

GENERAL ASSEMBLY OF NORTH CAROLINA  
1995 SESSION

CHAPTER 324  
HOUSE BILL 229

AN ACT TO APPROPRIATE FUNDS FOR THE CONTINUATION BUDGET OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

**PART 1. INTRODUCTION AND TITLE OF ACT**

**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.

**TITLE OF ACT**

Sec. 1.1. This act shall be known as the Continuation Budget Operations Appropriations Act of 1995.

**PART 2. GENERAL FUND APPROPRIATIONS**

**CURRENT OPERATIONS/GENERAL FUND**

Sec. 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 1997, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 1995-96 and 1996-97 fiscal years.

<u>Current Operations - General Fund</u>	<u>1995-96</u>	<u>1996-97</u>
General Assembly	\$ 27,313,680	\$ 30,702,253
Judicial Department	276,398,840	279,352,847
Office of the Governor		
01. Office of the Governor	4,833,590	4,852,628

02. Office of State Budget and Management	3,442,164	3,578,579
03. Office of State Planning	1,791,079	1,793,484
04. Housing Finance Agency	2,300,000	2,300,000
Office of the Lieutenant Governor	577,313	578,729
Department of Secretary of State	4,580,487	4,632,853
Department of State Auditor	8,822,793	8,828,840
Department of State Treasurer		
01. State Treasurer	6,015,881	6,023,960
02. Special Contributions	7,477,187	7,477,187
Department of Public Education	3,923,051,726	3,988,143,700
Department of Justice	56,121,586	56,691,952
Department of Administration	52,039,811	53,294,727
Department of Agriculture	45,496,479	45,745,793
Department of Labor	15,054,312	14,902,477
Department of Insurance	18,425,166	18,466,396
Department of Transportation		
01. Aeronautics	9,434,000	10,047,210
02. Aid to Railroads	100,000	100,000
Total Department of Transportation	9,534,000	10,147,210
Department of Environment, Health, and Natural Resources	227,019,388	226,973,578
Office of Administrative Hearings	2,041,641	2,046,136
Rules Review Commission	262,661	262,661
Department of Human Resources		
01. Office of the Secretary	23,779,131	23,690,853
02. Division of Aging	12,925,967	12,926,726
03. Division of Child Development	120,137,472	126,951,341

04. Division of Services for the Deaf and Hard of Hearing	26,188,277	26,331,060
05. Division of Social Services	196,936,746	200,314,848
06. Division of Medical Assistance	1,045,077,626	1,169,772,076
07. Division of Services for the Blind	15,250,391	15,171,024
08. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	473,662,470	471,231,466
09. Division of Facility Services	9,198,369	9,126,950
10. Division of Vocational Rehabilitation Services	26,227,567	26,518,836
11. Division of Youth Services	70,789,456	69,313,553
Total Department of Human Resources	2,020,173,472	2,151,348,733
Department of Correction	763,430,258	791,407,879
Department of Commerce		
01. Commerce	34,228,031	34,105,893
02. Biotechnology Center	7,664,396	7,664,396
03. MCNC	19,765,000	19,765,000
04. Rural Economic Development Center	3,170,000	3,170,000
Department of Revenue	59,706,976	59,602,150
Department of Cultural Resources	44,125,706	45,025,630
Department of Crime Control and Public Safety	31,357,768	31,104,678
Office of the State Controller	8,718,487	8,727,680
University of North Carolina - Board of Governors		
01. General Administration	16,722,131	18,899,496
02. University Institutional Programs	6,768,790	6,768,790
03. Related Educational Programs	52,562,556	53,328,301
04. University of North Carolina at Chapel Hill		
a. Academic Affairs	150,770,266	152,080,756
b. Health Affairs	122,928,857	123,738,656
c. Area Health Education		

Centers	35,953,934	35,940,628
05. North Carolina State University at Raleigh		
a. Academic Affairs	192,700,104	196,389,163
b. Agricultural Research Service	39,164,075	38,914,625
c. Cooperative Extension Service	30,550,645	30,562,931
06. University of North Carolina at Greensboro	58,885,917	59,247,621
07. University of North Carolina at Charlotte	66,957,840	67,677,990
08. University of North Carolina at Asheville	19,076,572	19,359,219
09. University of North Carolina at Wilmington	37,224,302	37,856,024
10. East Carolina University		
a. Academic Affairs	83,972,256	84,540,347
b. Division of Health Affairs	39,646,521	39,694,687
11. North Carolina Agricultural and Technical State University	48,423,012	48,814,912
12. Western Carolina University	40,832,172	41,088,919
13. Appalachian State University	57,770,972	58,257,556
14. Pembroke State University	18,126,902	18,208,644
15. Winston-Salem State University	18,760,697	18,965,075
16. Elizabeth City State University	18,232,363	18,304,275
17. Fayetteville State University	23,116,271	23,295,616
18. North Carolina Central University	33,141,541	33,463,709
19. North Carolina School of the Arts	10,132,364	10,313,014
20. North Carolina School of Science and Mathematics	8,575,631	8,754,721
21. UNC Hospitals at Chapel Hill	44,561,955	44,561,955
Total University of North Carolina - Board of Governors	1,275,558,646	1,289,027,630
Department of Community Colleges	436,169,834	440,765,325
State Board of Elections	835,456	835,673
Contingency and Emergency	1,125,000	1,125,000
Reserve for Compensation Increase	2,000,000	2,000,000
Reserve for Salary Adjustments	1,000,000	1,500,000
Fixed Period for Amortization		

and Other Retirement Changes	(6,084,400)	(6,084,400)
Debt Service	116,805,051	115,113,536
<b>GRAND TOTAL CURRENT OPERATIONS – GENERAL FUND</b>	<b>\$9,512,349,465</b>	<b>\$9,763,000,793</b>

### **PART 3. CURRENT OPERATIONS/HIGHWAY FUND**

Sec. 3. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 1997, according to the following schedule:

<u>Current Operations - Highway Fund</u>	<u>1995-96</u>	<u>1996-97</u>
Department of Transportation		
01. Administration	\$36,479,381	\$36,663,220
02. Division of Highways		
a. Administration and Operations	35,978,558	36,044,682
b. State Construction		
(01) Secondary Construction	73,900,000	75,563,941
(02) Urban Construction	20,000,000	20,000,000
(03) Access and Public Service Roads	2,000,000	2,000,000
(04) Spot Safety Improvements	9,100,000	9,100,000
c. State Funds to Match Federal Highway Aid		
(01) Construction	33,153,153	33,153,153
(02) Highway Planning/Research	2,959,649	2,959,649
d. State Maintenance		
(01) Primary	106,146,405	106,146,405
(02) Secondary	185,554,790	185,554,790
(03) Urban	30,764,757	30,764,757
(04) Contract Resurfacing	89,127,392	89,127,392
e. Ferry Operations	17,947,994	17,947,994
03. Division of Motor Vehicles	81,572,443	79,937,436
04. Governor's Highway Safety Program	302,968	303,237
05. State Aid to Municipalities	73,900,000	75,563,941
06. State Aid for Public Transportation	10,246,921	10,246,921
07. State Aid for Railroads	800,000	800,000



