to monitor and coordinate the operation
10 and evaluation of the North Carolina Drug Treatment Court Program.

11 **"§ 7A-236. Establishment of program.**

12 The North Carolina Drug Treatment Court Program is established in the Department
13 of Justice to facilitate the creation of drug treatment court programs and the funding of
14 pilot drug treatment court programs. All drug treatment court programs shall operate
15 according to this Article and the guidelines developed by the State Drug Treatment
16 Court Management Committee. However, nothing in this Article prohibits or limits any
17 prosecutorial district from establishing a local drug treatment court program regardless
18 of source of funding.

19 **"§ 7A-237. Fund administration.**

20 The Drug Treatment Court Program Fund is created in the Department of Justice and
21 administered by the Attorney General in consultation with the State Drug Treatment
22 Court Management Committee established in G.S. 7A-239. This Fund shall provide
23 grants awarded by the Attorney General to prosecutorial districts that submit the most
24 comprehensive and feasible plan for the implementation of either a post-plea sentence
25 deferral program or a pre-plea diversion program in that prosecutorial district. The
26 grant money shall be awarded according to the recommendation of the Attorney General
27 and the State Drug Treatment Court Management Committee established in G.S. 7A-
28 239. Grants shall be awarded to at least two prosecutorial or judicial districts based
29 upon the general guidelines set forth in this Chapter and any further requirements
30 established by the Attorney General.

31 **"§ 7A-238. Drug treatment court model.**

32 The Attorney General, in conjunction with the State Drug Treatment Court
33 Management Committee established in G.S. 7A-239, shall develop criteria for eligibility
34 and other procedural and substantive guidelines for models of both a pre-plea diversion
35 program and a post-plea sentence deferral program.

36 **"§ 7A-239. State Drug Treatment Court Management Committee.**

37 The State Drug Treatment Court Management Committee is established to monitor
38 the drug treatment court program statewide. The Committee shall be chaired by the
39 Attorney General or the Attorney General's designee and shall consist of the following
40 persons or their designees:

- 41 (1) The Chief Justice of the North Carolina Supreme Court.
42 (2) The President of the Conference of District Attorneys.
43 (3) The Chief Appellate Defender.
44 (4) The President of the North Carolina Community College System.

- 1 (5) The Secretary of the Department of Human Resources.
- 2 (6) The President of the Association of Clerks of Superior Court.
- 3 (7) The State Drug Treatment Court Program Director.
- 4 (8) Any other person later selected by this Committee.

5 The Committee shall promulgate guidelines for the operation and evaluation of the
6 North Carolina Drug Treatment Court Program.

7 **"§ 7A-239.1. Local drug treatment court management committee.**

8 Each district choosing to establish a drug treatment court or applying to participate
9 in a funded pilot program shall form a local drug treatment court management
10 committee consisting of the following persons appointed by the district attorney for that
11 district:

- 12 (1) A district court judge.
- 13 (2) A district attorney or assistant district attorney.
- 14 (3) A public defender, assistant public defender, or member of the private
15 criminal defense bar.
- 16 (4) A clerk of superior court.
- 17 (5) A representative of the local community college.
- 18 (6) A representative of treatment providers.
- 19 (7) The local program director.
- 20 (8) Any other person selected by the local management committee.

21 The local drug treatment court management committee shall promulgate guidelines,
22 not inconsistent with State guidelines, necessary for the operation and evaluation of the
23 local drug treatment court.

24 **"§ 7A-239.2. Plan for evaluation.**

25 Each grant application for the pilot programs requesting funding shall contain a
26 method for evaluating the pilot program's effectiveness. Additionally, the State Drug
27 Treatment Court Program Director shall be responsible for developing an evaluation
28 model on the State level to compare the effectiveness of all the pilot programs.

29 **"§ 7A-239.3. Approval of district attorney.**

30 Within the general guidelines of the drug treatment court models established under
31 G.S. 7A-238, the district attorney in each prosecutorial district establishing a local drug
32 treatment court program regardless of source of funding shall have the right to approve
33 or reject at all times before entry, a defendant's entry into the drug treatment court
34 program.

35 In determining eligibility of a defendant for entry into the program, the district
36 attorney shall consider whether the defendant has any other outstanding arrest warrants,
37 prior or pending restraining orders, significant prior incidents of failing to appear, or a
38 violent prior criminal history.

39 **"§ 7A-239.4. Limited jurisdiction in district court for guilty pleas.**

40 In any prosecutorial district participating in a program established under Article 19A
41 of the General Statutes as set out in this Article, the district court shall have concurrent
42 jurisdiction with the superior court for the limited purpose of accepting pleas of guilty
43 or no contest from defendants who have agreed by written agreement and written
44 transcript of plea to enter a drug treatment court program, and of entering judgment

1 accordingly, with respect to any Class H, I, or J felony. Entry of the plea and
2 disposition in the district court shall be accomplished according to either a bill of
3 information or a bill of indictment. Before accepting the plea, the court shall determine
4 that both the State and the defendant consent to entry of the plea and disposition in the
5 district court, and neither party may withdraw consent once the court accepts the plea.

6 The chief district judge of each district court district and the senior resident superior
7 court judge for the district shall jointly establish by local rules the procedure for
8 disposing of felonies under this section. The rules shall provide for verbatim
9 recordation, in a manner approved by the Administrative Office of the Courts, of
10 proceedings related to the felonies, including proceedings that are usually recorded in
11 the superior court.

12 The judgment entered in the district court division shall be final as with judgments in
13 the superior court division, and any appeal authorized shall be to the appellate division.
14 Any proceedings that arise from the disposition of the case, including probation
15 revocation hearings, termination of drug treatment court program hearings, and
16 sentencing hearings, shall be handled under the jurisdiction of the district court similarly
17 to the practice and procedure in superior court, and the action of the district court shall
18 be final, including for the purpose of any appeal to the appellate division.

19 **"§ 7A-239.5. Admission of guilt and stipulation.**

20 In a pre-plea program, the defendant shall sign a confession of guilt to the charge
21 and stipulations as required by the district attorney.

22 **"§ 7A-239.6. Guilty plea.**

23 In a post-plea sentence deferral program, the defendant shall plead guilty before
24 being accepted into the drug treatment court program.

25 **"§ 7A-239.7. Withdrawal and restoration of rights.**

26 In a pre-plea diversion program case, the defendant has 30 calendar days from the
27 signing of the drug treatment court agreement to withdraw from the drug treatment
28 court program. The defendant shall notify the presiding judge in open court of the
29 decision to withdraw from the program and the decision to be tried on the original
30 charge or charges. Upon the judge's finding of withdrawal, all previously waived rights
31 are restored to the defendant and the defendant shall be given a date for trial or probable
32 cause hearing.

33 In a post-plea sentence deferral program, the defendant has 30 calendar days from
34 the signing of the transcript of plea to appear in open court and withdraw the plea.
35 Upon the judge's finding of withdrawal, all previously waived rights shall be restored to
36 the defendant and the defendant shall be given a date for trial or probable cause hearing.

37 **"§ 7A-239.8. Cost and fees.**

38 Each defendant shall pay the proportionate cost of the defendant's drug treatment
39 court program. The drug treatment court judge shall determine the amount and schedule
40 of payment after considering the defendant's income and ability to pay.

41 **"§ 7A-239.9. Restitution to victim.**

42 In any case in which a victim has suffered a monetary loss as a result of the acts for
43 which the defendant is charged, the drug treatment court judge shall order the defendant
44 to pay into the court money as restitution for the use and benefit of the victim. The

1 payment of restitution shall take precedence over the payment of the costs of treatment
2 and court costs. The clerk shall pay restitution to the victim as that restitution is paid
3 into the office of the clerk of superior court.

4 **"§ 7A-239.10. Disposition of charges against defendant completing program.**

5 Upon the defendant's successful completion of a pre-plea diversion program, the
6 district attorney shall dismiss the charge against the defendant.

7 Upon the defendant's successful completion of a post-plea sentence deferral program,
8 the judge shall allow the defendant to withdraw the plea and the district attorney shall
9 dismiss the case."

10 (b) G.S. 7A-272 is amended by adding a new subsection to read:

11 "(c) In any prosecutorial district participating in a drug treatment court program
12 established under Article 19A of the General Statutes as set out in G.S. 7A-233 et seq.
13 and entitled 'The North Carolina Drug Treatment Court Program Act of 1994', the
14 district court shall have concurrent jurisdiction with the superior court for the limited
15 purpose of accepting pleas of guilty or no contest from defendants who have agreed by
16 written agreement and written transcript of plea to enter a drug treatment court program,
17 and of entering judgment accordingly, with respect to any Class H, I, or J felony. Entry
18 of the plea and disposition in the district court shall be accomplished according to either
19 a bill of information or a bill of indictment. Before accepting the plea, the court shall
20 determine that both the State and the defendant consent to entry of the plea and
21 disposition in the district court, and neither party may withdraw consent once the court
22 accepts the plea.

23 The chief district judge of each district court district and the senior resident superior
24 court judge for the district shall jointly establish by local rules the procedure for
25 disposing of felonies under this section. The rules shall provide for verbatim
26 recording, in a manner approved by the Administrative Office of the Courts, of
27 proceedings related to the felonies, including proceedings that are usually recorded in
28 the superior court.

29 The judgment entered in the district court division shall be final as with judgments in
30 the superior court division, and any appeal authorized shall be to the appellate division.
31 Any proceedings that arise from the disposition of the case, including probation
32 revocation hearings, termination of drug treatment court program hearings, and
33 sentencing hearings, shall be handled under the jurisdiction of the district court similarly
34 to the practice and procedure in superior court, and the action of the district court shall
35 be final, including for the purpose of any appeal to the appellate division.

36 The costs of court for district court shall apply in a case disposed of in the district
37 court under this section unless the defendant has entered a plea in the superior court.
38 Once the defendant enters a plea in the superior court, the costs of superior court shall
39 attach for the case, even if the case is disposed of in district court and the defendant has
40 withdrawn the plea in the superior court."

41 (c) G.S. 15A-641(b) reads as rewritten:

42 "(b) An information is a written accusation by a prosecutor, filed with a superior
43 court, or filed with a district court as to a defendant entering a plea of guilty or no

1 contest in the district court under G.S. 7A-272(c), charging a person represented by
2 counsel with the commission of one or more criminal offenses."

3 (d) G.S. 15A-644(b) reads as rewritten:

4 "(b) An information must contain everything required of an indictment in
5 subsection (a) except that the accusation is that of the prosecutor and the provisions of
6 subdivision (a)(5) do not ~~apply~~-apply, and the name of the district court shall be used in
7 place of the superior court as to a case disposed of in the district court under G.S. 7A-
8 272(c). The information must also contain or have attached the waiver of indictment
9 pursuant to G.S. 15A-642(c)."

10 (e) G.S. 15A-923(a) reads as rewritten:

11 "(a) Prosecution on Information or Indictment. – The pleading in felony cases and
12 misdemeanor cases initiated in the superior court division must be a bill of indictment,
13 unless there is a waiver of the bill of indictment as provided in G.S. 15A-642. If there is
14 a waiver, the pleading must be an information. Either an indictment or an information
15 may serve as the pleading for a felony disposed of in the district court under G.S. 7A-
16 272(c). A presentment by the grand jury may not serve as the pleading in a criminal
17 case."

18 (f) Subsections (a) through (e) of this section become effective May 1, 1994,
19 and expire June 30, 1996. The remainder of this section becomes effective May 1,
20 1994.

21 22 **PART 13. PUBLIC SCHOOLS**

23
24 Requested by: Senators Martin of Guilford and Perdue

25 **SUPPORT OUR STUDENTS (S.O.S.) PILOT PROGRAM**

26 Sec. 37. (a) Article 16 of Chapter 115C of the General Statutes is amended by
27 adding a new Part to read:

28 **"PART 8. S.O.S. PROGRAM.**

29 **"§ 115C-238.40. Establishment of program; purpose; goals.**

30 (a) There is created under the general supervision of the State Board of
31 Education the Support Our Students (S.O.S.) Pilot Program. The purpose of the
32 program is to award three-year grants to local school administrative units to establish
33 S.O.S. centers that provide high quality after-school activities for middle school-aged
34 children and provide for comprehensive, collaborative delivery of services by public
35 and nonpublic agencies to these children and their families. These services shall be
36 designed to enrich and make a positive impact on the lives of middle school-aged
37 children.

38 (b) The goals of the program are to:

39 (1) Reduce juvenile crime in local communities served by the program;

40 (2) Recruit community volunteers to provide positive adult role models for
41 middle school-aged children and to help supervise after-school
42 activities;

43 (3) Reduce the number of students who are unsupervised after school,
44 otherwise known as 'latchkey' children;

- 1 (4) Improve the academic performance of students participating in the
2 program;
- 3 (5) Meet the physical, intellectual, emotional, and social needs of students
4 participating in the program and improve their attitudes and behavior;
- 5 (6) Establish local programs designed to enhance the abilities of families
6 in assisting their children to attain academic and social success; and
- 7 (7) Improve coordination of existing resources and enhance collaboration
8 so as to provide services to middle school-aged children and their
9 families effectively and efficiently.

10 **"§ 115C-238.41. Definitions.**

11 The following definitions apply in this Part:

- 12 (1) County Council. – Established in G.S. 143B-152.4.
- 13 (2) Grant Review Committee. – Established in G.S. 143B-152.3.
- 14 (3) Middle school-aged children. – Children enrolled in grades six, seven,
15 eight, or nine who do not attend a public school with only grades nine
16 through twelve.

17 **"§ 115C-238.42. Administration of the program.**

18 The State Board of Education shall develop and implement the Support Our Students
19 (S.O.S.) Program and shall consider the recommendations of the State Superintendent of
20 Public Instruction in this development and implementation. The State Board has, and
21 may delegate, the following duties:

- 22 (1) Sponsoring a statewide conference each year for teams of interested
23 representatives from each local school administrative unit to provide
24 background information and assistance regarding all aspects of the
25 program;
- 26 (2) Developing and disseminating each year a process for applying for
27 grants;
- 28 (3) Reviewing grant proposals and awarding grants before July 1 of each
29 year in accordance with G.S. 115C-238.44.
- 30 (4) Disseminating information regarding the program to interested local
31 community groups;
- 32 (5) Providing initial technical assistance to grant applicants and ongoing
33 technical assistance as grants are implemented;
- 34 (6) Administering funds appropriated by the General Assembly;
- 35 (7) Monitoring the grants funded;
- 36 (8) Revoking a grant if necessary or appropriate; and
- 37 (9) Reporting annually on program implementation to the Joint Legislative
38 Committee on Education Oversight, the Office of the Governor, and
39 the Governor's Council on Children, Youth, and Families.

40 The State Board shall adopt rules to implement this Part.

41 **"§ 115C-238.43. Neighborhood S.O.S. Council; application for grants.**

42 (a) A County Council shall identify the school or schools whose middle school-
43 aged students are to be served by an S.O.S. center. Only schools that serve middle
44 school-aged children in at least two of the grades six through nine shall be identified.