03.	Urban Loops	119,360,379	129,145,071
04.	State Aid - Municipalities	30,971,755	33,510,697
05.	Program Administration	20,996,319	21,852,527
06.	Transfer to General Fund	170,000,000	170,000,000

GRAND TOTAL/HIGHWAY TRUST FUND - \$698,432,000                      \$738,846,000

**PART 5. GENERAL FUND/HIGHWAY FUND AVAILABILITY STATEMENTS/RESERVE FOR REPAIRS AND RENOVATIONS**

Requested by: Senators Odom, Plyler, Perdue, Representatives Holmes, Esposito, Creech

**BUDGET REFORM STATEMENTS**

Sec. 5. The General Fund and availability used in developing the 1995-97 budget is as shown below:

(1)	Composition of the 1995-97 beginning availability:		
a.	Revenue collections in 1994-95 in excess of authorized estimates		(\$ Million) \$192.00
b.	Unexpended appropriations during 1994-95 (reversions)		162.40
c.	Balance brought forward		<u>33.40</u>
	Subtotal		387.80
d.	Transfer to Savings Reserve		96.90
e.	Transfer to Reserve for Repair and Renovations		<u>125.00</u>
	Ending Fund Balance		\$ 165.9

	(\$ Million) <u>1995-96</u>	(\$ Million) <u>1996-97</u>
(2) Beginning Unrestricted Fund Balance	\$ 165.9	\$ -
(3) Revenues Based on Existing Tax Structure	10,019.6	10,658.1
(4) 94-95 Reserve for Tax Reductions	28.1	-

Changes:

1.	Tax Reductions		
	(a) Personal Income	-235.0	-244.1
	(b) Intangibles Repeal	-124.4	-124.5
2.	Local Sales Tax - Local Government Commission	1.5	1.5

3.	Insurance Regulatory Charges	3.7	3.7
4.	Treasurer's Banking Fees	-7	-7
5.	Disproportionate Share		
	Receipts	106.9	117.7
6.	Investment Income Electronic		
	Fund Transfers	2.0	2.0
	Availability	\$9,967.6	\$10,413.7

Requested by: Senators Odom, Plyler, Perdue

**HIGHWAY FUND AVAILABILITY**

Sec. 5.1. The Highway Fund appropriations availability used in developing the 1995-97 Highway Fund budget is shown below:

	<u>1995-96</u>	<u>1996-97</u>
Beginning Credit Balance	\$19,382,000	\$ -
Estimated Revenue	1,023,228,000	1,046,316,000
Reversions:		
Financial System Funds	1,300,000	
Ferry Credit Balance	200,000	
Capital Improvements	4,112,266	
<b>Total Highway Fund Availability</b>	<b>\$1,048,222,266</b>	<b>\$1,046,316,000</b>

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

**REPAIRS RESERVE ACCOUNT CHANGES**

Sec. 5.2. (a) G.S. 143-15.2 reads as rewritten:

**"§ 143-15.2. Use of General Fund credit balance.**

The State Controller shall reserve up to one-fourth of any unreserved credit balance, as determined on a cash basis, remaining in the General Fund at the end of each fiscal year to the Savings Reserve Account as provided in G.S. 143-15.3, unless that would result in the Savings Reserve Account having funds in excess of five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including local government tax-sharing funds; in that case, only funds sufficient to reach the five percent (5%) level shall be reserved. The State Controller shall also reserve the ~~lesser~~greater of (i) one-fourth of any unreserved credit balance, as determined on a cash basis, remaining in the General Fund and (ii) ~~one and one-half percent (1.5%)~~three percent (3%) of the replacement value of all State buildings supported from the General Fund, at the end of each fiscal year to the Repairs and Renovations Reserve Account as provided in G.S. 143-15.3A. The General Assembly may appropriate that part of the anticipated General Fund credit balance not expected to be reserved to the Savings Reserve Account or the Repairs and Renovations Reserve Account only for capital improvements or other one-time expenditures. As used in this section, the term 'unreserved credit balance' means the credit balance amount, as determined on a cash basis, before funds are reserved by the Controller to the Savings



Reserve Account or the Repairs and Renovations Reserve Account pursuant to G.S. 143-15.3 and G.S. 143-15.3A."

(b) G.S. 143-15.3A reads as rewritten:

**"§ 143-15.3A. Repairs and Renovations Reserve Account.**

(a) There is established a Repairs and Renovations Reserve Account as a restricted reserve in the General Fund. The State Controller shall reserve to the Repairs and Renovations Reserve Account the greater of (i) one-fourth of any unreserved credit balance as determined on a cash basis, remaining in the General Fund and (ii) three percent (3%) of the replacement value of all State buildings supported from the General Fund, at the end of each fiscal year. As used in this section, the term 'unreserved credit balance' means the credit balance amount, as determined on a cash basis, before funds are reserved by the Controller to the Savings Reserve Account or the Repairs and Renovations Reserve Account pursuant to this section and G.S. 143-15.3.

(b) The funds in the Repairs and Renovations Reserve Account shall be used only for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund. Funds from the Repairs and Renovations Reserve Account shall be used only for the following types of projects:

- (1) Roof repairs and replacements;
- (2) Structural repairs;
- (3) Repairs and renovations to meet federal and State standards;
- (4) Repairs to electrical, plumbing, and heating, ventilating, and air-conditioning systems;
- (5) Improvements to meet the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., as amended;
- (6) Improvements to meet fire safety needs;
- (7) Improvements to existing facilities for energy efficiency;
- (8) Improvements to remove asbestos, lead paint, and other contaminants, including the removal and replacement of underground storage tanks;
- (9) Improvements and renovations to improve use of existing space;
- (10) Historical restoration;
- (11) Improvements to roads, walks, drives, utilities infrastructure; and
- (12) Drainage and landscape improvements.

Funds from the Repairs and Renovations Reserve Account shall not be used for new construction or the expansion of the footprint of an existing facility unless required in order to comply with federal or State codes or standards.

The Director of the Budget shall not use funds in the Repairs and Renovations Reserve Account unless the use has been approved by an act of the General Assembly."

(c) This section becomes effective June 30, 1995.

Requested by: Senators Odom, Plyler, Perdue, Representatives Holmes, Creech, Esposito

**EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND RENOVATIONS**

Sec. 5.3. Of the funds in the Reserve for Repairs and Renovations for the 1995-96 fiscal year, forty-six percent (46%), shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S.143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina; and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall submit to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, for their review, the proposed allocation of these funds. Subsequent changes in the proposed allocations shall be reported prior to expenditure to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office.