1 Upon this identification, the County Council shall establish a Neighborhood S.O.S.
2 Council for each S.O.S. center that reflects the racial and socioeconomic diversity of the
3 neighborhood or neighborhoods to be served and that may include the school's
4 principal, a teacher, parents of children who will be eligible for services at the center,
5 students, a representative of the school's Parent Teacher Association, representatives of
6 local organizations that provide services to middle school-aged children, representatives
7 of business and industry or local nonprofit organizations, and any other interested
8 persons.

9 (b) The Neighborhood S.O.S. Council, in consultation with the County Council,
10 shall determine the physical location of the S.O.S. center. If the location is to be in the
11 school or on school property, the Neighborhood S.O.S. Council shall obtain the
12 approval of the local board of education. Any other location shall be confirmed by the
13 owner of the property. Upon receipt of the approval of the local board of education or
14 the confirmation by the property owner, whichever is appropriate, the Neighborhood
15 S.O.S. Council, in consultation with the County Council, shall develop an application
16 for a grant for the S.O.S. center, and shall submit the application to the Grant Review
17 Committee.

18 (c) The grant proposal shall include:

- 19 (1) Identification of the school or schools to be served by the S.O.S.
20 center, based on a needs assessment of existing conditions for middle
21 school-aged children to be served. Data collected for each school to be
22 served by a center shall include (i) dropout statistics, (ii) the number
23 and percentage of middle school-aged children who participate in the
24 federal subsidized lunch program, (iii) the number of suspensions and
25 expulsions involving middle school-aged children, (iv) average daily
26 membership of middle school-aged children, (v) the number and
27 percentage of middle school-aged children with two working parents
28 or one single working parent, (vi) the number of children to be served,
29 and (vii) any other relevant or unique local demographic data;
- 30 (2) A three-year plan, developed in consultation with the building-level
31 school improvement team, appointed in accordance with G.S. 115C-
32 238.3(b1), of each school whose students may be served by the grant,
33 to address the needs of these students;
- 34 (3) Goals and anticipated outcomes for initiatives, and a system to
35 measure their success;
- 36 (4) A list of services to be offered that are related to the goals and
37 anticipated outcomes of the local plans. These services shall include
38 (i) supervision and enrichment activities for middle school-aged
39 children following the regular school day, and (ii) the recruitment of a
40 strong corps of volunteers for involvement in the program. The
41 services may include (i) transportation, (ii) parental involvement
42 activities, and (iii) coordinated services offered by local community
43 agencies relative to the needs of middle school-aged children and their
44 families;

1 (5) A budget including the use of existing resources; and

2 (6) Any additional necessary information.

3 (d) Notwithstanding subsection (c) of this section, a local school administrative
4 unit may apply for a grant under this section if its application provides convincing
5 evidence that genuine interagency collaboration was attempted, but failed, in the county
6 in which the school administrative unit is located. In this case, the local school
7 administrative unit shall state in its application any future steps it plans to take to
8 encourage and implement local-level collaboration and coordination of services for
9 middle school-aged children and their families.

10 **"§ 115C-238.44. Grant selection.**

11 (a) The Grant Review Committee shall receive and review applications for grants
12 to establish S.O.S. centers in order to make recommendations to the State Board of
13 Education. In its review and in making recommendations, the Grant Review Committee
14 shall consider (i) the severity of the local problems as determined by the needs
15 assessment data, (ii) the likelihood that the locally designed plan will result in high
16 quality after-school services for middle school-aged children, (iii) evidence of local
17 collaboration, (iv) any innovative or experimental aspects of the plan that will make it a
18 useful model for replication in other local school administrative units; (v) the
19 availability of other resources or funds, and (vi) the amount needed to implement the
20 proposal.

21 (b) The State Board of Education shall award grants, based upon the
22 recommendations of the Grant Review Committee and the factors set forth in subsection
23 (a) of this section, to local school administrative units before July 1 of each year.

24 **"§ 115C-238.45. Administration of grant programs at the local level.**

25 (a) The local board of education shall administer any grant awarded by the State
26 Board of Education under this program to establish the S.O.S. center. However, the
27 Neighborhood S.O.S. Council shall develop the center's budget and shall monitor the
28 ongoing operations of the S.O.S. center and make recommendations for improvement to
29 the County Council and the local board of education, if appropriate.

30 (b) Local boards of education may, and are encouraged to, use grant funds to
31 contract for services for middle school-aged children. Grant funds shall not be used to
32 provide services for children who are not middle school-aged children. Staffing should
33 include the use of the community schools coordinator employed by the local board of
34 education under G.S. 115C-209.

35 **"§ 115C-238.46. Program evaluation.**

36 Local boards of education that receive a grant under this Part shall report by August
37 1 of each year to the State Board of Education on the implementation of the program.
38 This report shall demonstrate the extent to which the program has met the local needs,
39 goals, and anticipated outcomes as set forth in the grant proposal."

40 (b) Of the funds appropriated in this act from the General Fund to State Aid to
41 Local School Administrative Units for the implementation of subsection (a) of this
42 section, a maximum of one hundred thousand dollars (\$100,000) may be used by the
43 State Board of Education to administer the S.O.S. Program and to provide technical
44 assistance to applicants and to S.O.S. centers. For the 1994-95 fiscal year, the State

1 Board of Education shall provide one grant to each local school administrative unit to
2 establish one or more S.O.S. centers. It is the goal of the General Assembly that all
3 programs that receive grants for the 1994-95 fiscal year shall be operating at the
4 beginning of the 1994-95 school year. In no case shall the implementation of these
5 programs begin later than January 31, 1995.

6 (c) The State Board of Education may use funds available in State Aid to
7 Local School Administrative Units to carry out the work of the Grant Review
8 Committee established in G.S. 143B-152.3 before July 1, 1994.

9
10 Requested by: Senator Daniel

11 **DIFFERENTIATED PAY LIMITED TO CERTIFIED SCHOOL PERSONNEL**
12 **IN CAREER DEVELOPMENT PILOT UNITS**

13 Sec. 38. Section 4 of Chapter 263 of the 1993 Session Laws reads as
14 rewritten:

15 "Sec. 4. This act is effective upon ratification and applies to all differentiated pay
16 plans in effect after July 1, ~~1994.~~1994, except for differentiated pay plans in career
17 development pilot units other than the Charlotte Mecklenburg pilot unit. This act
18 applies to all differentiated pay plans in career development pilot units, except the
19 Charlotte Mecklenburg pilot unit, that are in effect after the effective date of legislation
20 (i) equalizing the funding formulas for differentiated pay in career development
21 pilot units and in other local school administrative units or (ii) providing additional
22 funding to implement this act."

23
24 Requested by: Senators Perdue and Martin of Guilford

25 **ALTERNATIVE SCHOOL GRANTS**

26 Sec. 39. (a) Of the funds appropriated in this act from the General Fund to
27 Aid to Local School Administrative Units for the 1994-95 fiscal year to provide grants
28 for local school administrative units to enable them to establish, expand, or continue
29 alternative school programs, a maximum of two hundred thousand dollars (\$200,000)
30 may be used by the Department of Public Instruction to provide technical assistance to
31 grant applicants and recipients. An alternative school program is a program for students
32 whose behaviors make it appropriate to serve them outside of a standard classroom
33 setting. Characteristics of the program may include smaller classes and lower
34 student/teacher ratios, school-to-work transition activities, modification of curriculum
35 and instruction to meet individual needs, flexible scheduling, and necessary academic,
36 vocational, and support services for students and their families. Services may also
37 include appropriate measures to teach responsibility, good citizenship, and respect for
38 rules and authority.

39 These funds may be used for continuing or noncontinuing expenses. The
40 maximum amount of each grant shall be two hundred thousand dollars (\$200,000).

41 (b) A local school administrative unit may apply for one or more grants, or two
42 or more adjacent local school administrative units may apply jointly for one or more
43 grants. In designing the proposal the applicant shall collaborate with local
44 governmental and nongovernmental agencies that provide services to school-aged

1 children, including at a minimum, schools, law enforcement, local government, youth
2 services agencies and organizations, job training organizations, mental health, and
3 health care providers, so as to design a program that avoids duplication of effort and
4 expenditure of unnecessary funds.

5 (c) An applicant for a grant shall submit to the State Board of Education an
6 application that includes the following information:

7 (1) An assessment of the need for the establishment or expansion of an
8 alternative school program in the local school administrative unit.

9 (2) A statement of the mission and goals of the program. To assist
10 applicants in developing a program or programs that best matches the
11 needs of the school unit, the Department of Public Instruction shall
12 develop materials and provide technical assistance to local units. The
13 Department shall identify a variety of alternative school models
14 including those developed by the Cities in Schools Program, the Youth
15 and Family Counseling Services including the Options programs, and
16 other successful programs being implemented throughout the State and
17 nationally. The Department shall assist local units in identifying and
18 modifying alternative school models to meet the needs of individual
19 units.

20 (3) A detailed plan for the establishment or expansion of, and for the
21 operation of, the alternative school program. Applicants are
22 encouraged to include in this plan how the plan will serve the needs of
23 several types of students including those: (i) whose behaviors are
24 disruptive and threaten school safety, (ii) who are not achieving at
25 their full potential, (iii) at risk of academic failure, and (iv) that would
26 benefit from the alternative school setting.

27 (4) Which of the following criteria for alternative schools will be included
28 in the program as well as any additional criteria:

29 a. Provide a personalized and caring approach towards each
30 student and each student's academic program;

31 b. Emphasize to each student that attendance in the alternative
32 school program is a privilege and that an atmosphere in which
33 all students can learn must be maintained at all times;

34 c. Maintain a recommended student/teacher ratio of no more than
35 12 to 1;

36 d. Have worker/volunteers to provide community-based services
37 to students and their families;

38 e. When practicable, serve no more than 150 students in a single
39 alternative school program;

40 f. Permit flexible scheduling, including night classes;

41 g. Operate under rules and regulations developed by teachers and
42 students;

43 h. Increase student and parent involvement in decision making;

- 1 i. Place increased emphasis on developing self-esteem through
2 personal achievement;
- 3 j. Provide training in parenting to the parents of students in the
4 program and to students who have children;
- 5 k. Emphasize citizenship skill training, community service work,
6 responsible decision making, respect for cultural diversity,
7 listening and communication skills, nonviolent methods for
8 resolving conflict, including peer mediation;
- 9 l. Have a committed staff that has participated in staff
10 development activities on children with different learning styles
11 and on training in positive discipline techniques;
- 12 m. Work with local law enforcement officials to involve law
13 enforcement officers in teaching classes and in participating in
14 positive ways with students;
- 15 n. Enter into agreements with existing youth service organizations
16 to carry out alternative school activities; and
- 17 o. How the plan will be coordinated with the school improvement
18 plan and the school governance committee where applicable.
- 19 (5) A statement of how the grant funds would be used and what other
20 resources would be used for the establishment, expansion, or operation
21 of the program.
- 22 (6) A process for assessing on an annual basis the success of the
23 alternative school program in meeting the needs of students assigned
24 to it and enabling them to return to a standard classroom setting, to a
25 job training program, or to gainful employment.
- 26 (d) The State Board shall select grant recipients and shall develop guidelines for
27 the selection of grant recipients. These guidelines shall be submitted to the cochairs of
28 the Joint Legislative Education Oversight Committee and the cochairs of the Legislative
29 Research Commission's Committee on Alternative Schools no later than June 1, 1994.
30 In selecting grant recipients the State Board shall consider the recommendations of the
31 Superintendent. The State Board shall select all grant recipients no later than September
32 1, 1994.
- 33 (e) The Superintendent of Public Instruction shall appoint a task force to
34 assist the Superintendent in reviewing grant applications. The membership of the task
35 force shall be generally reflective of the racial, socioeconomic, and geographic diversity
36 of the State's population. The task force may include representatives of the Department
37 of Public Instruction, the Division of Social Services in the Department of Human
38 Resources, the Health Division in the Department of Environment, Health, and Natural
39 Resources, school social workers, educators, parents, the juvenile justice system, social
40 services, nongovernmental agencies providing services to children, and other members
41 that the Superintendent deems appropriate.
- 42 In reviewing grant applications, the Superintendent shall consider the
43 guidelines established by the State Board, the need for the establishment or expansion of
44 an alternative school program in the local school administrative unit, the likelihood that

1 the plan will result in the establishment or expansion of, and the operation of, a program
2 that will benefit the students assigned to it, and the level of commitment of the local
3 school administrative unit to the successful establishment or expansion of, and the
4 operation of, the program.

5 (f) The Department of Public Instruction shall provide technical assistance to
6 grant applicants and recipients of the development of plans for the development or
7 expansion of alternative school programs and on the implementation of those plans.

8 (g) The State Board of Education shall report to the Joint Legislative
9 Education Oversight Committee prior to March 15, 1995, and prior to January 15, 1996,
10 on how the funds are being used and on assistance provided to local school
11 administrative units by the Department of Public Instruction.

12 (h) G.S. 7A-648 is amended to add a new subdivision to read:

13 "(4) Unless the juvenile is a child with special needs pursuant to Article 9
14 of Chapter 115C of the General Statutes and notwithstanding any law
15 to the contrary, order that the juvenile attend an alternative school
16 program in the local school administrative unit if the juvenile has been
17 expelled or suspended by the local board of education or the judge
18 finds that the juvenile's behavior makes it appropriate for the juvenile
19 to attend an alternative school and it is in the best interest of the
20 juvenile and not adverse to the interest of the local school
21 administrative unit for the juvenile to attend an alternative school.

22 If the juvenile is a child with special needs pursuant to Article 9 of
23 Chapter 115C of the General Statutes, request the child's local
24 educational agency to have the appropriateness of the child's
25 placement reconsidered in light of the judge's finding that the
26 juvenile's behavior makes it more appropriate for the juvenile to attend
27 an alternative school and it is in the best interest of the juvenile and not
28 adverse to the interest of the local school administrative unit for the
29 juvenile to attend an alternative school."

30 (i) G.S. 115C-366(b) reads as rewritten:

31 "(b) Each local board of education shall assign to a public school each student
32 qualified for assignment under this section. Except as otherwise provided by G.S. 7A-
33 648(4) or any other provision of law, the authority of each board of education in the
34 matter of assignment of children to the public schools shall be full and complete, and its
35 decision as to the assignment of any child to any school shall be final."

36 (j) G.S. 115C-391(e) reads as rewritten:

37 "(e) A decision of a local board under subsection (c) or (d) is final and, except as
38 provided in this subsection, is subject to judicial review in accordance with Article 4 of
39 Chapter 150B of the General Statutes. A person seeking judicial review shall file a
40 petition in the superior court of the county where the local board made its decision.

41 The decision may also be modified in accordance with G.S. 7A-648(4)."

42 (k) This section becomes effective July 1, 1994, and applies to offenses
43 committed on or after that date.