## **PART 6. GENERAL PROVISIONS**

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

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

Sec. 6.1. There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts, and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute, and shall be expended at the level of service authorized by the General Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the excess, unless the Director of the Budget finds that the appropriations from the Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund. Funds that become available from overrealized receipts in General Fund Codes and Highway Fund Codes, other than gifts and grants that are unanticipated and are for a specific purpose only, shall not be used

for new permanent employee positions or to raise the salary of existing employees except:

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

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

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

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

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

#### **INSURANCE AND FIDELITY BONDS**

Sec. 6.2. All insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Insurance Department, and the cost of placement shall be paid by the affected department, institution, or agency with the approval of the Insurance Commissioner.

Requested by: Senators Odom, Plyler, Perdue, Representatives Holmes, Creech, Esposito

#### **CONTINGENCY AND EMERGENCY FUND ALLOCATION**

Sec. 6.3. Of the funds appropriated in this act to the Contingency and Emergency Fund, the sum of nine hundred thousand dollars (\$900,000) for the 1995-96 fiscal year and the sum of nine hundred thousand dollars (\$900,000) for the 1996-97

fiscal year shall be designated for emergency allocations, which are for the purposes outlined in G.S. 143-23(a1)(3), (4), and (5). Two hundred twenty-five thousand dollars (\$225,000) for the 1995-96 fiscal year and two hundred twenty-five thousand dollars (\$225,000) for the 1996-97 fiscal year shall be designated for other allocations from the Contingency and Emergency Fund.

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

#### **AUTHORIZED TRANSFERS**

Sec. 6.4. The Director of the Budget may transfer to General Fund budget codes from the General Fund salary adjustment appropriation, and may transfer to Highway Fund budget codes from the Highway Fund salary adjustment appropriation, amounts required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds may be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

#### **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

Sec. 6.5. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

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

Sec. 6.6. Each private, nonprofit entity eligible to receive State funds, either by General Assembly appropriation, or by grant, loan, or other allocation from a State agency, before funds may be disbursed to the entity, shall file with the disbursing agency a notarized copy of that entity's policy addressing conflicts of interest that may arise involving the entity's management employees and the members of its board of directors or other governing body. The policy shall address situations where any of these individuals may directly or indirectly benefit, except as the entity's employees or members of the board or other governing body, from the entity's disbursing of State funds, and shall include actions to be taken by the entity or the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

Requested by: Senators Odom, Plyler, Perdue, Representatives Gardner, Hayes, Holmes, Creech, Esposito

#### **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

Sec. 6.8. For the 1995-97 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from the State psychiatric hospitals, the Division of Medical Assistance shall deposit funds appropriated for the Medicaid program in a sum equal to the federal share of the Disproportionate Share Payments as nontax

revenue. Any of these funds that are not appropriated by the General Assembly shall be reserved by the State Controller for future appropriation.

Requested by: Representatives Nichols, Mitchell, Weatherly, Crawford, Senators Martin of Pitt, Edwards

### **PROMPT STATE CHANGES FOLLOWING FEDERAL REGULATORY CHANGES**

Sec. 6.9. Each agency shall monitor federal regulations that affect a program administered by the agency. If a federal regulation that affects a program administered by the agency is changed, the agency shall review its administrative rules adopted to implement the program to determine if the agency needs to change its rules in response to the change in the federal regulation.

If the agency's rules adopt the federal regulation by reference under G.S. 150B-21.6 and the adoption by reference includes future changes to the federal regulation, no agency action is needed. If the agency's rules do not adopt the federal regulation by reference or they adopt it by reference but the reference does not include future changes, the agency shall consider taking appropriate action to adopt a temporary rule under G.S. 150B-21.1 in response to the federal change.

Requested by: Representatives Weatherly, Mitchell, Crawford, Senators Martin of Pitt, Edwards

### **FAILURE TO INDICATE THE NUMBER OF COPIES PRINTED AND COST OF STATE DOCUMENT SUBJECTS AGENCY TO PRINTING BUDGET REDUCTION**

Sec. 6.10. G.S. 143-170.1 is amended by adding a new subsection to read:

"(a3) If an agency fails to comply with this section, then the agency's printing budget for the fiscal year following the violation shall be reduced by ten percent (10%)."

## **PART 7. SALARIES AND BENEFITS**

Requested by: Senators Odom, Plyler, Perdue, Representatives Holmes, Creech, Esposito

### **SALARY RELATED CONTRIBUTIONS/EMPLOYERS**

Sec. 7.1. (a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salaries. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the

employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income and disability salary continuation benefits.

(b) Effective July 1, 1995, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 1995-96 fiscal year are (i) ten and eighty-three hundredths percent (10.83%) - Teachers and State Employees; (ii) fifteen and eighty-three hundredths percent (15.83%) - State Law Enforcement Officers; (iii) nine and ten hundredths percent (9.10%) - University Employees' Optional Retirement Program; (iv) twenty-two and sixty-five hundredths percent (22.65%) - Consolidated Judicial Retirement System; and (v) twenty-three and twenty-seven hundredths percent (23.27%) - Legislative Retirement System. Each of the foregoing contribution rates includes two percent (2%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan.

(c) The General Assembly authorizes the Board of Trustees of the Teachers' and State Employees' Retirement System to adopt a fixed amortization period of nine years for purposes of the unfunded accrued liability for the Retirement System.

(d) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 1995-96 fiscal year and for the 1996-97 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - one thousand three hundred twenty-one dollars (\$1,321); and (ii) Non-Medicare-eligible employees and retirees - one thousand seven hundred thirty-six dollars (\$1,736).

## **PART 8. GENERAL ASSEMBLY**

Requested by: Senators Warren, Davis, Representatives Ives, Lemmond, Culpepper

### **CONFIDENTIALITY OF REQUESTS FOR ASSISTANCE IN THE PREPARATION OF FISCAL NOTES**

Sec. 8.1. (a) Article 17 of Chapter 120 of the General Statutes is amended by adding a new section to read:

#### **"§ 120-131.1. Requests from legislative employees for assistance in the preparation of fiscal notes.**

(a) A request made to an employee of a State agency other than the General Assembly by an employee of the Fiscal Research Division for assistance in the preparation of a fiscal note is confidential. An employee of a State agency other than the General Assembly who receives such a request or who learns of such a request made to another employee of his or her agency shall reveal the existence of the request only to other employees of the agency to the extent that it is necessary to respond to the request, and to the employee's supervisor and to the Office of State Budget and Management. All documents prepared by the employee in response to the request of the Fiscal

Research Division are also confidential and shall be kept confidential in the same manner as the original request.

(b) As used in this section, 'employee' means an employee or officer of a State agency.

(c) Violation of this section may be grounds for disciplinary action."

(b) This section becomes effective 30 days after ratification.