44

1 **PART 14. GENERAL ASSEMBLY**

2
3 Requested by: Senators Sherron and Daniel

4 **TASK FORCE ON OFFENDERS' DRUG AND ALCOHOL REHABILITATION**
5 **AND EDUCATION**

6 Sec. 39.1. (a) There is created the Task Force on Offenders' Drug and Alcohol
7 Rehabilitation and Education to study methods for providing alcohol and drug treatment
8 programs and educational programs to offenders. The Task Force shall be composed of
9 eight members:

- 10 (1) The Governor, who shall chair the Task Force;
11 (2) The Secretary of Correction;
12 (3) The Assistant Secretary of Correction for Substance Abuse;
13 (4) The Secretary of Human Resources;
14 (5) The Director of the Division of Mental Health, Developmental
15 Disabilities and Substance Abuse Services, Department of Human
16 Resources;
17 (6) The Chief of the Substance Abuse Services Section, Division of
18 Mental Health, Developmental Disabilities and Substance Abuse,
19 Department of Human Resources;
20 (7) The President of the North Carolina Community College System; and
21 (8) The Superintendent of Public Instruction.

22 (b) The Task Force on Offenders' Drug and Alcohol Rehabilitation and
23 Education shall:

- 24 (1) Develop a plan and a cost estimate for converting a number of prison
25 facilities into intensive drug and alcohol rehabilitation centers, for
26 identifying inmates with drug and alcohol problems, and for
27 mandating proven treatment procedures for those inmates;
28 (2) Develop a plan and a cost estimate for ensuring that persons sentenced
29 to prison for crimes involving drugs or for crimes in which alcohol or
30 drugs were a causative or contributing factor receive a full year of drug
31 rehabilitation as a part of their sentence. The plan shall provide for
32 intensive drug therapy and gradual reintegration into society as the
33 treatment progresses. The plan shall also provide for parole
34 conditioned upon total abstinence from alcohol and drugs, to be
35 enforced through strict testing, with violators returned to prison for the
36 full term of the original sentences.
37 (3) Develop a plan and a cost estimate for establishing an extension
38 program through either the Department of Community Colleges or the
39 Department of Public Instruction to provide a General Education
40 Development diploma (GED) to all offenders who have not obtained a
41 high school diploma or a GED. The plan shall include making
42 continued work towards a GED a condition of probation or parole
43 whenever necessary to ensure that the offender does obtain a GED.

1 The Task Force shall report its findings and recommendations to the General
2 Assembly by May 15, 1994.

3
4 Requested by: Senator Gulley

5 **JOINT DEPARTMENTAL STUDY OF LIFE IMPRISONMENT SENTENCE**

6 Sec. 40. The Department of Correction, the Department of Crime Control
7 and Public Safety, and the Department of Justice shall study the effect on the criminal
8 justice system of having the sentence of life imprisonment without parole for certain
9 criminal offenses and shall also consider whether the sentence of life imprisonment
10 without parole has served as a deterrent with regard to those crimes for which it may be
11 imposed, any other impact the sentence may have had on the crime rate generally, the
12 fiscal impact that the sentence has had on the State's finances, and the projected costs to
13 the State if the sentence continues to be imposed. The Department of Correction,
14 Department of Crime Control and Public Safety, and Department of Justice shall report
15 to the General Assembly, the Joint Legislative Commission on Governmental
16 Operations, and the appropriations committees in the House of Representatives and the
17 Senate by January 1, 2005, on their findings and recommendations regarding the
18 sentence of life imprisonment without parole.

19
20 Requested by: Senators Perdue and Martin of Guilford

21 **REPORT ON ANTICRIME INITIATIVES**

22 Sec. 41. Every agency of the State and every non-State agency or entity that
23 receives State funds appropriated in the Extra Session 1994 for implementing program
24 initiatives for reducing crime shall report to the Joint Legislative Corrections Oversight
25 Committee at its first meeting and quarterly thereafter. The report shall provide
26 information on the expenditure of the funds, program implementation progress, and
27 results to date. The purpose of these reports is to provide the General Assembly and the
28 citizens of this State with information on the progress and success of initiatives
29 developed to reduce crime in North Carolina's communities.

30
31 Requested by: Senator Lee

32 **STUDY OF PRISON ENTERPRISES AND PRISON CANTEEN FUNDS**

33 Sec. 42. The Fiscal Research Division of the Legislative Services Office, in
34 consultation with the Department of Correction, shall study the use of net profits from
35 Prison Enterprises and Prison Canteen funds. The Fiscal Research Division shall report
36 to the Joint Legislative Commission on Governmental Operations, the Chairs of the
37 Senate and House of Representatives appropriations committees, and the Chairs of the
38 Senate and House of Representatives appropriations subcommittees on Justice and
39 Public Safety. This report shall be made not later than May 1, 1994.

40
41 Requested by: Senators Cochrane, Perdue, and Martin of Guilford

42 **FAMILY WELFARE RESPONSIBILITY STUDY**

43 Sec. 43. The General Assembly may study the issue of whether long-term
44 crime prevention can be effected by providing incentives to families receiving Aid To

1 Families With Dependent Children to act responsibly in raising their children, while
2 recognizing that there are many families who now act responsibly in raising their
3 families.

4 The study shall consider:

- 5 (1) The feasibility of providing incentives;
- 6 (2) What type of incentives are appropriate;
- 7 (3) What standards should be used in determining the allocation of
8 incentives; and
- 9 (4) What penalties, if any, should be imposed for failing to comply with
10 the standards.

11 The General Assembly may direct that these issues be studied by any other
12 legislative study commission studying welfare reform.

13
14 Requested by: Senator Daniel

15 **STUDY BUNKING OF INMATES IN SHIFTS**

16 Sec. 44. The Fiscal Research Division of the Legislative Services Office, in
17 consultation with the Department of Correction, shall study the issue of bunking
18 inmates in shifts. The Fiscal Research Division shall report to the Joint Legislative
19 Commission on Governmental Operations, the Chairs of the Senate and House of
20 Representatives appropriations committees, and the Chairs of the Senate and House of
21 Representatives appropriations subcommittees on Justice and Public Safety. This report
22 shall be made not later than May 1, 1994.

23
24 Requested by: Senators Daniel, Carpenter, and Plexico

25 **STUDY NEED FOR ESTABLISHING FUND TO REWARD FOR**
26 **INFORMATION LEADING TO CONVICTION OF DRUG DEALERS/STUDY**
27 **FUNDING CRIME STOPPERS**

28 Sec. 45. (a) The Fiscal Research Division of the Legislative Services Office, in
29 consultation with the Department of Correction, shall study the need for a fund to
30 reward persons providing information leading to the arrest and conviction of drug
31 dealers. The Fiscal Research Division shall report to the Joint Legislative Commission
32 on Governmental Operations, the Chairs of the Senate and House of Representatives
33 appropriations committees, and the Chairs of the Senate and House of Representatives
34 appropriations subcommittees on Justice and Public Safety. This report shall be made
35 not later than May 1, 1994.

36 (b) The Fiscal Research Division of the Legislative Services Office, in
37 consultation with the Department of Crime Control and Public Safety, shall study the
38 need for providing funds to North Carolina Crime Stoppers to be used as seed money
39 for new crime stoppers programs and for providing funds for local crime stoppers
40 programs. The Fiscal Research Division shall report to the Joint Legislative
41 Commission on Governmental Operations, the Chairs of the Senate and House of
42 Representatives appropriations committees, and the Chairs of the Senate and House of
43 Representatives appropriations subcommittees on Justice and Public Safety. This report
44 shall be made not later than May 1, 1994.

1

2 Requested by: Senators Cochrane, Odom, and Cooper

3 **WELFARE REFORM STUDY**

4 Sec. 46. (a) There is created the Legislative Study Commission on Welfare
5 Reform. The Commission shall consist of 14 members as follows:

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

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

16 (c) The Commission shall study the whole issue of the need for welfare reform in
17 light of the current social crisis caused, in part, by the rapidly increasing incidence of
18 violent crimes committed by people who have been raised by families who have been
19 receiving welfare but who have not been able to impart responsibility and maturity of
20 judgment and expectations to their children. This study shall include:

- 21 (1) A reexamination of the whole purpose of the welfare system and an
22 identification of those disincentives to raising responsible, independent
23 participants in society that are built into the system;
24 (2) An analysis of the federal welfare reform proposals and of other states'
25 initiatives; and
26 (3) A compilation and detailed examination, including detailed fiscal
27 analysis, of proposals to reform the welfare system totally, not just to
28 amend mere pieces of it.

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

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

40 (f) Members of the Commission who are members of the General Assembly
41 shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.
42 Other members shall receive the amounts provided by Chapter 138 of the General
43 Statutes.

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

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

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

13
14 Requested by: Senators Forrester, Ballance, and Soles

15 **LEGISLATIVE COMMISSION ON THE CAUSES OF CRIME IN NORTH**
16 **CAROLINA**

17 Sec. 47. (a) There is created the Legislative Commission on the Causes of
18 Crime in North Carolina to be composed of 15 members: six Senators to be appointed
19 by the President Pro Tempore of the Senate; six Representatives to be appointed by the
20 Speaker of the House of Representatives; the Secretary of the Department of Crime
21 Control and Public Safety; the Secretary of the Department of Human Resources; and
22 the Attorney General. The President Pro Tempore of the Senate and the Speaker of the
23 House of Representatives shall each designate a cochair from their appointees. The
24 Commission may meet at any time upon the joint call of the cochairs.

25 (b) The Commission shall:

- 26 (1) Review available information regarding the causes of crime in North
27 Carolina, including relevant criminological, behavioral, sociological,
28 and social sciences data, and other pertinent information on crime;
- 29 (2) Review the relationship between adolescent childbearing and criminal
30 behavior of adolescent parents and of children born to adolescent
31 parents;
- 32 (3) Conduct public hearings on the causes of crime in North Carolina;
- 33 (4) Review studies regarding the causes of crime conducted by public and
34 private entities of other jurisdictions; and
- 35 (5) Develop legislative recommendations calculated to address effectively
36 the root causes of crime in North Carolina.

37 (c) With the prior approval of the Legislative Services Commission, the
38 Legislative Administrative Officer shall assign professional and clerical staff to assist in
39 the work of the Commission. Clerical staff shall be furnished to the Commission
40 through the Offices of the House and Senate Supervisors of Clerks. The expenses of
41 employment of the clerical staff shall be borne by the Commission. The Commission
42 may contract for consultant services as provided by G.S. 120-32.02. With the prior
43 approval of the Legislative Services Commission, the Commission may hold its
44 meetings in the State Legislative Building or the Legislative Office Building.

1 (d) The Commission shall submit a final written report of its findings and
2 recommendations on or before the convening of the 1995 Session of the General
3 Assembly. The report shall be filed with the President Pro Tempore of the Senate and
4 the Speaker of the House of Representatives. Upon filing its final report, the
5 Commission shall terminate.

6 (e) Members of the Commission shall be paid per diem, subsistence, and
7 travel allowances as follows:

8 (1) Commission members who are members of the General Assembly, at
9 the rate established in G.S. 120-3.1; and

10 (2) Commission members who are officials or employees of the State, at
11 the rate established in G.S. 138-6.

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

15 (g) Vacancies on the Commission shall be filled as follows:

16 (1) For Commission members who are members of the General Assembly,
17 by the same appointing officer who made the initial appointment; and

18 (2) For Commission members who are public officials, with the official's
19 successor in office.

20 (h) This section becomes effective July 1, 1994.

21
22 Requested by: Senators Simpson, Odom, and Cooper

23 **JOINT LEGISLATIVE CORRECTIONS OVERSIGHT COMMITTEE**

24 Sec. 48. (a) Chapter 120 of the General Statutes is amended by adding a new
25 Article to read:

26 **"ARTICLE 12J.**

27 **"JOINT LEGISLATIVE CORRECTIONS OVERSIGHT COMMITTEE.**

28 **"§ 120-70.93. Creation and membership of Joint Legislative Corrections Oversight**
29 **Committee.**

30 The Joint Legislative Corrections Oversight Committee is established. The
31 Committee consists of 16 members as follows:

32 (1) Eight members of the Senate appointed by the President Pro Tempore
33 of the Senate, at least two of whom are members of the minority party;

34 and

35 (2) Eight members of the House of Representatives appointed by the
36 Speaker of the House of Representatives, at least three of whom are
37 members of the minority party.

38 Terms on the Committee are for two years and begin on the convening of the
39 General Assembly in each odd-numbered year, except the terms of the initial members,
40 which begin on appointment and end on the day of the convening of the 1995 General
41 Assembly. Members may complete a term of service on the Committee even if they do
42 not seek reelection or are not reelected to the General Assembly, but resignation or
43 removal from service in the General Assembly constitutes resignation or removal from
44 service on the Committee.

1 A member continues to serve until his successor is appointed. A vacancy shall be
2 filled within 30 days by the officer who made the original appointment.

3 **"§ 120-70.94. Purpose and powers of Committee.**

4 (a) The Joint Legislative Corrections Oversight Committee shall examine, on a
5 continuing basis, the correctional system in North Carolina, in order to make ongoing
6 recommendations to the General Assembly on ways to improve the correctional system
7 and to assist that system in realizing its objectives of protecting the public and of
8 punishing and rehabilitating offenders. In this examination, the Committee shall:

9 (1) Study the budget, programs, and policies of the Department of
10 Correction, to determine ways in which the General Assembly may
11 improve the effectiveness of that Department;

12 (2) Examine the effectiveness of the Department of Correction in
13 implementing the public policy stated in G.S. 148-26 of providing
14 work assignments and employment for inmates as a means of reducing
15 the cost of maintaining the inmate population while enabling inmates
16 to acquire or retain skills and work habits needed to secure honest
17 employment after their release; and

18 (3) Study any other corrections matters that the Committee considers
19 necessary.

20 (b) The Committee may make interim reports to the General Assembly on
21 matters for which it may report to a regular session of the General Assembly. A report
22 to the General Assembly may contain any legislation needed to implement a
23 recommendation of the Committee.

24 **"§ 120-70.95. Organization of Committee.**

25 (a) The President Pro Tempore of the Senate and the Speaker of the House of
26 Representatives shall each designate a cochair of the Joint Legislative Corrections
27 Oversight Committee. The Committee shall meet at least once a quarter and may meet
28 at other times upon the joint call of the cochairs.

29 (b) A quorum of the Committee is nine members. No action may be taken except
30 by a majority vote at a meeting at which a quorum is present. While in the discharge of
31 its official duties, the Committee has the powers of a joint committee under G.S. 120-19
32 and G.S. 120-19.1 through G.S. 120-19.4.

33 (c) Members of the Committee receive subsistence and travel expenses as
34 provided in G.S. 120-3.1. The Committee may contract for consultants or hire
35 employees in accordance with G.S. 120-32.02. The Legislative Services Commission,
36 through the Legislative Administrative Officer, shall assign professional staff to assist
37 the Committee in its work. Upon the direction of the Legislative Services Commission,
38 the Supervisors of Clerks of the Senate and of the House of Representatives shall assign
39 clerical staff to the Committee. The expenses for clerical employees shall be borne by
40 the Committee."

41 (b) This section becomes effective July 1, 1994.

42
43 Requested by: Senator Odom
44 **LRC FARM CAMP STUDY**

1 Sec. 49. The Legislative Research Commission may study the feasibility of
2 establishing a Farm Camp Program for troubled youth. For purposes of this study, the
3 term "troubled youth" means: (i) juvenile delinquents who would otherwise be
4 committed to training schools, and (ii) adult criminals under the age of 21 years who are
5 guilty of nonviolent felony offenses. The Department of Correction, the Department of
6 Human Resources, the Division of Youth Services, and the Administrative Office of the
7 Courts shall cooperate in the study. The study may include:

- 8 (1) An analysis of similar work and community service programs
9 established for troubled youth in this State and other states, which
10 analysis shall include data on the recidivism rate of the troubled youth
11 participating in the programs, the effects of the programs on the farm
12 communities in which the youth are working, and the success rate of
13 incorporating the youth in the work force after they leave the
14 programs;
- 15 (2) A review of academic and professional studies regarding the effects of
16 community involvement and participation on youth, including an
17 examination of the beneficial effects of providing troubled youth with
18 the opportunity to develop work skills, to become productive citizens,
19 and to develop self-confidence, independence, and self-esteem;
- 20 (3) An analysis of whether the Farm Camp Program will reduce the
21 populations of the State prisons and training schools and any other
22 anticipated effects it will have on the Department of Correction, the
23 Department of Human Resources, and the Division of Youth Services;
- 24 (4) A review of information from the North Carolina Farm Bureau
25 Federation, Inc.;
- 26 (5) An examination of the federal and State laws that affect troubled
27 youth; and
- 28 (6) A fiscal analysis of the costs of establishing and operating a Farm
29 Camp Program for a five to 10-year period.

30
31 Requested by: Senators Kincaid and Soles

32 **COURTS COMMISSION STUDY MAGISTRATES INFRACTIONS/LEVEL I**
33 **MISDEMEANORS**

34 Sec. 49.1. The North Carolina Courts Commission shall study whether to:

- 35 (1) Expand the jurisdiction of magistrates to allow them to dispose of
36 infractions;
- 37 (2) Facilitate the procedure for disposing of infractions; and
- 38 (3) Allow magistrates to dispose of all Level I misdemeanors according to
39 plea agreements between the State and defendants.

40 The North Carolina Courts Commission shall make an interim report to the
41 1993 General Assembly, Regular Session 1994, no later than May 15, 1994, and shall
42 make a final report to the 1995 Regular Session of the General Assembly no later than
43 its convening.

44

1 Requested by: Senators Kincaid and Soles

2 **COURTS COMMISSION STUDY CONCURRENT JURISDICTION BETWEEN**
3 **THE DISTRICT AND SUPERIOR COURTS FOR DISPOSITION OF CERTAIN**
4 **FELONIES**

5 Sec. 49.2. The North Carolina Courts Commission shall study whether to
6 provide concurrent jurisdiction between the district and superior courts for the
7 disposition of certain felonies.

8 The North Carolina Courts Commission shall make an interim report to the
9 1993 General Assembly, Regular Session 1994, no later than May 15, 1994, and shall
10 make a final report to the 1995 Regular Session of the General Assembly no later than
11 its convening.

12

13 **PART 15. TECHNICAL CHANGES**

14

15 Requested by: Senators Daniel and Plyler

16 **CORRECT OMISSION IN CHAPTER 561**

17 Sec. 50. Chapter 561 of the 1993 Session Laws is amended by adding the
18 following new section to read:

19 "MOST TEXT APPLIES ONLY TO 1993-95 BIENNIUM

20 Sec. 23.1. Except for statutory changes or other provisions that clearly
21 indicate an intention to have effects beyond the 1993-95 biennium, the textual
22 provisions of this act shall apply only to funds appropriated for and activities occurring
23 during the 1993-95 biennium."

24

25 Requested by: Senator Plyler

26 **EXTEND REPORTING DATE OF BUDGET PRACTICES STUDY**
27 **COMMISSION**

28 Sec. 51. Sec. 22(f) of Chapter 321 of the 1993 Session Laws reads as
29 rewritten:

30 "(f) The Budget Practices Study Commission shall report its findings and
31 recommendations to the ~~1993 General Assembly, 1994 Regular Session, 1995 General~~
32 Assembly upon its convening."

33

34 **PART 15A. CAPITAL IMPROVEMENT PROVISIONS**

35

36 Requested by: Senators Daniel, Plyler, and Kaplan

37 **RESERVE FOR ADVANCE PLANNING**

38 Sec. 52. The Office of State Budget and Management shall report to the Joint
39 Legislative Commission on Governmental Operations and to the Fiscal Research
40 Division on how it intends to spend funds from the Reserve for Advance Planning at
41 least 45 days before it spends the funds.

42 The Office of State Budget and Management shall also report the results of
43 any project on which it uses funds from the Reserve for Advance Planning to the Joint

1 Legislative Commission on Governmental Operations and to the Fiscal Research
2 Division.

3

4 Requested by: Senators Daniel, Plyler, and Kaplan

5 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND**

6 Sec. 53. When each capital improvement project appropriated by the 1994
7 Extra Session of the General Assembly, other than those projects under the Board of
8 Governors of The University of North Carolina, is placed under construction contract,
9 direct appropriations shall be encumbered to include all costs for construction, design,
10 investigation, administration, movable equipment, and a reasonable contingency.
11 Unencumbered direct appropriations remaining in the project budget shall be placed in a
12 project reserve fund credited to the Office of State Budget and Management. Funds in
13 the project reserve may be used for emergency repair and renovation projects at State
14 facilities with the approval of the Director of the Budget. The project reserve fund may
15 be used, at the discretion of the Director of the Budget, to allow for award of contracts
16 where bids exceed appropriated funds, if those projects supplemented were designed
17 within the scope intended by the applicable appropriation or any authorized change in it,
18 and if, in the opinion of the Director of the Budget, all means to award contracts within
19 the appropriation were reasonably attempted. At the discretion of the Director of the
20 Budget, any balances in the project reserve fund shall revert to the original source.

21

22 Requested by: Senators Daniel, Plyler, and Kaplan

23 **PROJECT COST INCREASE**

24 Sec. 54. Upon the request of the administration of a State department or
25 institution, the Director of the Budget may, when in the Director's opinion it is in the
26 best interest of the State to do so, increase the cost of a capital improvement project.
27 Provided, however, that if the Director of the Budget increases the cost of a project, the
28 Director shall report that action to the Joint Legislative Commission on Governmental
29 Operations at its next meeting. The increase may be funded from gifts, federal or
30 private grants, special fund receipts, excess patient receipts above those budgeted at
31 University of North Carolina Hospitals at Chapel Hill, or direct capital improvement
32 appropriations to that department or institution.

33

34 Requested by: Senators Daniel, Plyler, and Kaplan

35 **NEW PROJECT AUTHORIZATION**

36 Sec. 55. Upon the request of the administration of any State department or
37 institution, the Governor may authorize the construction of a capital improvement
38 project not specifically authorized by the General Assembly if such project is to be
39 funded by gifts, federal or private grants, special fund receipts, excess patient receipts
40 above those budgeted at University of North Carolina Hospitals at Chapel Hill, or self-
41 liquidating indebtedness. Provided, however, that if the Director of the Budget
42 authorizes the construction of such a capital improvement project, the Director shall
43 report that action to the Joint Legislative Commission on Governmental Operations at
44 its next meeting.

1

2 Requested by: Senators Daniel, Plyler, and Kaplan

3 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

4 Sec. 56. Funds which become available by gifts, excess patient receipts
5 above those budgeted at University of North Carolina Hospitals at Chapel Hill, federal
6 or private grants, receipts becoming a part of special funds by act of the General
7 Assembly, or any other funds available to a State department or institution may be
8 utilized for advance planning through the working-drawing phase of capital
9 improvement projects, upon approval of the Director of the Budget. The Director of the
10 Budget may make allocations from the Advance Planning Fund for advance planning
11 through the working-drawing phase of capital improvement projects, except that this
12 revolving fund may not be utilized by the Board of Governors of The University of
13 North Carolina or the State Board of Community Colleges.

14

15 Requested by: Senators Daniel, Plyler, and Kaplan

16 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

17 Sec. 57. Except as permitted in previous sections of this act, the
18 appropriations for capital improvements made by the 1994 Extra Session of the General
19 Assembly may be expended only for specific projects set out by the 1994 Extra Session
20 of the General Assembly and for no other purpose. Construction of all capital
21 improvement projects enumerated by the 1994 Extra Session of the General Assembly
22 shall be commenced, or self-liquidating indebtedness with respect to them shall be
23 incurred no later than the end of the 1993-95 biennium. If construction contracts on
24 those projects have not been awarded or self-liquidating indebtedness has not been
25 incurred within that period, the direct appropriation for those projects shall revert to the
26 original source, and the self-liquidating appropriation shall lapse; except that direct
27 appropriations may be placed in a reserve fund as authorized in this act. This deadline
28 with respect to both direct and self-liquidating appropriations may be extended with the
29 approval of the Director of the Budget up to an additional 12 months if circumstances
30 and conditions warrant such extension.

31

32 Requested by: Senators Daniel and Plyler

33 **CONSTRUCTION FUND LIMITATIONS**

34 Sec. 58. (a) With respect to funds appropriated in this act for construction of
35 additional prison beds at Piedmont, Lumberton, Pender, Wayne, and Brown Creek, the
36 Director of the Budget may increase or decrease the amount allocated to a particular
37 institution within the aggregate amount of construction funds available, and the
38 Secretary of Correction may, as appropriate and necessary, authorize construction of
39 those beds at other facilities owned and operated by the Division of Prisons.

40 (b) The Office of State Construction of the Department of Administration may
41 contract for and supervise all aspects of administration, technical assistance, design,
42 construction, or demolition of facilities in order to implement the providing of facilities
43 under the provisions of this act.

1 The facilities authorized under this act shall be constructed in accordance
2 with the provisions of general law applicable to the construction of State facilities.
3 With respect to funds appropriated to the Department of Administration for capital
4 improvements and to the Department of Human Resources for construction of a 24-bed
5 detention center, if the Secretary of Administration, after consultation with the Secretary
6 of Correction, or with the Secretary of Human Resources, as applicable, finds that the
7 delivery of facilities must be expedited for good cause, the Office of State Construction
8 of the Department of Administration shall be exempt from the following statutes and
9 rules implementing those statutes, to the extent necessary to expedite delivery: G.S.
10 143-135.26, 143-128, 143-129, 143-131, 143-132, 143-134, 113A-1 through 113A-10,
11 113A-50 through 113A-66, 133-1.1(g), and 143-408.1 through 143-408.7.

12 Prior to exercising the exemptions allowable under this section, the Secretary
13 of Administration shall give reasonable notice in writing of the Department's intent to
14 exercise the exemptions to the Speaker of the House of Representatives, the President
15 Pro Tempore of the Senate, the Chairs of the House and Senate Appropriations
16 Committees, the Chairs of the House and Senate Appropriations Subcommittees on
17 Justice and Public Safety, and the Fiscal Research Division. The written notice shall
18 contain at least the following information: (i) the specific statutory requirement or
19 requirements from which the Department intends to exempt itself; (ii) the reason the
20 exemption is necessary to expedite delivery of facilities; (iii) the way in which the
21 Department anticipates the exemption will expedite the delivery of facilities; and (iv) a
22 brief summary of the proposed contract for the project which is to be exempted.

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

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

32 (c) The Office of State Construction of the Department of Administration
33 shall provide quarterly reports to the Chairs of the Appropriations Committee and the
34 Base Budget Committee in the Senate, the Chairs of the Appropriations Committee in
35 the House of Representatives, the Joint Legislative Commission on Governmental
36 Operations, and the Fiscal Research Division as to any changes in projects and
37 allocations made under this act. The report shall include any changes in the projects and
38 allocations made pursuant to this act, information on which contractors have been
39 selected, what contracts have been entered into, the projected and actual occupancy
40 dates of facilities contracted for, the number of beds to be constructed on each project,
41 the location of each project, and the projected and actual cost of each project.

42 The Department of Insurance and the Department of Correction shall report
43 quarterly to the Joint Legislative Commission on Governmental Operations on their
44 involvement in the construction program.

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PART 15B. MISCELLANEOUS PROVISIONS

Requested by: Senators Daniel and Plyler

EFFECT OF HEADINGS

Sec. 59. The headings to the Parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Requested by: Senators Daniel and Plyler

EFFECT OF REFERENCE TO INTRODUCED BILL

Sec. 60. Parenthetical references to introduced bills, by bill number, are included as a convenience to the reader and are for information only. These references do not expand, limit, or define the text of this act.

Requested by: Senators Daniel and Plyler

EXECUTIVE BUDGET ACT REFERENCE

Sec. 61. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Senators Daniel and Plyler

MOST TEXT APPLIES ONLY TO 1993-95 BIENNIUM

Sec. 62. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1993-95 biennium, the textual provisions of this act shall apply only to funds appropriated for and activities occurring during the 1993-95 biennium.

Requested by: Senators Daniel and Plyler

SEVERABILITY CLAUSE

Sec. 63. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Senators Daniel and Plyler

1993-94 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Sec. 64. Except where expressly repealed or amended by this act, the provisions of Chapters 321 and 561 of the 1993 Session Laws remain in effect. Section 9 of Chapter 321 of the 1993 Session Laws does not apply to this act.

TITLE II. CRIME PREVENTION AND CONTROL

PART 16. BRUTAL RAPE SENTENCES

1

2 Sec. 135. G.S. 14-27.2(b) reads as rewritten:

3 "(b) Any person who commits an offense defined in this section is guilty of a
4 Class ~~B-B1~~ felony."

5 Sec. 135.1. G.S. 14-27.4(b) reads as rewritten:

6 "(b) Any person who commits an offense defined in this section is guilty of a
7 Class ~~B-B1~~ felony."

8 Sec. 135.2. G.S. 14-17, as amended by Section 1127 of Chapter 539 of the
9 1993 Session Laws, reads as rewritten:

10 **"§ 14-17. Murder in the first and second degree defined; punishment.**

11 A murder which shall be perpetrated by means of poison, lying in wait,
12 imprisonment, starving, torture, or by any other kind of willful, deliberate, and
13 premeditated killing, or which shall be committed in the perpetration or attempted
14 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other
15 felony committed or attempted with the use of a deadly weapon shall be deemed to be
16 murder in the first degree, a Class A felony, and any person who commits such murder
17 shall be punished with death or imprisonment in the State's prison for life as the court
18 shall determine pursuant to G.S. 15A-2000, except that any such person who was under
19 17 years of age at the time of the murder shall be punished with imprisonment in the
20 State's prison for life. Provided, however, any person under the age of 17 who commits
21 murder in the first degree while serving a prison sentence imposed for a prior murder or
22 while on escape from a prison sentence imposed for a prior murder shall be punished
23 with death or imprisonment in the State's prison for life as the court shall determine
24 pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be
25 proximately caused by the unlawful distribution of opium or any synthetic or natural
26 salt, compound, derivative, or preparation of opium, or cocaine or other substance
27 described in G.S. 90-90(a)4., when the ingestion of such substance causes the death of
28 the user, shall be deemed murder in the second degree, and any person who commits
29 such murder shall be punished as a Class ~~B-B2~~ felon."