Requested by: Representatives Ives, Lemmond, Culpepper, Senators Warren, Davis

**LRC STUDY TRANSFER OF ALL STATE VEHICLES TO MOTOR FLEET MANAGEMENT**

Sec. 8.2. The Legislative Research Commission shall study the transfer of all State vehicles to the Division of Motor Fleet Management, Department of Administration.

The Legislative Research Commission may make an interim report, together with any legislative recommendations, on this study to the 1995 General Assembly, Regular Session 1996, and shall make a final report, together with any legislative recommendations, to the 1997 General Assembly.

Requested by: Senators Warren, Davis, Representatives Ives, Lemmond, Culpepper

**LRC STUDY CIVILIANIZATION**

Sec. 8.3. The Legislative Research Commission may study issues related to civilianizing certain State government law enforcement functions and positions, including the appropriate use of nonsworn, noncertified personnel in positions for which sworn status is not cost-effective or required. This study shall include the recommendations made by the Government Performance Audit Committee on civilianization to the 1993 General Assembly.

The Legislative Research Commission may make an interim report, including any legislative recommendations, to the 1995 General Assembly, Regular Session 1996, and shall make a final report, including any legislative recommendations, to the 1997 General Assembly.

**PART 9. OFFICE OF THE GOVERNOR**

Requested by: Representatives Ives, Lemmond, Senators Cochrane, Davis, Gulley

**ELIMINATION OF THE OMBUDSMAN OFFICE IN THE OFFICE OF THE GOVERNOR**

Sec. 9.2. The Office of Ombudsman in the Office of the Governor is abolished. No appropriated State funds shall be used to reestablish this office.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**HOME PROGRAM MATCHING FUNDS**

Sec. 9.3. (a) Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the

HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

- (1) First priority to projects that are located in counties designated as severely distressed counties under G.S. 105-130.40(c) or G.S. 105-151.17(c); and
- (2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the U.S. Department of Housing and Urban Development.

The Housing Finance Agency shall report to the Joint Legislative Commission on Governmental Operations by April 1 of each year concerning the status of the HOME Program and shall include in the report information on priorities met, types of activities funded, and types of activities not funded.

(b) If the United States Congress changes the HOME Program such that matching funds are not required for a given program year, then the Agency shall not spend the matching funds appropriated under this act for that program year.

(c) Funds appropriated in this act to match federal HOME Program funds shall not revert to the General Fund on June 30, 1996, or on June 30, 1997.

Requested by: Senators Warren, Davis, Representatives Ives, Lemmond, Culpepper

#### **COUNCIL OF GOVERNMENT FUNDS**

Sec. 9.4. (a) Of the funds appropriated in this act to the Office of State Planning, eight hundred sixty-four thousand two hundred seventy dollars (\$864,270) for the 1995-96 fiscal year and eight hundred sixty-four thousand two hundred seventy dollars (\$864,270) for the 1996-97 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-eight thousand fifteen dollars (\$48,015) for each fiscal year, with the actual amount calculated as provided in subsection (b) of this section.

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

(c) A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development,



community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

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

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

## **PART 10. OFFICE OF STATE BUDGET AND MANAGEMENT**

Requested by: Senators Warren, Davis, Representatives Ives, Lemmond, Culpepper  
**LINE ITEM BUDGETING CONTINUED**

Sec. 10. (a) G.S. 143-11 reads as rewritten:

### **"§ 143-11. Survey of departments.**

(a) On or before the fifteenth day of December, biennially in the even-numbered years, the Director shall make a complete, careful survey of the operation and management of all the departments, bureaus, divisions, officers, boards, commissions, institutions, and agencies and undertakings of the State and all persons or corporations who use or expend State funds, in the interest of economy and efficiency, and of obtaining a working knowledge upon which to base recommendations to the General Assembly as to appropriations for maintenance and special funds and capital expenditures for the succeeding biennium. If the Director and the Commission shall agree in their recommendations for the budget for the next biennial period, he shall prepare their report in the form of a proposed budget, together with such comment and recommendations as they may deem proper to make. If the Director and Commission shall not agree in substantial particulars, the Director shall prepare the proposed budget based on his own conclusions and judgment, and the Commission or any of its members retain the right to submit separately to the General Assembly such statement of disagreement and the particulars thereof as representing their views. The budget report shall contain a complete and itemized plan ~~in accordance with G.S. 143-10.3, 143-10.4, and 143-10.5~~ of all proposed expenditures for each State department, bureau, board, division, institution, commission, State agency or undertaking, person or corporation who receives or may receive for use and expenditure any State funds, in accordance with the classification of funds and accounts adopted by the State Controller, and of the estimated revenues and borrowings for each year in the ensuing biennial period beginning with the first day of July thereafter. Opposite each line item of the proposed expenditures, the budget shall show in separate parallel ~~columns the amount expended for the last preceding fiscal year, for the current fiscal year, and the increase or decrease.~~ columns:

- (1) Proposed expenditures and receipts for each fiscal year of the biennium;
- (2) The certified budget for the preceding fiscal year;
- (3) The currently authorized budget for the preceding fiscal year;

- (4) Actual expenditures and receipts for the most recent fiscal year for which actual expenditure information is available; and
- (5) Proposed increases and decreases.

Revenue and expenditure information shall be no less specific than the two-digit level in the State Accounting System Chart of Accounts as prescribed by the State Controller. The budget shall clearly differentiate between general fund expenditures for operating and maintenance, special fund expenditures for any purpose, and proposed capital improvements.

(b) The Director shall accompany the budget with:

- (1) A budget message supporting his recommendations and outlining a financial policy and program for the ensuing biennium. The message will include an explanation of increase or decrease over past expenditures, a discussion of proposed changes in existing revenue laws and proposed bond issues, their purpose, the amount, rate of interest, term, the requirements to be attached to their issuance and the effect such issues will have upon the redemption and annual interest charges of the State debt.
- (2) State Controller reports including:
  - a. An itemized and complete financial statement for the State at the close of the last preceding fiscal year ending June 30.
  - b. A statement of special funds.
- (2a) A statement showing the itemized estimates of the condition of the State treasury as of the beginning and end of each of the next two fiscal years.
- (3) A report on the fees charged by each State department, bureau, division, board, commission, institution, and agency during the previous fiscal year, the statutory or regulatory authority for each fee, the amount of the fee, when the amount of the fee was last changed, the number of times the fee was collected during the prior fiscal year, and the total receipts from the fee during the prior fiscal year.
- (4) A statement showing the State Board of Education's request, in accordance with G.S. 115C-96, for sufficient funds to provide textbooks to public school students.
- (5) A proposal for expenditure of the funds in the Repairs and Renovations Reserve Account, which is established in G.S. 143-15.3A. The Director shall consider the data from the Facilities Condition and Assessment Program in the Office of State Construction when establishing priorities for the proposed expenditure of these funds.
- (6) Statements of the objections of members of the Council of State received pursuant to G.S. 143-10.3(b) to the performance measures, departmental operations plans, and indicators of program impact prepared in accordance with G.S. 143-10.3, 143-10.4, and 143-10.5.