30 Sec. 135.3. G.S. 14-20, as amended by Section 1129 of Chapter 539 of the
31 1993 Session Laws, reads as rewritten:

32 **"§ 14-20. Killing adversary in duel; aiders and abettors declared accessories.**

33 If any person fight a duel in consequence of a challenge sent or received, and either
34 of the parties shall be killed, then the survivor, on conviction thereof, shall be punished
35 as a Class ~~B-B2~~ felon. All their aiders and abettors shall be considered accessories
36 before the fact.

37 Any person charged with killing an adversary in a duel may enter a plea of guilty to
38 said charge in the same way and manner and under the conditions and restrictions set
39 forth in G.S. 15-162.1 relating to pleas of guilty for first degree murder, first degree
40 burglary, arson and rape."

41 Sec. 135.4. G.S. 14-5.2 reads as rewritten:

42 **"§ 14-5.2. Accessory before fact punishable as principal felon.**

43 All distinctions between accessories before the fact and principals to the commission
44 of a felony are abolished. Every person who heretofore would have been guilty as an

1 accessory before the fact to any felony shall be guilty and punishable as a principal to
 2 that felony. However, if a person who heretofore would have been guilty and punishable
 3 as an accessory before the fact is convicted of a capital felony, and the jury finds that his
 4 conviction was based solely on the uncorroborated testimony of one or more principals,
 5 coconspirators, or accessories to the crime, he shall be guilty of a Class ~~B~~B2 felony."

6 Sec. 135.5. G.S. 15A-1371(a1), as amended by Section 22 of Chapter 538 of
 7 the 1993 Session Laws, reads as rewritten:

8 "(a1) A prisoner serving a term of life imprisonment for a Class A felony is eligible
 9 for parole after serving 25 years. A prisoner serving a term of life imprisonment for
 10 first degree rape or first degree sexual offense shall be imprisoned for the remainder of
 11 the prisoner's natural life. This subsection applies to offenses committed on and after
 12 January 1, 1995."

13 Sec. 135.6. G.S. 15A-1340.17, as enacted by Section 1 of Chapter 538 of the
 14 1993 Session Laws and as amended by Sections 20 and 21 of Chapter 14 of the Session
 15 Laws of the 1994 Extra Session, reads as rewritten:

16 "**§ 15A-1340.17. Punishment limits for each class of offense and prior record level.**

17 (a) Offense Classification; Default Classifications. – The offense classification is
 18 as specified in the offense for which the sentence is being imposed. If the offense is a
 19 felony for which there is no classification, it is a Class I felony.

20 (b) Fines. – Any judgment that includes a sentence of imprisonment may also
 21 include a fine. If a community punishment is authorized, the judgment may consist of a
 22 fine only. Additionally, when the defendant is other than an individual, the judgment
 23 may consist of a fine only. Unless otherwise provided, the amount of the fine is in the
 24 discretion of the court.

25 (c) Punishments for Each Class of Offense and Prior Record Level; Punishment
 26 Chart Described. – The authorized punishment for each class of offense and prior record
 27 level is as specified in the chart below. Prior record levels are indicated by the Roman
 28 numerals placed horizontally on the top of the chart. Classes of offense are indicated by
 29 the letters placed vertically on the left side of the chart. Each cell on the chart contains
 30 the following components:

31 (1) A sentence disposition or dispositions: 'C' indicates that a community
 32 punishment is authorized; 'I' indicates that an intermediate punishment
 33 is authorized; ~~and 'A' indicates that an active punishment is authorized.~~
 34 authorized; and 'Life Imprisonment Without Parole' indicates that the
 35 defendant shall be imprisoned for the remainder of the prisoner's
 36 natural life.

37 (2) A presumptive range of minimum durations, if the sentence of
 38 imprisonment is neither aggravated or mitigated; any minimum term of
 39 imprisonment in that range is permitted unless the court finds pursuant
 40 to G.S. 15A-1340.16 that an aggravated or mitigated sentence is
 41 appropriate. The presumptive range is the middle of the three ranges
 42 in the cell.

43 (3) A mitigated range of minimum durations if the court finds pursuant to
 44 G.S. 15A-1340.16 that a mitigated sentence of imprisonment is

justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

| | | | | | | | |
|--|-------|---------|---------|----|----------|-----------|---------|
| | I | II | III | IV | V | VI | |
| | 0 Pts | 1-4 Pts | 5-8 Pts | | 9-14 Pts | 15-18 Pts | 19+ Pts |

A Life Imprisonment or Death as Established by Statute

| | | | | | | | |
|-----------|----------------|------------------|----------|----------------|----------------|----------------|--|
| | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>DISPOSITION</u> |
| | <u>240-300</u> | <u>288-360</u> | | <u>336-420</u> | | <u>384-480</u> | <u>Life Imprisonment</u> <u>Aggravated</u> |
| | | | | | | | <u>Without Parole</u> |
| <u>B1</u> | <u>192-240</u> | <u>230-288</u> | | <u>269-336</u> | <u>307-384</u> | <u>346-433</u> | <u>384-480</u> <u>PRESUMPTIVE</u> |
| | <u>144-192</u> | <u>173-230</u> | | <u>202-269</u> | <u>230-307</u> | <u>260-346</u> | <u>288-384</u> |
| | | <u>Mitigated</u> | | | | | |

| | | | | | | | |
|------------|----------------|------------------|----------|----------------|----------------|----------------|-----------------------------------|
| | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>DISPOSITION</u> |
| | <u>135-169</u> | <u>163-204</u> | | <u>190-238</u> | | <u>216-270</u> | <u>243-304</u> <u>270-338</u> |
| | | | | | | | <u>Aggravated</u> |
| <u>BB2</u> | <u>108-135</u> | <u>130-163</u> | | <u>152-190</u> | <u>173-216</u> | <u>194-243</u> | <u>216-270</u> <u>PRESUMPTIVE</u> |
| | <u>81-108</u> | <u>98-130</u> | | <u>114-152</u> | <u>130-173</u> | <u>146-194</u> | <u>162-216</u> |
| | | <u>Mitigated</u> | | | | | |

| | | | | | | | |
|----------|--------------|---------------|----------------|---------------|----------------|----------------|-----------------------------------|
| | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>DISPOSITION</u> |
| | <u>63-79</u> | <u>86-108</u> | <u>100-125</u> | | <u>115-144</u> | <u>130-162</u> | <u>145-181</u> <u>Aggravated</u> |
| <u>C</u> | <u>50-63</u> | <u>69-86</u> | | <u>80-100</u> | <u>92-115</u> | <u>104-130</u> | <u>116-145</u> <u>PRESUMPTIVE</u> |
| | <u>38-50</u> | <u>52-69</u> | <u>60-80</u> | <u>69-92</u> | <u>78-104</u> | <u>87-116</u> | <u>Mitigated</u> |

| | | | | | | | |
|----------|--------------|--------------|---------------|--------------|----------------|----------------|-----------------------------------|
| | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>DISPOSITION</u> |
| | <u>55-69</u> | <u>66-82</u> | <u>89-111</u> | | <u>101-126</u> | <u>115-144</u> | <u>126-158</u> <u>Aggravated</u> |
| <u>D</u> | <u>44-55</u> | <u>53-66</u> | | <u>71-89</u> | <u>81-101</u> | <u>92-115</u> | <u>101-126</u> <u>PRESUMPTIVE</u> |
| | <u>33-44</u> | <u>40-53</u> | <u>53-71</u> | <u>61-81</u> | <u>69-92</u> | <u>76-101</u> | <u>Mitigated</u> |

| | | | | | | |
|----------|--------------|--------------|--------------|--------------|--------------|---------------------------------|
| | <u>I/A</u> | <u>I/AA</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>DISPOSITION</u> |
| | <u>25-31</u> | <u>29-36</u> | <u>34-42</u> | <u>46-58</u> | <u>53-66</u> | <u>59-74</u> <u>Aggravated</u> |
| <u>E</u> | <u>20-25</u> | <u>23-29</u> | <u>27-34</u> | <u>37-46</u> | <u>42-53</u> | <u>47-59</u> <u>PRESUMPTIVE</u> |

| | | | | | | | | | |
|----|---|-------|--------|-------|-------|-------|-------|-------------|-------------|
| 1 | | 15-20 | 17-23 | 20-27 | 28-37 | 32-42 | 35-47 | Mitigated | |
| 2 | | | | | | | | | |
| 3 | | I/A | I/AI/A | A | A | A | | DISPOSITION | |
| 4 | | 16-20 | 19-24 | 21-26 | 25-31 | 34-42 | 39-49 | Aggravated | |
| 5 | F | 13-16 | 15-19 | 17-21 | 20-25 | 27-34 | 31-39 | | PRESUMPTIVE |
| 6 | | 10-13 | 11-15 | 13-17 | 15-20 | 20-27 | 23-31 | Mitigated | |
| 7 | | | | | | | | | |
| 8 | | I/A | I/AI/A | I/A | A | A | | DISPOSITION | |
| 9 | | 13-16 | 15-19 | 16-20 | 20-25 | 21-26 | 29-36 | Aggravated | |
| 10 | G | 10-13 | 12-15 | 13-16 | 16-20 | 17-21 | 23-29 | | PRESUMPTIVE |
| 11 | | 8-10 | 9-12 | 10-13 | 12-16 | 13-17 | 17-23 | Mitigated | |
| 12 | | | | | | | | | |
| 13 | | C/I | I | I/A | I/A | I/A | A | DISPOSITION | |
| 14 | | 6-8 | 8-10 | 10-12 | 11-14 | 15-19 | 20-25 | Aggravated | |
| 15 | H | 5-6 | 6-8 | 8-10 | 9-11 | 12-15 | 16-20 | | PRESUMPTIVE |
| 16 | | 4-5 | 4-6 | 6-8 | 7-9 | 9-12 | 12-16 | Mitigated | |
| 17 | | | | | | | | | |
| 18 | | C | C/II | I/A | I/A | I/A | | DISPOSITION | |
| 19 | | 6-8 | 6-8 | 8-10 | 9-11 | 10-12 | | Aggravated | |
| 20 | I | 4-6 | 4-6 | 5-6 | 6-8 | 7-9 | 8-10 | | PRESUMPTIVE |
| 21 | | 3-4 | 3-4 | 4-5 | 4-6 | 5-7 | 6-8 | Mitigated | |

(d) Maximum Sentences Specified for Class F through Class I Felonies. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

| | | | | | | | | |
|----|-------|-------|-------|-------|-------|-------|-------|-------|
| 30 | 3-4 | 4-5 | 5-6 | 6-8 | 7-9 | 8-10 | 9-11 | 10-12 |
| 31 | 11-14 | 12-15 | 13-16 | 14-17 | 15-18 | 16-20 | 17-21 | 18-22 |
| 32 | 19-23 | 20-24 | 21-26 | 22-27 | 23-28 | 24-29 | 25-30 | 26-32 |
| 33 | 27-33 | 28-34 | 29-35 | 30-36 | 31-38 | 32-39 | 33-40 | 34-41 |
| 34 | 35-42 | 36-44 | 37-45 | 38-46 | 39-47 | 40-48 | 41-50 | 42-51 |
| 35 | 43-52 | 44-53 | 45-54 | 46-56 | 47-57 | 48-58 | 49-59 | |

(e) Maximum Sentences Specified for Class ~~B~~B1 through Class E Felonies. Felonies for Minimum Terms up to 339 Months. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class ~~B~~B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

| | | | | | | | | |
|----|---------|---------|---------|---------|---------|---------|---------|---------|
| 1 | 15-27 | 16-29 | 17-30 | 18-31 | 19-32 | 20-33 | 21-35 | 22-36 |
| 2 | 23-37 | 24-38 | 25-39 | 26-41 | 27-42 | 28-43 | 29-44 | 30-45 |
| 3 | 31-47 | 32-48 | 33-49 | 34-50 | 35-51 | 36-53 | 37-54 | 38-55 |
| 4 | 39-56 | 40-57 | 41-59 | 42-60 | 43-61 | 44-62 | 45-63 | 46-65 |
| 5 | 47-66 | 48-67 | 49-68 | 50-69 | 51-71 | 52-72 | 53-73 | 54-74 |
| 6 | 55-75 | 56-77 | 57-78 | 58-79 | 59-80 | 60-81 | 61-83 | 62-84 |
| 7 | 63-85 | 64-86 | 65-87 | 66-89 | 67-90 | 68-91 | 69-92 | 70-93 |
| 8 | 71-95 | 72-96 | 73-97 | 74-98 | 75-99 | 76-101 | 77-102 | 78-103 |
| 9 | 79-104 | 80-105 | 81-107 | 82-108 | 83-109 | 84-110 | 85-111 | 86-113 |
| 10 | 87-114 | 88-115 | 89-116 | 90-117 | 91-119 | 92-120 | 93-121 | 94-122 |
| 11 | 95-123 | 96-125 | 97-126 | 98-127 | 99-128 | 100-129 | 101-131 | 102-132 |
| 12 | 103-133 | 104-134 | 105-135 | 106-137 | 107-138 | 108-139 | 109-140 | 110-141 |
| 13 | 111-143 | 112-144 | 113-145 | 114-146 | 115-147 | 116-149 | 117-150 | 118-151 |
| 14 | 119-152 | 120-153 | 121-155 | 122-156 | 123-157 | 124-158 | 125-159 | 126-161 |
| 15 | 127-162 | 128-163 | 129-164 | 130-165 | 131-167 | 132-168 | 133-169 | 134-170 |
| 16 | 135-171 | 136-173 | 137-174 | 138-175 | 139-176 | 140-177 | 141-179 | 142-180 |
| 17 | 143-181 | 144-182 | 145-183 | 146-185 | 147-186 | 148-187 | 149-188 | 150-189 |
| 18 | 151-191 | 152-192 | 153-193 | 154-194 | 155-195 | 156-197 | 157-198 | 158-199 |
| 19 | 159-200 | 160-201 | 161-203 | 162-204 | 163-205 | 164-206 | 165-207 | 166-209 |
| 20 | 167-210 | 168-211 | 169-212 | 170-213 | 171-215 | 172-216 | 173-217 | 174-218 |
| 21 | 175-219 | 176-221 | 177-222 | 178-223 | 179-224 | 180-225 | 181-227 | 182-228 |
| 22 | 183-229 | 184-230 | 185-231 | 186-233 | 187-234 | 188-235 | 189-236 | 190-237 |
| 23 | 191-239 | 192-240 | 193-241 | 194-242 | 195-243 | 196-245 | 197-246 | 198-247 |
| 24 | 199-248 | 200-249 | 201-251 | 202-252 | 203-253 | 204-254 | 205-255 | 206-257 |
| 25 | 207-258 | 208-259 | 209-260 | 210-261 | 211-263 | 212-264 | 213-265 | 214-266 |
| 26 | 215-267 | 216-269 | 217-270 | 218-271 | 219-272 | 220-273 | 221-275 | 222-276 |
| 27 | 223-277 | 224-278 | 225-279 | 226-281 | 227-282 | 228-283 | 229-284 | 230-285 |
| 28 | 231-287 | 232-288 | 233-289 | 234-290 | 235-291 | 236-293 | 237-294 | 238-295 |
| 29 | 239-296 | 240-297 | 241-299 | 242-300 | 243-301 | 244-302 | 245-303 | 246-305 |
| 30 | 247-306 | 248-307 | 249-308 | 250-309 | 251-311 | 252-312 | 253-313 | 254-314 |
| 31 | 255-315 | 256-317 | 257-318 | 258-319 | 259-320 | 260-321 | 261-323 | 262-324 |
| 32 | 263-325 | 264-326 | 265-327 | 266-329 | 267-330 | 268-331 | 269-332 | 270-333 |
| 33 | 271-335 | 272-336 | 273-337 | 274-338 | 275-339 | 276-341 | 277-342 | 278-343 |
| 34 | 279-344 | 280-345 | 281-347 | 282-348 | 283-349 | 284-350 | 285-351 | 286-353 |
| 35 | 287-354 | 288-355 | 289-356 | 290-357 | 291-359 | 292-360 | 293-361 | 294-362 |
| 36 | 295-363 | 296-365 | 297-366 | 298-367 | 299-368 | 300-369 | 301-371 | 302-372 |
| 37 | 303-373 | 304-374 | 305-375 | 306-377 | 307-378 | 308-379 | 309-380 | 310-381 |
| 38 | 311-383 | 312-384 | 313-385 | 314-386 | 315-387 | 316-389 | 317-390 | 318-391 |
| 39 | 319-392 | 320-393 | 321-395 | 322-396 | 323-397 | 324-398 | 325-399 | 326-401 |
| 40 | 327-402 | 328-403 | 329-404 | 330-405 | 331-407 | 332-408 | 333-409 | 334-410 |
| 41 | 335-411 | 336-413 | 337-414 | 338-415 | 339-416 | | | |
| 42 | | | | | | | | |

43 (e1) Maximum Sentences Specified for Class B1 through Class E Felonies for
44 Minimum Terms of 340 Months or More. – Unless provided otherwise in a statute

1 establishing a punishment for a specific crime, when the minimum sentence is 340
 2 months or more, the corresponding maximum term of imprisonment shall be equal to
 3 the sum of the minimum term of imprisonment and twenty percent (20%) of the
 4 minimum term of imprisonment, rounded to the next highest month, plus nine additional
 5 months."

6 Sec. 135.7. G.S. 15A-1368.1, as enacted by Section 20.1 of Chapter 538 of
 7 the 1993 Session Laws and as amended by Section 26 of Chapter 14 of the Session
 8 Laws of the 1994 Extra Session, reads as rewritten:

9 **"§ 15A-1368.1. Applicability of Article 84A.**

10 This Article applies to all felons in Class ~~B-B1~~ through Class E sentenced to an
 11 active punishment under Article 81B of this ~~Chapter-Chapter~~, but does not apply to
 12 felons in Class B1 sentenced to life imprisonment without parole. Prisoners subject to
 13 Articles 85 and 85A of this Chapter are excluded from this Article's coverage."

14 Sec. 135.8. G.S. 15A-1340.13(h), as enacted by Section 1 of Chapter 538 of
 15 the 1993 Session Laws and as amended by Section 19 of Chapter 14 of the Session
 16 Laws of the 1994 Extra Session, reads as rewritten:

17 "(h) Exceptions When Extraordinary Mitigation Shall Not Be Used. – The court
 18 shall not impose an intermediate sanction pursuant to subsection (g) of this section if:

- 19 (1) The offense is a Class A or Class B1 felony;
- 20 (2) The offense is a drug trafficking offense under G.S. 90-95(h); or
- 21 (3) The defendant has five or more points as determined by G.S. 15A-
 22 1340.14."

23 Sec. 135.9. G.S. 15A-1340.14(b), as enacted by Section 1 of Chapter 538 of
 24 the 1993 Session Laws, reads as rewritten:

25 "(b) Points. – Points are assigned as follows:

- 26 (1) For each prior felony Class A conviction, 10 points.
- 27 (1a) For each prior felony Class B1 conviction, 9 points.
- 28 (2) For each prior felony Class ~~B~~, B2, C, or D conviction, 6 points.
- 29 (3) For each prior felony Class E, F, or G conviction, 4 points.
- 30 (4) For each prior felony Class H or I conviction, 2 points.
- 31 (5) For each prior Class 1 misdemeanor conviction, 1 point-point, except
 32 that convictions for Class 1 misdemeanor offenses under Chapter 20 of
 33 the General Statutes, other than conviction for misdemeanor death by
 34 vehicle (G.S. 20-141.4(a2)), shall not be assigned any points for
 35 purposes of determining a person's prior record for felony sentencing.
- 36 (6) If all the elements of the present offense are included in the prior
 37 offense, 1 point.
- 38 (7) If the offense was committed while the offender was on probation or
 39 parole, or while the offender was serving a sentence of imprisonment,
 40 or while the offender was on escape from a correctional institution
 41 while serving a sentence of imprisonment, 1 point.

42 For purposes of determining prior record points under this subsection, a conviction
 43 for a first degree rape or a first degree sexual offense committed prior to the effective
 44 date of this subsection shall be treated as a felony Class B1 conviction, and a conviction

1 for any other felony Class B offense committed prior to the effective date of this
2 subsection shall be treated as a felony Class B2 conviction."

3 Sec. 135.10. G.S. 15A-1372(a), as amended by Section 23 of Chapter 538 of
4 the 1993 Session Laws, reads as rewritten:

5 "(a) Term of Parole. – The term of parole for any person released from
6 imprisonment may be no greater than:

7 (1) One year for a conviction for impaired driving under G.S. 20-138.1; or

8 (2) Three years for a sentence of life ~~imprisonment.~~ imprisonment for
9 which parole is allowed."

10 Sec. 135.11. G.S. 143B-266(a), as amended by Section 42 of Chapter 538 of
11 the 1993 Session Laws, reads as rewritten:

12 "(a) There is hereby created a Post-Release Supervision and Parole Commission
13 of the Department of Correction with the authority to grant paroles, including both
14 regular and temporary paroles, to persons held by virtue of any final order or judgment
15 of any court of this State as provided in Chapter 148 of the General Statutes and laws of
16 the State of North Carolina, except that for persons sentenced under Article 81B of
17 Chapter 15A of the General Statutes, only those sentenced to life imprisonment for first
18 degree murder are eligible for parole. The Commission shall also have authority to
19 revoke, terminate, and suspend paroles of such persons (including persons placed on
20 parole on or before the effective date of the Executive Organization Act of 1973) and to
21 assist the Governor in exercising his authority in granting reprieves, commutations, and
22 pardons, and shall perform such other services as may be required by the Governor in
23 exercising his powers of executive clemency. The Commission shall also have
24 authority to revoke and terminate persons on post-release supervision, as provided in
25 Article 84A of Chapter 15A of the General Statutes."

26 Sec. 135.12. G.S. 14-2.5, as enacted by Section 6 of Chapter 538 of the 1993
27 Session Laws, reads as rewritten:

28 "**§ 14-2.5. Punishment for attempt to commit a felony or misdemeanor.**

29 Unless a different classification is expressly stated, an attempt to commit a
30 misdemeanor or a felony is punishable under the next lower classification as the offense
31 which the offender attempted to commit. An attempt to commit a Class A or Class B1
32 felony is a Class B2 felony, an attempt to commit a Class B2 felony is a Class C felony,
33 an attempt to commit a Class I felony is a Class 1 misdemeanor, and an attempt to
34 commit a Class 3 misdemeanor is a Class 3 misdemeanor."

35 Sec. 135.13. G.S. 14-2.4(a), as amended by Section 5 of Chapter 538 of the
36 1993 Session Laws, reads as rewritten:

37 "(a) Unless a different classification is expressly stated, a person who is convicted
38 of a conspiracy to commit a felony is guilty of a felony that is one class lower than the
39 felony he or she conspired to commit, except that a conspiracy to commit a Class A or
40 Class B1 felony is a Class B2 felony, a conspiracy to commit a Class B2 felony is a
41 Class C felony, and a conspiracy to commit a Class I felony is a Class 1 misdemeanor."

42 Sec. 135.14. G.S. 14-2.6(a), as enacted by Section 6.1 of Chapter 538 of the
43 1993 Session Laws, reads as rewritten:

1 "(a) Unless a different classification is expressly stated, a person who solicits
2 another person to commit a felony is guilty of a felony that is two classes lower than the
3 felony the person solicited the other person to commit, except that a solicitation to
4 commit a Class A or Class B1 felony is a Class C felony, a solicitation to commit a
5 Class B2 felony is a Class D felony, a solicitation to commit a Class H felony is a Class
6 1 misdemeanor, and a solicitation to commit a Class I felony is a Class 2 misdemeanor."

7 Sec. 135.15. This Part becomes effective on the same date that Chapter 538 of
8 the 1993 Session Laws becomes effective except that Sections 135.5, 135.10, and
9 135.11 of this act shall not become effective if Senate Bill 2 of the 1994 Extra Session is
10 ratified. This Part applies to offenses occurring on or after the effective date of this
11 Part. Prosecutions for offenses committed before the effective date of this Part are not
12 abated or affected by this Part, and the statutes that would be applicable but for this Part
13 remain applicable to those prosecutions.

14 15 **PART 17. MODIFY HABITUAL FELON LAW**

16
17 Sec. 136. G.S. 14-7.6 reads as rewritten:

18 **"§ 14-7.6. Sentencing of habitual felons.**

19 When an habitual felon as defined in this Article ~~shall commit~~ commits any felony
20 under the laws of the State of North Carolina, ~~he the felon~~ must, upon conviction or plea
21 of guilty under indictment as ~~herein provided~~ provided in this Article (except where the
22 death penalty or a sentence of life imprisonment is imposed) be sentenced as a Class C
23 felon. In determining the prior record level, convictions used to establish a person's
24 status as an habitual felon shall not be used. Notwithstanding any other provision of
25 law, a person sentenced under this Article shall serve a term of not less than seven years
26 in prison, excluding gain time granted under G.S. 148-13. A person sentenced under
27 this Article shall receive a sentence of at least 14 years in the State's prison and shall be
28 entitled to credit for good behavior under G.S. 15A-1340.7. The sentencing judge may
29 not suspend the sentence and may not place the person sentenced on probation.
30 Sentences imposed under this Article shall run consecutively with and shall commence
31 at the expiration of any sentence being served by the person sentenced ~~hereunder~~ under
32 this section."

33 Sec. 136.1. Section 9 of Chapter 538 of the 1993 Session Laws is repealed.

34 Sec. 136.2. This Part becomes effective on the same date that Chapter 538 of
35 the 1993 Session Laws becomes effective, and applies to offenses committed on or after
36 that date. Prosecutions for, or sentences based on, offenses committed before the
37 effective date of this Part are not abated or affected by this Part, and the statutes that
38 would be applicable to those prosecutions or sentences but for the provisions of this Part
39 remain applicable to those prosecutions or sentences.

40 41 **PART 18. INCREASE FIREARM PENALTY**

42
43 Sec. 137. G.S. 14-2.2 reads as rewritten:

44 **"§ 14-2.2. Sentencing of person convicted of repeated felony using deadly weapon.**

1 Notwithstanding any other provision of law, any person who has been previously
2 convicted in the courts of this State within seven years of a felony in which a deadly
3 weapon was used, provided that the previous felony did not occur within 10 days of the
4 second or subsequent felony, in which a deadly weapon was used, shall serve a term for
5 the second or subsequent felony of not less than seven years in prison, excluding gain
6 time granted under G.S. 148-13. Any person sentenced under this section shall receive a
7 sentence of at least 14 years in the State's prison and shall be entitled to credit for good
8 behavior under G.S. 15A-1340.7. The sentencing judge may not sentence a person
9 sentenced under this section as a committed youthful offender and may not suspend the
10 sentence and place the person sentenced on probation. Sentences imposed pursuant to
11 this section shall run consecutively with and shall commence at the expiration of any
12 sentence being served by the person sentenced hereunder.

13 For the purpose of this section, the record or records of the prior felony conviction
14 shall be admissible in evidence after conviction and before sentencing, but only for the
15 purpose of proving that the person has been convicted of a previous felony. A judgment
16 of a conviction or plea of guilty or no contest to such felony offense certified to a
17 superior court in this State from the custodian of records of any other court of this State
18 under the same name as that by which the defendant is charged shall be **prima facie**
19 evidence that the identity of such person is the same as the defendant so charged and
20 shall be **prima facie** evidence of the facts so certified.

21 For the purposes of this section, a felony committed before a person attains the age
22 of 18 years does not constitute a previous felony conviction.

23 Pleas of guilty or no contest to or convictions of felony offenses prior to September
24 1, 1977, are not felony offenses within the meaning of this section. Any felony offense
25 to which a pardon has been extended does not for the purpose of this section constitute a
26 felony. The burden of proving a pardon rests with the defendant and the State is not
27 required to disprove a pardon.

28 **Sentencing of a person convicted of a Class A, B, B1, B2, C, D, or E felony who**
29 **used, displayed, or threatened to use or display a firearm during the commission of**
30 **the crime; confiscation and disposition of a firearm used in a felony.**

31 (a) If a person is convicted of a Class A, B, B1, B2, C, D, or E felony and the
32 person used, displayed, or threatened to use or display a firearm during the commission
33 of the felony, the person shall, in addition to the punishment for the underlying felony,
34 be sentenced to imprisonment for five years.

35 The court shall not sentence a person sentenced under this section as a committed
36 youthful offender. The court shall not suspend any sentence imposed under this section
37 and shall not place a person sentenced under this section on probation for the sentence
38 imposed under this section. Sentences imposed pursuant to this section shall be
39 consecutive to all other sentences imposed and shall begin at the expiration of any other
40 sentence being served by the person.

41 (b) Subsection (a) of this section does not apply in any of the following
42 circumstances:

- 43 (1) The person is not sentenced to an active term of imprisonment.

1 (2) The evidence of the use, display, or threatened use or display of a
 2 firearm is needed to prove an element of the underlying Class A, B,
 3 B1, B2, C, D, or E felony.

4 (3) The person did not actually possess a firearm about his or her person.

5 (c) When a person is found to have personally used a firearm in the commission
 6 or attempted commission of a felony and the firearm is owned by that person, or the
 7 serial number on the firearm has been defaced such that ownership is not traceable, the
 8 court shall order that the firearm be confiscated and disposed of in any of the ways
 9 provided by G.S. 14-269.1 that the court in its discretion deems appropriate.

10 (d) Subsection (a) of this section does not apply to the following felonies:

11 (1) G.S. 14-49(b). Malicious use of explosive or incendiary.

12 (2) G.S. 14-59. Burning of certain public buildings.

13 (3) G.S. 14-60. Burning of schoolhouses or buildings of educational
 14 institutions.

15 (4) G.S. 14-61. Burning of certain bridges and buildings.

16 (5) G.S. 14-62. Burning of churches and certain other buildings.

17 (6) G.S. 14-62.1. Burning of building or structure in process of
 18 construction.

19 (7) G.S. 53-129. Misapplication of bank funds by officer or employee."