- (7) A list of the budget requests of members of the Council of State that are not included in the proposed budget.

It shall be a compliance with this section by each incoming Governor, at the first session of the General Assembly in his term, to submit the budget report with the message of the outgoing Governor, if he shall deem it proper to prepare such message, together with any comments or recommendations thereon that he may see fit to make, either at the time of the submission of the said report to the General Assembly, or at such other time, or times, as he may elect and fix.

The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

(b) The Director of the Budget developed a plan for preparing the 1995-97 fiscal biennium budget in a performance budget format. That performance budget covers the program areas of health and safety, environment, correction, justice, social and economic well-being, and economic development and commerce. The performance budget format for those areas shall be continued, but the performance budget format shall not be expanded to cover any additional areas.

The Office of State Budget and Management shall report to the 1995 General Assembly, 1996 Regular Session, regarding the effectiveness of performance budgeting and shall also recommend whether performance budgeting should be continued, and if continued, any modifications that should be made to performance budgeting.

Requested by: Representatives Ives, Lemmond, Culpepper, Senators Warren, Davis  
**ANALYSIS OF STATE GOVERNMENT ADMINISTRATIVE SPAN OF CONTROL**

Sec. 10.1. The Office of State Budget and Management shall review and analyze the administrative span of control, or the ratio of supervisors to those supervised, exercised throughout State government, except for the Community College System and The University of North Carolina, to determine the average span of control, and to determine what the appropriate average should be. In this review, the Office of State Budget and Management shall consider the study produced for the 1993 General Assembly by the Government Performance Audit Committee on the issue of administrative span of control.

The Office of State Budget and Management shall report the results of this review, together with any recommendations, to the 1995 General Assembly, Regular Session 1996, within one week of its convening.

Requested by: Representatives Ives, Lemmond, Senator Warren  
**REVIEW OF DEPARTMENT FORMS AND REPORTS**

Sec. 10.2. Article 1 of Chapter 143 of the General Statutes, the Executive Budget Act, is amended by adding a new section to read:

**"§ 143-10.7. Review of department forms and reports.**

The Director, through the Office of State Budget and Management, shall review on three-year cycles all internal and external forms and reports in use by State departments and institutions to confirm whether these forms and reports continue to be needed. If,

during the review process, it is determined that these forms and reports are no longer necessary, or that they duplicate other forms or reports either in whole or in part, the Director shall have these forms and reports modified or eliminated. All departments shall provide the Director with copies of all forms and reports used, together with any additional information necessary for the review of these reports."

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**OSBM STUDY STATE-OWNED AIRCRAFT**

Sec. 10.4. The Office of State Budget and Management shall study the use of State-owned aircraft and shall report the results of its study to the Joint Legislative Commission on Governmental Operations on or before April 1, 1996. The study shall include consideration of the following:

- (1) For each Department, the number and type of aircraft, the number of pilots, and the number and type of support personnel for aircraft.
- (2) For each Department, the budget for aircraft, the source of funding for aircraft, the number of hours the aircraft is available, and the number of hours the aircraft is used.
- (3) The feasibility and desirability of consolidating any or all State-owned aircraft operations.
- (4) The feasibility and desirability of sharing of aircraft by Departments.
- (5) The feasibility and desirability of Departments' contracting for aircraft services rather than owning their own aircraft.
- (6) Compilation and review of Departments' policies regarding authorized passengers on the aircraft and which Departmental personnel is responsible for determining which passengers are authorized.

Requested by: Representatives Holmes, Creech, Esposito, Senator Warren

**DOWNSIZING GOVERNMENT EXPENDITURES REPORT**

Sec. 10.5. (a) The Office of State Budget and Management shall report any direct and any indirect expenditures incurred since July 1, 1994, that are related to the downsizing of State government to the Joint Legislative Commission on Governmental Operations by September 30, 1995.

(b) Expenditures reported on shall include payment for accumulated leave, severance pay, moving expenses for employment at another State government agency, and expenses or referral services performed by the Office of State Personnel and the Employment Security Commission.

(c) In addition to the report required by subsection (a) of this section, the Office of State Budget and Management shall present to the 1995 General Assembly by May 1, 1996, documentation of all expenditures defined in subsections (a) and (b) of this section and identification of the funding sources in both the 1994-95 fiscal year and the 1995-96 fiscal year for all these expenditures.

**PART 11. DEPARTMENT OF ADMINISTRATION**

Requested by: Representatives Ives, Lemmond, Senator Warren

**DOMESTIC VIOLENCE PROGRAMS**

Sec. 11. All grantees receiving Domestic Violence grants from the Department of Administration shall meet the financial statement filing requirements of G.S. 143-6.1, regardless of the amount of their grants.

Requested by: Representatives Ives, Lemmond, Senator Warren

**TRANSFER EXECUTIVE MANSION CURATOR FROM DEPARTMENT OF ADMINISTRATION TO THE DEPARTMENT OF CULTURAL RESOURCES**

Sec. 11.1. The position of Executive Mansion Curator (position number 4129-0101-0006-125) is transferred from the Department of Administration to the Department of Cultural Resources. This transfer will permit the Department of Cultural Resources to better maintain the historical personal properties of the Executive Mansion. This provision does not affect, in any way, the jurisdiction of the Department of Administration over the Executive Mansion and its grounds.

Requested by: Representatives Ives, Lemmond, Culpepper, Senators Warren, Davis

**TRANSFER NORTH CAROLINA ALLIANCE FOR COMPETITIVE TECHNOLOGIES (NCACTS)**

Sec. 11.2. The North Carolina Alliance for Competitive Technologies (NCACTS) created by Executive Order No. 63 on September 26, 1994, is transferred from the Department of Administration to the Department of Commerce. All positions, property, unexpended balances of appropriations, allocations and other refunds, including the functions of budgeting and purchasing, for NCACTS are transferred from the Department of Administration to the Department of Commerce.

NCACTS shall report quarterly on its operations and performance to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

Requested by: Senators Ballance, Davis, Warren, Representatives Culpepper, Ives, Justus, Lemmond, Thompson

**STUDY OF REPLACEMENT OF MOTOR VEHICLES**

Sec. 11.3. The Department of Administration shall study the obsolescence and replacement of motor vehicles, including those used by law enforcement agencies, to determine the optimal replacement time. The replacement time shall be stated as optimal mileage or cost of operating the vehicle. The study shall include a review of industry standards when determining optimal replacement time. The Department shall include safety and efficiency of motor vehicle operations as an integral part of the study. The Department shall report its findings and recommendations to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division by March 1, 1996.

Requested by: Senators Warren, Davis, Representatives Ives, Lemmond, Culpepper

**PARKING REVENUES**

Sec. 11.4. The Secretary of Administration may use funds from parking revenues that are in excess of parking system expense requirements to fund the ten dollars (\$10.00) per month subsidies for van pools and transit passes.

## **PART 12. DEPARTMENT OF CULTURAL RESOURCES**

Requested by: Representatives Lemmond, Ives, Senator Warren

### **REVIEW PLANS FOR STATE HISTORIC SITES REQUESTING STATE FUNDS**

Sec. 12. G.S. 121-12 reads as rewritten:

#### **"§ 121-12. North Carolina Historical Commission.**

(a) Protection of Properties on National Register. – It shall be the duty of the Historical Commission, meeting at such times and according to such procedures as it shall by rule prescribe, to provide an advisory and coordinative mechanism in and by which State undertakings of every kind that are potentially harmful to the cause of historic preservation within the State may be discussed, and where possible, resolved, giving due consideration to the competing public interests that may be involved. To this end, the head of any State agency having direct or indirect jurisdiction over a proposed State or state-assisted undertaking, or the head of any State department, board, commission, or independent agency having authority to build, construct, operate, license, authorize, assist, or approve any State or state-assisted undertaking, shall, prior to the approval of any State funds for the undertaking, or prior to any approval, license, or authorization, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470.

Where, in the judgment of the Commission, an undertaking will have an effect upon any listed district, site, building, structure, area, or object, the head of the appropriate State agency shall afford the Commission a reasonable opportunity to comment with regard to such undertaking.

The Historical Commission shall act with reasonable diligence to insure that all State departments, boards, commissions, or agencies potentially affected by the provisions of this section be kept currently informed with respect to the name, location, and other significant particulars of any district, site, building, structure, or object listed or placed upon the National Register of Historic Places. Each affected State department or agency shall furnish, either upon its own initiative or at the request of the Historical Commission such information as may reasonably be required by the Commission for the proper implementation of this section.

(b) Criteria for State Historic Properties. – The Commission shall prepare and adopt criteria for the evaluation of State historic sites and all other real and personal property which it may consider to be of such historic, architectural, archaeological, or cultural importance as would justify the acquisition and ownership thereof by the State of North Carolina, or for the extension of any assistance or aid thereto by the State, acting by itself or in connection with any county, city, corporation, organization, or individual. The Commission shall cooperate to the fullest practical extent with any local

historical organization and with any city or county historic district properties commission. In evaluating whether a building should be a State historic site, the Commission shall request and review plans for the use and maintenance of the building.

(c) Criteria for State Aid to Historic Properties. – The Commission shall also prepare and adopt criteria for the evaluation of all properties of historic or archaeological importance owned by, under option to, or being considered for acquisition by a county, city, historic properties commission, or other organization or individual for which State aid or assistance is requested from the Department of Cultural Resources. The Commission shall investigate, evaluate, and prepare a written report on all historic or archaeological property for which State aid or appropriations to be administered by the Department of Cultural Resources are proposed. If the property is a building, the Commission shall request and review the plans for the use, maintenance, operation, and purpose of the building and shall comment on the feasibility of the plans in the written report. This report, which shall be filed as a matter of record in the custody of the Department of Cultural Resources, shall set forth the following opinions or recommendations of the Commission:

- (1) Whether the property is historically authentic;
- (2) Whether it is of such educational, historical, or cultural significance as to be essential to the development of a balanced State program of historic and archaeological sites and properties;
- (3) The estimated total cost of the project under consideration and the apportionment of said cost among State and nonstate sources;
- (4) Whether practical plans have been or can be developed for the funding of the nonstate portion of the costs;
- (5) Whether practical plans have been developed for the continued staffing, maintenance and operation of the property without State assistance;
- (6) Such further comments and recommendations that the Commission may make.

(c1) Criteria for State Aid to Historical Museums. – The Commission shall also prepare and adopt criteria for the evaluation of all interpretive, security or climate control programs or projects to be installed in nonprofit history museums for which State aid or assistance is requested from the Department of Cultural Resources. The Commission shall investigate, evaluate, and prepare a written report on all interpretive, security, or climate control programs or projects for which State appropriations to be administered by the Department of Cultural Resources are proposed. This report, which shall be filed as a matter of record in the custody of the Department of Cultural Resources, shall set forth the following opinions or recommendations of the Commission:

- (1) The statewide educational significance and the qualitative level of the program or project and whether the program or project is essential to the development of a State program of historical interpretation;
- (2) The local or regional need for such a program or project;

- (3) The estimated total cost of the program or project under consideration and the apportionment of said cost among State and nonstate sources;
- (4) Whether practical plans have been or can be developed for the funding of the nonstate portions of the costs;
- (5) Whether practical plans have been developed for the continued staffing, maintenance, and operating of the museum without State assistance; and
- (6) Such further comments and recommendations that the Commission may make.

(d) Commission to Furnish Recommendations to Legislative Committees. – The Commission through the Department of Cultural Resources shall furnish as soon as practicable to the chairman of each legislative committee to which is referred any bill seeking an appropriation of State funds to the Department of Cultural Resources for the purpose of acquiring, preserving, restoring, or operating, or otherwise assisting, any property having historic, archaeological, architectural, or other cultural value or significance, and to the chairman of each legislative committee to which is referred any bill seeking an appropriation of State funds to the Department of Cultural Resources for the purpose of assisting a history museum, at least five copies of a report on the findings and recommendations of the Commission relating to such property.”

Requested by: Representatives Ives, Lemmond, Senator Warren

**REPEAL ART WORKS IN STATE BUILDINGS REQUIREMENT**

Sec. 12.2. Article 47A of Chapter 143 of the General Statutes is repealed.

Requested by: Representatives Ellis, Ives, Lemmond, Culpepper, Senators Warren, Davis

**ARTS COUNCIL GRANTS**

Sec. 12.4. Arts Council grants that are to be used for artworks shall include as a term of the grant that the artwork created with the grant funds shall not be displayed or performed in a publicly funded facility if the governing body of the community that would have zoning jurisdiction over the facility objects by resolution to the display or performance of the artwork in that community.

**PART 13. DEPARTMENT OF INSURANCE**

Requested by: Representatives Ives, Lemmond, Culpepper, Senators Warren, Davis

**UNBUDGETED INSURANCE RECEIPTS REVERT TO GENERAL FUND**

Sec. 13. Departmental receipts realized by the Department of Insurance in excess of amounts approved for expenditure by the General Assembly, as adjusted by the Office of State Budget and Management to reflect the distribution of statewide reserves, shall revert to the General Fund at the end of each fiscal year.

Requested by: Representatives Ives, Lemmond, Culpepper, Senators Warren, Davis



## **CONTINUATION OF FINANCIAL AUDIT OF THE DEPARTMENT OF INSURANCE**

Sec. 13.2. The Office of State Auditor shall conduct a financial related audit of the Department of Insurance and its operations for the 1994-95 fiscal year. The audit shall be conducted in accordance with professional standards. The scope of the audit shall include, but is not limited to, following up on the findings and recommendations from the independent financial audit of the Department of Insurance contracted for pursuant to Section 9 of Chapter 769 of the 1993 Session Laws. The audit shall be completed on or before March 1, 1996.