20 Sec. 137.1. (a) G.S. 14-2.2(a), as amended by Section 137 of this act, reads
 21 as rewritten:

22 "(a) If a person is convicted of a Class A, B, B1, B2, C, D, or E felony and the
 23 person used, displayed, or threatened to use or display a firearm during the commission
 24 of the felony, the person shall, in addition to the punishment for the underlying felony,
 25 be sentenced to ~~imprisonment for five years.~~ a minimum term of imprisonment for 60
 26 months as provided by G.S. 15A-1340.16A. Evidence of the use, display, or threatened
 27 use or display of a firearm that is needed to prove an element of the underlying felony
 28 shall not be used to establish the enhancement under this section.

29 ~~The court shall not sentence a person sentenced under this section as a committed~~
 30 ~~youthful offender.~~ The court shall not suspend any sentence imposed under this section
 31 and shall not place a person sentenced under this section on probation for the sentence
 32 imposed under this section. Sentences imposed pursuant to this section shall be
 33 consecutive to all other sentences imposed and shall begin at the expiration of any other
 34 sentence being served by the person."

35 (b) G.S. 14-2.2(d), as amended by Section 137 of this act, is repealed.

36 (c) Section 4 of Chapter 538 of the 1993 Session Laws is repealed.

37 Sec. 137.2. Part 2 of Article 81B of Chapter 15A of the General Statutes is
 38 amended by adding a new section to read:

39 "**§ 15A-1340.16A. Enhanced sentence if defendant is convicted of a Class A, B1,**
 40 **B2, C, D, or E felony and the defendant used, displayed, or threatened to**
 41 **use or display a firearm during the commission of the felony.**

42 (a) If a person is convicted of a Class A, B1, B2, C, D, or E felony and the court
 43 finds that the person used, displayed, or threatened to use or display a firearm at the
 44 time of the felony, the court shall increase the minimum term of imprisonment to which

1 the person is sentenced by 60 months. The court shall not suspend the 60-month
2 minimum term of imprisonment imposed as an enhanced sentence under this section
3 and shall not place any person sentenced under this section on probation for the
4 enhanced sentence.

5 (b) Subsection (a) of this section does not apply in any of the following
6 circumstances:

7 (1) The person is not sentenced to an active term of imprisonment.

8 (2) The evidence of the use, display, or threatened use or display of a
9 firearm is needed to prove an element of the underlying Class A, B1,
10 B2, C, D, or E felony.

11 (3) The person did not actually possess a firearm about his or her person."

12 Sec. 137.3. G.S. 15A-1340.4(a)(1) reads as rewritten:

13 "(1) Aggravating factors:

- 14 a. The defendant induced others to participate in the commission
15 of the offense or occupied a position of leadership or
16 dominance of other participants.
- 17 b. The offense was committed for the purpose of avoiding or
18 preventing a lawful arrest or effecting an escape from custody.
- 19 c. The defendant was hired or paid to commit the offense.
- 20 d. The offense was committed to disrupt or hinder the lawful
21 exercise of any governmental function or the enforcement of
22 laws.
- 23 e. The offense was committed against a present or former: law
24 enforcement officer, employee of the Department of Correction,
25 jailer, fireman, emergency medical technician, ambulance
26 attendant, justice or judge, clerk or assistant or deputy clerk of
27 court, magistrate, prosecutor, juror, or witness against the
28 defendant, while engaged in the performance of his official
29 duties or because of the exercise of his official duties.
- 30 f. The offense was especially heinous, atrocious, or cruel.
- 31 g. The defendant knowingly created a great risk of death to more
32 than one person by means of a weapon or device which would
33 normally be hazardous to the lives of more than one person.
- 34 h. The defendant held public office at the time of the offense and
35 the offense related to the conduct of the office.
- 36 i. The defendant was armed with or used a deadly weapon at the
37 time of the crime.
- 38 j. The victim was very young, or very old, or mentally or
39 physically infirm.
- 40 k. The defendant committed the offense while on pretrial release
41 on another felony charge.
- 42 l. The defendant involved a person under the age of 16 in the
43 commission of the crime.

- 1 m. The offense involved an attempted or actual taking of property
2 of great monetary value or damage causing great monetary loss,
3 or the offense involved an unusually large quantity of
4 contraband.
- 5 n. The defendant took advantage of a position of trust or
6 confidence to commit the offense.
- 7 o. The defendant has a prior conviction or convictions for criminal
8 offenses punishable by more than 60 days' confinement. Such
9 convictions include those occurring in North Carolina courts
10 and courts of other states, the District of Columbia, and the
11 United States, provided that any crime for which the defendant
12 was convicted in a jurisdiction other than North Carolina would
13 have been a crime if committed in this State. Such prior
14 convictions do not include any crime that is joinable, under G.S.
15 Chapter 15A, with the crime or crimes for which the defendant
16 is currently being sentenced.
- 17 p. The offense involved the sale or delivery of a controlled
18 substance to a minor.
- 19 q. The offense was committed because of the race, color, religion,
20 nationality, or country of origin of another person.
- 21 r. The offense for which the defendant stands convicted was
22 committed against a victim because of the victim's race, color,
23 religion, nationality, or country of origin.

24 Evidence necessary to prove an element of the offense may not be used to prove any
25 factor in aggravation, and the same item of evidence may not be used to prove more
26 than one factor in aggravation. Evidence necessary to establish that an enhanced
27 sentence is required under G.S. 14-2.2 may not be used to prove any factor in
28 aggravation.

29 The judge may not consider as an aggravating factor the fact that the defendant
30 exercised his right to a jury trial."

31 Sec. 137.4. G.S. 15A-1340.16(d) reads as rewritten:

32 "(d) Aggravating Factors. – The following are aggravating factors:

- 33 (1) The defendant induced others to participate in the commission of the
34 offense or occupied a position of leadership or dominance of other
35 participants.
- 36 (2) The defendant joined with more than one other person in committing
37 the offense and was not charged with committing a conspiracy.
- 38 (3) The offense was committed for the purpose of avoiding or preventing a
39 lawful arrest or effecting an escape from custody.
- 40 (4) The defendant was hired or paid to commit the offense.
- 41 (5) The offense was committed to disrupt or hinder the lawful exercise of
42 any governmental function or the enforcement of laws.
- 43 (6) The offense was committed against a present or former: law
44 enforcement officer, employee of the Department of Correction, jailer,

1 fireman, emergency medical technician, ambulance attendant, justice
2 or judge, clerk or assistant or deputy clerk of court, magistrate,
3 prosecutor, juror, or witness against the defendant, while engaged in
4 the performance of that person's official duties or because of the
5 exercise of that person's official duties.

6 (7) The offense was especially heinous, atrocious, or cruel.

7 (8) The defendant knowingly created a great risk of death to more than
8 one person by means of a weapon or device which would normally be
9 hazardous to the lives of more than one person.

10 (9) The defendant held public office at the time of the offense and the
11 offense related to the conduct of the office.

12 (10) The defendant was armed with or used a deadly weapon at the time of
13 the crime.

14 (11) The victim was very young, or very old, or mentally or physically
15 infirm, or handicapped.

16 (12) The defendant committed the offense while on pretrial release on
17 another charge.

18 (13) The defendant involved a person under the age of 16 in the
19 commission of the crime.

20 (14) The offense involved an attempted or actual taking of property of great
21 monetary value or damage causing great monetary loss, or the offense
22 involved an unusually large quantity of contraband.

23 (15) The defendant took advantage of a position of trust or confidence to
24 commit the offense.

25 (16) The offense involved the sale or delivery of a controlled substance to a
26 minor.

27 (17) The offense for which the defendant stands convicted was committed
28 against a victim because of the victim's race, color, religion,
29 nationality, or country of origin.

30 (18) The defendant does not support the defendant's family.

31 (19) The serious injury inflicted upon the victim is permanent and
32 debilitating.

33 (20) Any other aggravating factor reasonably related to the purposes of
34 sentencing.

35 Evidence necessary to prove an element of the offense shall not be used to prove any
36 factor in aggravation, and the same item of evidence shall not be used to prove more
37 than one factor in aggravation. Evidence necessary to establish that an enhanced
38 sentence is required under G.S. 14-2.2 may not be used to prove any factor in
39 aggravation.

40 The judge shall not consider as an aggravating factor the fact that the defendant
41 exercised the right to a jury trial."

42 Sec. 137.5. G.S. 14-269.1 reads as rewritten:

43 "**§ 14-269.1. Confiscation and disposition of deadly weapons.**

1 Upon conviction of any person for violation of G.S. 14-2.2, 14-269, ~~G.S.~~14-269.7,
2 or any other offense involving the use of a deadly weapon of a type referred to in G.S.
3 14-269, the deadly weapon with reference to which the defendant shall have been
4 convicted shall be ordered confiscated and disposed of by the presiding judge at the trial
5 in one of the following ways in the discretion of the presiding judge.

- 6 (1) By ordering the weapon returned to its rightful owner, but only when
7 such owner is a person other than the defendant and has filed a petition
8 for the recovery of such weapon with the presiding judge at the time of
9 the defendant's conviction, and upon a finding by the presiding judge
10 that petitioner is entitled to possession of same and that he was
11 unlawfully deprived of the same without his consent.
- 12 (2) By ordering the weapon turned over to a law-enforcement agency in
13 the county of trial for the official use of such agency, but only upon the
14 written request by the head or chief of such agency. The clerk of the
15 superior court of such county shall maintain a record of such weapons
16 and the law-enforcement agency receiving them.
- 17 (3) By ordering the weapon turned over to the sheriff of the county in
18 which the trial is held to be sold as herein provided. Under the
19 direction of the sheriff, the weapon shall be sold at public auction after
20 one advertisement in a newspaper having general circulation in the
21 county which advertisement shall be at least seven days prior to sale.
22 The proceeds of such sale shall go to the general fund of the county in
23 which such weapons are sold. The sheriff shall maintain a record and
24 inventory of all such weapons received and sold by him. Sales of such
25 weapons by the sheriff shall be held at least once each year.
- 26 (4) By ordering such weapon turned over to the sheriff of the county in
27 which the trial is held or his duly authorized agent to be destroyed.
28 The sheriff shall maintain a record of the destruction thereof.
- 29 (5) By ordering such weapon turned over to the North Carolina State
30 Bureau of Investigation's Crime Laboratory Weapons Reference
31 Library for official use by that agency. The State Bureau of
32 Investigation shall maintain a record and inventory of all such
33 weapons received.
- 34 (6) By ordering such weapons turned over to the North Carolina Justice
35 Academy for official use by that agency. The North Carolina Justice
36 Academy shall maintain a record and inventory of all such weapons
37 received."

38 Sec. 137.6. Sections 137, 137.3, and 137.5 of this act become effective May
39 1, 1994, and apply to offenses committed on or after the date of ratification. The
40 remainder of this Part becomes effective on the date that Section 56 of Chapter 538 of
41 the 1993 Session Laws provides that that act becomes effective, and applies to offenses
42 committed on or after that date. Prosecutions for, or sentences based on, offenses
43 committed before the effective dates of this Part are not abated or affected by this Part,

1 and the statutes that would be applicable to those prosecutions or sentences but for the
2 provisions of this Part remain applicable to those prosecutions or sentences.

3
4 **PART 19. TRANSFER JUVENILES 13 YEARS OF AGE**

5
6 Sec. 138. G.S. 7A-608 reads as rewritten:

7 **"§ 7A-608. Transfer of jurisdiction of juvenile to superior court.**

8 The court after notice, hearing, and a finding of probable cause may transfer
9 jurisdiction over a juvenile ~~14 years of age or older~~ to superior court if the juvenile was
10 ~~14-13~~ years of age or older at the time ~~he~~ the juvenile allegedly committed an offense
11 ~~which that~~ would be a felony if committed by an adult. If the alleged felony constitutes
12 a Class A felony and the ~~judge court~~ finds probable cause, the ~~judge court~~ shall transfer
13 the case to the superior court for trial as in the case of adults."

14 Sec. 138.1. G.S. 7A-609(a) reads as rewritten:

15 "(a) The ~~judge court~~ shall conduct a hearing to determine probable cause in all
16 felony cases in which a juvenile was ~~14-13~~ years of age or older when the offense was
17 allegedly ~~committed committed, unless counsel Counsel~~ for the juvenile ~~waives may~~
18 ~~waive~~ in writing ~~his the~~ right to the hearing and ~~stipulates stipulate~~ to a finding of
19 probable cause. The ~~judge court~~ may exclude the public from the hearing unless the
20 juvenile moves that the hearing be open, which motion shall be granted."

21 Sec. 138.2. G.S. 7A-610(a) reads as rewritten:

22 "(a) If probable cause is ~~found, found and transfer to superior court is not required~~
23 ~~by G.S. 7A-608,~~ the prosecutor or the juvenile may move that the case be transferred to
24 the superior court for trial as in the case of adults. ~~If the alleged felony does not~~
25 ~~constitute a capital offense, the~~ The judge may proceed to determine whether the needs
26 of the juvenile or the best interest of the State will be served by transfer of the case to
27 superior court for trial as in the case of adults. When the case is transferred to superior
28 court, the superior court has jurisdiction over that felony, any offense based on the same
29 act or transaction or on a series of acts or transactions connected together or constituting
30 parts of a single scheme or plan of that felony, and any greater or lesser included
31 offense of that felony."

32 Sec. 138.3. G.S. 7A-601 reads as rewritten:

33 **"§ 7A-601. Destruction of records resulting from nontestimonial identification**
34 **procedures.**

35 The results of any nontestimonial identification procedures shall be retained or
36 disposed of as follows:

- 37 (1) If a petition is not filed against a juvenile who has been the subject of
38 nontestimonial identification procedures, all records of ~~such the~~
39 evidence shall be destroyed.
- 40 (2) If in the district court or superior court pursuant to a transfer a juvenile
41 is found not guilty, all records resulting from a nontestimonial order
42 shall be destroyed. Further, in the case of a juvenile who is under ~~14~~
43 13 years of age and who is adjudicated to have committed a delinquent

1 act, which would be less than a felony had the juvenile been an adult,
2 all records shall be destroyed.

- 3 (3) If a juvenile ~~14-13~~ years of age or older is found to have committed a
4 delinquent act ~~which~~that would be a felony if committed by an adult,
5 all records resulting from a nontestimonial order may be retained in the
6 court file. Special precautions shall be taken to ensure that these
7 records will be maintained in such a manner and under such safeguards
8 as to limit their use to inspection for comparison purposes by law-
9 enforcement officers only in the investigation of a crime.
- 10 (4) If the juvenile is transferred to superior court, all records resulting
11 from nontestimonial identification procedures shall be processed as in
12 the case of an adult.
- 13 (5) Any evidence seized pursuant to a nontestimonial order shall be
14 retained by law-enforcement officers until further order is entered by
15 the court.
- 16 (6) Destruction of nontestimonial identification records pursuant to this
17 section shall be performed by the law-enforcement agency having
18 possession of such records. Following destruction, the law-
19 enforcement agency shall make written certification to the court of
20 ~~such~~the destruction."