## **PART 14. STATE BOARD OF ELECTIONS**

Requested by: Representatives Ives, Lemmond, Senator Warren

### **COMPETITIVE BIDS FOR PRINTING AND DISTRIBUTING BALLOTS**

Sec. 14. G.S. 163-136(b)(3) reads as rewritten:

"(3) For all elections, primaries, and referenda not specified in the two preceding subdivisions, by the State Board of Elections, at the expense of the State.

Provided, that the State Board of Elections, in its discretion, may direct some or all counties to print the ballots required by this subdivision under the supervision of the State Board of Elections. If the State Board of Elections prints and distributes the ballots required by this subdivision at the expense of the State, the State Board shall ~~have the authority to negotiate for the ballots to be printed and distributed on a regional or centralized basis, and the State Board shall be exempt from securing competitive bids~~ establish contracts through competition pursuant to Article 3 of Chapter 143 of the General Statutes for printing and distribution of all ballots, abstracts and precinct return forms."

## **PART 15. COLLEGES AND UNIVERSITIES**

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

### **AID TO STUDENTS ATTENDING PRIVATE COLLEGES PROCEDURE**

Sec. 15. (a) Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up to five hundred fifty dollars (\$550.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

These funds shall be placed in a separate, identifiable account in each eligible institution's budget or chart of accounts. All funds in this account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this account shall be notified of the source of the

funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be for the tuition grant program as defined in subsection (b) of this section.

(b) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending these institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, not to exceed one thousand two hundred fifty dollars (\$1,250) per academic year, which shall be distributed to the student as hereinafter provided.

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

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

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

- (1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections (a) and (b) of this section; and
- (2) Each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

Any remaining funds shall revert to the General Fund.

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

Requested by: Representatives Grady, Preston, Senators Plexico, Winner  
**WAKE FOREST AND DUKE MEDICAL SCHOOL ASSISTANCE/FUNDING  
FORMULA**

Sec. 15.1. Funds appropriated in this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-year, second-year, third-year, and fourth-year students in each

medical school as of November 1, 1995, and November 1, 1996. Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars (\$8,000) for each medical student who is a North Carolina resident, one thousand dollars (\$1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the medical school. The maximum aid given to any student from this fund in a given year may not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at the University of North Carolina at Chapel Hill.

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

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the medical schools and shall review the grants or awards to eligible students. The Board of Governors shall adopt rules for determining which students are residents of North Carolina for the purposes of these programs. The Board shall also make any regulations as necessary to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students towards primary care, consistent with the directives of G.S. 143-613(a). The two schools shall supply information necessary for the Board to comply with G.S. 143-613(d).

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Winner, Little

#### **AID TO STUDENTS ATTENDING PRIVATE COLLEGES/LEGISLATIVE TUITION GRANT LIMITATIONS**

Sec. 15.2. (a) No Legislative Tuition Grant funds shall be expended for a program at an off-campus site of a private institution, as defined in G.S. 116-22(1), established after May 15, 1987, unless (i) the private institution offering the program has previously notified and secured agreement from other private institutions operating degree programs in the county in which the off-campus program is located or operating in the counties adjacent to that county or (ii) the degree program is neither available nor planned in the county with the off-campus site or in the counties adjacent to that county.

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

(b) Any member of the armed services as defined in G.S. 116-143.3(a), abiding in this State incident to active military duty, who does not qualify as a resident for

tuition purposes as defined under G.S. 116-143.1, is eligible for a Legislative Tuition Grant pursuant to this section if the member is enrolled as a full-time student. The member's Legislative Tuition Grant shall not exceed the cost of tuition less any tuition assistance paid by the member's employer.

Requested by: Senators Plexico, Winner, Little, Representatives Grady, Preston, Cummings

### **EQUITY OF FUNDING**

Sec. 15.3. The Commission on the Quality of Education in The University of North Carolina reported to the General Assembly that the funding system for appropriations to each campus for continuing operations, which constitutes the majority of General Fund support to higher education, is not based on identifiable criteria that are measurable or that allow comparisons of adequacy of funding among the 16 campuses.

The Board of Governors of The University of North Carolina shall review the equity of the continuation budget funding system, and the equity of its methods of distributing the lump-sum expansion funds appropriated by the General Assembly. The Board of Governors shall assess the criteria that should be used in deriving an equitable funding system, such as comparisons of funding at like institutions, such factors as size of student body, the costs of the programs offered by each campus, the level of the student body (lower division, upper division, graduate), the resources required to meet the early college needs of entering students based on their relative preparations for college success, and any other factors deemed by the Board of Governors to be relevant to assuring successful student outcomes. In carrying out this review, the Board of Governors shall consult with the Office of State Budget and Management.

After its review, the Board of Governors shall propose a system of funding to the General Assembly which uses identifiable criteria which are based on educationally and financially sound principles. If the Board of Governors recommends changes in the current funding system, it shall also propose a plan and schedule for moving to the recommended system. The Board of Governors shall report its progress to the Joint Legislative Education Oversight Committee by April 15, 1996, and shall report its final findings and recommendations to the Joint Legislative Education Oversight Committee and the House and Senate Appropriations Subcommittees on Education by November 15, 1996.

Requested by: Senators Plexico, Winner, Little, Representatives Grady, Preston, Cummings

### **FULL-TIME EQUIVALENT STUDENTS (FTE)**

Sec. 15.4. The Board of Governors of The University of North Carolina shall consider alternative approaches to funding University undergraduate and graduate enrollment, including the current funding of full-time equivalent students based on 12 semester hours annually for undergraduates, increasing this level to 15 semester hours annually, which would be consistent with graduating in four years, or funding the University on the basis of student credit hours rather than on full-time equivalent enrollment. The Board of Governors shall report its progress to the Joint Legislative

Education Oversight Committee by April 15, 1996, and shall make its final recommendations regarding changes on enrollment funding to the Joint Legislative Education Oversight Committee and the House and Senate Appropriations Subcommittees on Education by November 15, 1996.

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Winner, Little

#### **EDUCATIONAL OPPORTUNITY**

Sec. 15.5. The Board of Governors of The University of North Carolina shall consider different funding approaches to meeting the needs of an increasing pool of high school graduates, as well as adult learners unable to return to a university campus for additional education. Such methods as funding additional credit hours above the current levels for summer school and for off-campus degree programs on a basis more comparable to the current regular term funding, the application of distance learning technologies, collaboration with the community colleges and the private colleges in the State, and other possibilities should be explored by the Board. The study shall consider the increased utilization of campus facilities, and it shall consider the use of financial resources and financial incentives to provide additional higher education opportunities at off-campus locations. The Board of Governors shall recommend a plan to provide for additional educational opportunities in the summer and at off-campus locations across the State, including any funding mechanisms necessary to accomplish these goals.