21 Sec. 138.4. The Juvenile Code Committee of the Legislative Research
22 Commission is authorized to study the issue of whether district courts should be
23 mandated to transfer jurisdiction of juveniles who have committed certain serious or
24 violent felony offenses to superior court for trial as in the case of adults upon a finding
25 of probable cause. The Committee may also study the issue of the proper age of
26 juveniles mandatorily transferred to superior court for trial as in the case of adults. The
27 Committee may submit an interim report of its findings and recommendations to the
28 1994 Regular Session of the 1993 General Assembly and shall submit a final report to
29 the 1995 General Assembly.

30 Sec. 138.5. Sections 138 through 138.3 of this act become effective May 1,
31 1994, and apply to offenses committed on or after that date. The remainder of this Part
32 is effective upon ratification.

34 **PART 20. THREE STRIKES YOU'RE IN**

35
36 Sec. 139. Chapter 14 of the General Statutes is amended by adding a new
37 Article to read:

38 **"ARTICLE 2B.**

39 **"VIOLENT HABITUAL FELONS.**

40 **"§ 14-7.7. Persons defined as violent habitual felons.**

41 (a) Any person who has been convicted of two violent felonies in any federal
42 court, in a court of this or any other state of the United States, or in a combination of
43 these courts is declared to be a violent habitual felon. For purposes of this Article,
44 'convicted' means the person has been adjudged guilty of or has entered a plea of guilty

1 or no contest to the violent felony charge, and judgment has been entered thereon when
2 such action occurred on or after July 6, 1967. This Article does not apply to a second
3 violent felony unless it is committed after the conviction or plea of guilty or no contest
4 to the first violent felony. Any felony to which a pardon has been extended shall not,
5 for the purposes of this Article, constitute a felony. The burden of proving a pardon
6 shall rest with the defendant, and this State shall not be required to disprove a pardon.
7 Conviction as an habitual felon shall not, for purposes of this Article, constitute a
8 violent felony.

9 (b) For purposes of this Article, 'violent felony' includes the following offenses:

- 10 (1) a. Murder in the first and second degrees, G.S. 14-17.
11 b. Voluntary manslaughter, G.S. 14-18.
12 c. Killing an adversary in a duel, G.S. 14-30.
13 d. First degree rape, G.S. 14-27.2.
14 e. Second degree rape, G.S. 14-27.3.
15 f. First degree sexual offense, G.S. 14-27.4.
16 g. Second degree sexual offense, G.S. 14-27.5.
17 h. Intercourse and sexual offense by a parent or custodian, G.S.
18 14-27.7.
19 i. Malicious castration, G.S. 14-28.
20 j. Castration or maiming without malice aforethought, G.S. 14-29.
21 k. Malicious maiming, G.S. 14-30.
22 l. Malicious throwing of acid or alkali, G.S. 14-30.1.
23 m. Malicious assaulting in a secret manner, G.S. 14-31.
24 n. Any felony assault set forth in G.S. 14-32.
25 o. Felony assault on a handicapped person, G.S. 14-32.
26 p. Patient abuse and neglect, negligent or intentional, G.S. 14-
27 32.2.
28 q. Discharging firearm in occupied property, G.S. 14-34.1.
29 r. Adulterated or misbranded foods or drugs, G.S. 14-34.4.
30 s. Kidnapping in the first or second degree, G.S. 14-39.
31 t. Malicious use of explosive or incendiary devices, G.S. 14-49.
32 u. Malicious damage of occupied property by the use of explosive,
33 G.S. 14-49.1.
34 v. Burglary in the first or second degree, G.S. 14-51.
35 w. Breaking out of a dwelling house, G.S. 14-53.
36 x. Burglary with explosives, G.S. 14-57.
37 y. Arson in the first or second degree, G.S. 14-58.
38 z. Burning of a mobile home, manufactured housing, or
39 recreational trailer, G.S. 14-58.2.
40 aa. Burning of public building, G.S. 14-59.
41 bb. Burning of a schoolhouse or building of an educational
42 institution, G.S. 14-60.
43 cc. Burning of bridges and buildings, G.S. 14-61.
44 dd. Burning of churches and other buildings, G.S. 14-62.

- 1 ee. Burning of building or structure in the process of construction,
2 G.S. 14-62.1.
- 3 gg. Robbery with a firearm or dangerous weapon, G.S. 14-87.
- 4 hh. Train robbery, G.S. 14-88.
- 5 ii. Contaminating a public water supply, G.S. 14-159.1.
- 6 jj. Felonious child abuse, G.S. 14-318.4.
- 7 kk. First degree sexual exploitation of a minor, G.S. 14-190.16.
- 8 ll. Distribution of adulterated food, G.S. 14-401.11.
- 9 mm. Manufacture, sale, or delivery or possess with intent to
10 manufacture, sell, or deliver a controlled substance within 300
11 feet of a school, G.S. 90-95(e)(8).
- 12 nn. Selling and delivery of controlled substance by a person 18 or
13 over to a person under 16, G.S. 90-95.
- 14 oo. Discharge of oil or hazardous substance placing another in
15 danger of death or serious bodily injury, G.S. 143-225.88(b).
- 16 (2) Any repealed or superseded offense substantially equivalent to the
17 offenses listed in subdivision (1).
- 18 (3) Any offense committed in another jurisdiction substantially equivalent
19 to the offenses set forth in subdivision (1) or (2).

20 **"§ 14-7.8. Punishment.**

21 When a person is charged by indictment with the commission of a violent felony and
22 is also charged with being a violent habitual felon as defined in G.S. 14-7.7, the person
23 must, upon conviction, be sentenced in accordance with this Article, except in those
24 cases where the death penalty is imposed.

25 **"§ 14-7.9. Charge of violent habitual felon.**

26 An indictment that charges a person who is a violent habitual felon within the
27 meaning of G.S. 14-7.7 with the commission of any violent felony must, in order to
28 sustain a conviction of violent habitual felon, also charge that the person is a violent
29 habitual felon. The indictment charging the defendant as a violent habitual felon shall
30 be separate from the indictment charging the defendant with the principal violent
31 felony. An indictment that charges a person with being a violent habitual felon must set
32 forth the date that prior violent felonies were committed, the name of the state or other
33 sovereign against whom the violent felonies were committed, the dates of convictions of
34 the violent felonies, and the identity of the court in which the convictions took place. A
35 defendant charged with being a violent habitual felon in a bill of indictment shall not be
36 required to go to trial on that charge within 20 days after the finding of a true bill by the
37 grand jury unless the defendant waives this 20-day period.

38 **"§ 14-7.10. Evidence of prior convictions of violent felonies.**

39 In all cases where a person is charged under this Article with being a violent habitual
40 felon, the records of prior convictions of violent felonies shall be admissible in
41 evidence, but only for the purpose of proving that the person has been convicted of
42 former violent felonies. A prior conviction may be proved by stipulation of the parties
43 or by the original or a certified copy of the court record of the prior conviction. The
44 original or certified copy of the court record, bearing the same name as that by which

1 the defendant is charged, shall be **prima facie** evidence that the defendant named
2 therein is the same as the defendant before the court, and shall be **prima facie** evidence
3 of the facts set out therein.

4 "**§ 14-7.11. Verdict and judgment.**

5 When an indictment charges a violent habitual felon with a violent felony as
6 provided in this Article and an indictment also charges that the person is a violent
7 habitual felon as provided in this Article, the defendant shall be tried for the principal
8 violent felony as provided by law. The indictment that the person is a violent habitual
9 felon shall not be revealed to the jury unless the jury finds that the defendant is guilty of
10 the principal violent felony or another violent felony with which the defendant is
11 charged. If the jury finds the defendant guilty of a violent felony, the bill of indictment
12 charging the defendant as a violent habitual felon may be presented to the same jury.
13 Except that the same jury may be used, the proceedings shall be as if the issue of violent
14 habitual felon were a principal charge. If the jury finds that the defendant is a violent
15 habitual felon, the trial judge shall enter judgment according to the provisions of this
16 Article. If the jury finds that the defendant is not a violent habitual felon, the trial judge
17 shall pronounce judgment on the principal violent felony or felonies as provided by law.

18 "**§ 14-7.12. Sentencing of violent habitual felons.**

19 A person who is convicted of a violent felony and of being a violent habitual felon
20 must, upon conviction (except where the death penalty is imposed), be sentenced to life
21 in the State's prison, without parole. Life without parole means that the person will
22 spend the remainder of the person's natural life in prison. The sentencing judge may not
23 suspend the sentence and may not place the person sentenced on probation. Sentences
24 for violent habitual felons imposed under this Article shall run consecutively with and
25 shall commence at the expiration of any other sentence being served by the person."

26 Sec. 139.1. Effective on the date Chapter 538 of the 1993 Session Laws
27 becomes effective, G.S. 14-7.7(b), as enacted by Section 139 of this act, reads as
28 rewritten:

29 "(b) For purposes of this Article, 'violent felony' includes the following offenses:

- 30 (1) a. ~~Murder in the first and second degrees, G.S. 14-17.~~
31 b. ~~Voluntary manslaughter, G.S. 14-18.~~
32 c. ~~Killing an adversary in a duel, G.S. 14-30.~~
33 d. ~~First degree rape, G.S. 14-27.2.~~
34 e. ~~Second degree rape, G.S. 14-27.3.~~
35 f. ~~First degree sexual offense, G.S. 14-27.4.~~
36 g. ~~Second degree sexual offense, G.S. 14-27.5.~~
37 h. ~~Intercourse and sexual offense by a parent or custodian, G.S.~~
38 ~~14-27.7.~~
39 i. ~~Malicious castration, G.S. 14-28.~~
40 j. ~~Castration or maiming without malice aforethought, G.S. 14-29.~~
41 k. ~~Malicious maiming, G.S. 14-30.~~
42 l. ~~Malicious throwing of acid or alkali, G.S. 14-30.1.~~
43 m. ~~Malicious assaulting in a secret manner, G.S. 14-31.~~
44 n. ~~Any felony assault set forth in G.S. 14-32.~~

- 1 o-. Felony assault on a handicapped person, G.S. 14-32.
 2 p-. Patient abuse and neglect, negligent or intentional, G.S. 14-
 3 32.2.
 4 q-. Discharging firearm in occupied property, G.S. 14-34.1.
 5 r-. Adulterated or misbranded foods or drugs, G.S. 14-34.4.
 6 s-. Kidnapping in the first or second degree, G.S. 14-39.
 7 t-. Malicious use of explosive or incendiary devices, G.S. 14-49.
 8 u-. Malicious damage of occupied property by the use of explosive,
 9 G.S. 14-49.1.
 10 v-. Burglary in the first or second degree, G.S. 14-51.
 11 w-. Breaking out of a dwelling house, G.S. 14-53.
 12 x-. Burglary with explosives, G.S. 14-57.
 13 y-. Arson in the first or second degree, G.S. 14-58.
 14 z-. Burning of a mobile home, manufactured housing, or
 15 recreational trailer, G.S. 14-58.2.
 16 aa-. Burning of public building, G.S. 14-59.
 17 bb-. Burning of a schoolhouse or building of an educational
 18 institution, G.S. 14-60.
 19 cc-. Burning of bridges and buildings, G.S. 14-61.
 20 dd-. Burning of churches and other buildings, G.S. 14-62.
 21 ee-. Burning of building or structure in the process of construction,
 22 G.S. 14-62.1.
 23 gg-. Robbery with a firearm or dangerous weapon, G.S. 14-87.
 24 hh-. Train robbery, G.S. 14-88.
 25 ii-. Contaminating a public water supply, G.S. 14-159.1.
 26 jj-. Felonious child abuse, G.S. 14-318.4.
 27 kk-. First degree sexual exploitation of a minor, G.S. 14-190.16.
 28 ll-. Distribution of adulterated food G.S. 14-401.11.
 29 mm-. Manufacture, sale, or delivery or possess with intent to
 30 manufacture, sale, or deliver a controlled substance within 300
 31 feet of a school, G.S. 90-90.
 32 nn-. Selling and delivery of controlled substance by a person 18 or
 33 over to a person under 16, G.S. 90-95.
 34 oo-. Discharge of oil or hazardous substance placing another in
 35 danger of death or serious bodily injury, G.S. 143-225.88(b).
 36 (2) ~~Any repealed or superseded offense substantially equivalent to the~~
 37 ~~offenses listed in subdivision (1).~~
 38 (3) ~~Any offense committed in another jurisdiction substantially equivalent~~
 39 ~~to the offenses set forth in subdivision (1) or (2).~~
 40 (b) For purposes of this Article, 'violent felony' includes the following offenses:
 41 (1) All Class A through E felonies.
 42 (2) Any repealed or superseded offense substantially equivalent to the
 43 offenses listed in subdivision (1).

1 (3) Any offense committed in another jurisdiction substantially equivalent
2 to the offenses set forth in subdivision (1) or (2)."

3 Sec. 139.2. G.S. 15A-1370.1 reads as rewritten:

4 **"§ 15A-1370.1. Applicability of Article 85.**

5 This Article ~~is applicable~~ applies to all sentenced prisoners, including Class A and
6 Class B felons, and Class C felons who receive a sentence of life imprisonment, who are
7 not subject to Article 85A of this ~~Chapter~~ Chapter, but shall not apply to prisoners who
8 receive life imprisonment without parole. A person serving a sentence of life
9 imprisonment without parole shall not be eligible for parole at any time."

10 Sec. 139.3 G.S. 15A-1370.1, as amended by Section 21 of Chapter 538 of the
11 1993 Session Laws, reads as rewritten:

12 **"§ 15A-1370.1. Applicability of Article 85.**

13 This Article is applicable to all prisoners serving sentences of imprisonment for
14 convictions of impaired driving under G.S. 20-138.1 and prisoners serving sentences of
15 life imprisonment. This Article does not apply to a person serving a sentence of life
16 imprisonment without parole. A person serving a sentence of life imprisonment without
17 parole shall not be eligible for parole at any time."

18 Sec. 139.4. G.S. 15A-1340.10, as amended by Section 1 of Chapter 538 of the
19 1993 Session Laws, reads as rewritten:

20 **"§ 15A-1340.10. Applicability of structured sentencing.**

21 This Article applies to criminal offenses in North Carolina, other than impaired
22 driving under G.S. 20-138.1 that occur on or after January 1, 1995. This Article does
23 not apply to violent habitual felons sentenced under Article 2B of Chapter 14 of the
24 General Statutes."

25 Sec. 139.5. Sections 139 and 139.5 of this act become effective May 1, 1994.
26 Section 139.2 of this act becomes effective May 1, 1994, and expires on the date that
27 Chapter 538 of the 1993 Session Laws becomes effective, but prosecution for, or
28 sentences based on, offenses occurring before that date are not abated or affected by the
29 expiration of that section. Sections 139.1, 139.3, and 139.4 of this act become effective
30 on the date that Chapter 538 of the 1993 Session Laws becomes effective. Prosecution
31 for, or sentences based on, offenses occurring before the effective date of this Part are
32 not abated or affected by the repeal or amendment in this Part of any statute, and the
33 statutes that would be applicable to those prosecutions or sentences but for the
34 provisions of this Part remain applicable to those prosecutions or sentences.

35
36 **PART 21. EFFECTIVE DATE**

37
38 Sec. 140. Except as otherwise provided, this act is effective upon ratification.