The Board of Governors shall report its progress to the Joint Legislative Education Oversight Committee by January 31, 1996, and shall make a final report of its findings and recommendations to the Joint Legislative Education Oversight Committee and the House and Senate Appropriations Subcommittees on Education by April 15, 1996.

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Winner, Little

#### **INCENTIVE FUNDING**

Sec. 15.6. The Board of Governors of The University of North Carolina shall study various methods to provide funding incentives for the campuses when they accomplish specifically stated performance goals in the improvement of the quality of undergraduate education. As a part of this study, the Board of Governors of The University of North Carolina shall consider whether the ability of the campuses to retain some portion of their reversions each year under current management flexibility statutes should be tied to specific institutional gains toward pre-stated student performance goals.

If the Board of Governors finds that incentive funding could be a positive element in the higher education funding system in North Carolina, the Board of Governors shall recommend a model for a proposed system of incentive funding to the Joint Legislative Education Oversight Committee and the House and Senate Appropriations Subcommittees on Education by April 15, 1996. A monitoring system to provide an evaluation of performance back to the Board of Governors and to the

General Assembly shall be a part of any proposal. The Board may propose such a model in its future budget proposals to the Governor and the General Assembly.

Requested by: Senators Plexico, Winner, Little, Representatives Grady, Preston, Cummings

**EPA REDUCTIONS**

Sec. 15.7. The Board of Governors of The University of North Carolina shall provide a list of all positions exempt from the State Personnel Act (EPA) to be eliminated by this act to the General Assembly by June 25, 1995. In preparing the list, the Board of Governors shall reduce EPA nonteaching positions on a pro rata basis, except for the constituent institutions. For the constituent institutions, the EPA nonteaching reductions shall be applied only to the extent that the full-time equivalent (FTE) EPA nonteaching positions per FTE student at each institution exceeds one one-hundredth of a position. EPA nonteaching positions in excess of one one-hundredth per FTE student shall be reduced on a pro rata basis. The Board of Governors shall reduce mid-level management positions, and shall avoid eliminating librarians, student advisors, financial aid counselors, and other positions which provide direct services to students, to the extent possible. Campuses or other entities without sufficient vacancies to implement this reduction may substitute positions subject to the State Personnel Act (SPA) or may reduce nonpersonnel budgetary items. Institutions must identify SPA positions or any items substituted by June 25, 1995, and must indicate why EPA vacancies were insufficient.

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

**CONTINUING EDUCATION UNC-CH HEALTH AFFAIRS**

Sec. 15.8. The University of North Carolina at Chapel Hill Health Affairs shall charge continuing education fees that are reasonably expected to cover a higher percentage of the costs of those professional programs. Health care professionals in those areas that are likely to generate substantial revenue or clientele shall pay a higher proportion of costs for continuing education.

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Winner, Little

**REWARDING FACULTY TEACHING**

Sec. 15.9. The Board of Governors shall design and implement a system to monitor faculty teaching workloads on the campuses of the constituent institutions.

The Board of Governors shall direct constituent institutions that teaching be given primary consideration in making faculty personnel decisions regarding tenure, teaching, and promotional decisions for those positions for which teaching is the primary responsibility. The Board shall assure itself that personnel policies reflect this direction.

The Board of Governors shall develop a plan for rewarding faculty who teach more than a standard academic load.

The Board of Governors shall review the procedures used by the constituent institutions to screen and employ graduate teaching assistants. The Board shall direct that adequate procedures be used by each constituent institution to ensure that all graduate teaching assistants have the ability to communicate and teach effectively in the classroom.

The Board of Governors shall report on the implementation of this section to the Joint Legislative Education Oversight Committee by April 15, 1996.

Requested by: Senators Plexico, Winner, Little, Representatives Grady, Preston, Cummings

### **STUDY POTENTIAL COST SAVINGS TO UNC THROUGH PRIVATIZATION OF CERTAIN SERVICES**

Sec. 15.10. The Board of Governors of The University of North Carolina, in consultation with the constituent institutions and affiliated organizations, shall study the potential for cost savings by contracting for various services with private contractors, including housekeeping and maintenance of physical facilities.

East Carolina University is currently realizing savings from privatizing the management of its housekeeping services. The General Assembly has reviewed requests for funding to operate approximately 2.8 million square feet of new or renovated space for the 1995-97 biennium. With this amount of new space opening up, the potential for cost savings by initially contracting for certain services to operate these facilities appears worth reviewing.

The Board of Governors shall report on the potential for increased efficiency and budget savings from the use of private contractual services to the Joint Legislative Education Oversight Committee by April 15, 1996. The Board shall identify and include in its report that portion of any savings that is attributable to lower pay scales or lower workers' benefits paid by potential private contractors.

Requested by: Senators Plexico, Winner, Little, Representatives Grady, Preston, Cummings

### **COMPREHENSIVE PLAN FOR HIGHER EDUCATION ENROLLMENT**

Sec. 15.12. (a) The Education Cabinet shall develop a comprehensive plan to meet the projected increase in higher education enrollments that result from the increased number of high school graduates and nontraditional students needing worker retraining. The plan shall address questions of capacity and potential increases in space utilization. The plan shall also consider several funding strategies to encourage more balanced enrollment, such as funding additional credit hours above current levels for summer school and for off-campus degree programs, and incentive funding for private colleges to enroll more North Carolina residents.

The Education Cabinet shall also coordinate the planning efforts of the Board of Governors of The University of North Carolina, the Department of Community Colleges, and the North Carolina Association of Private and Independent Colleges and Universities to meet the projected increase in higher education enrollments.

A representative from the North Carolina Association of Private and Independent Colleges and Universities shall participate in the deliberations and decision-making of the Education Cabinet in accordance with G.S. 116C-1. The Board of Governors and the Department of Community Colleges shall provide staff assistance to the Education Cabinet in the development of the comprehensive plan. The Education Cabinet shall estimate the fiscal impact of all alternatives and proposals for dealing with the projected enrollment.

The Education Cabinet shall make a preliminary report on the comprehensive plan to the Joint Education Oversight Committee by April 15, 1996, and shall submit a final report to the Committee by November 15, 1996.

(b) G.S. 116C-1(b) reads as rewritten:

"(b) The Education Cabinet shall consist of the Governor, who shall serve as chair, the President of The University of North Carolina, the State Superintendent of Public Instruction, the Chairman of the State Board of Education, and the President of the North Carolina Community College System. The Education Cabinet shall invite representatives of private education to participate in its deliberations as adjunct members."

Requested by: Senators Plexico, Winner, Little, Representatives Grady, Preston, Cummings

#### **INSTITUTE OF GOVERNMENT BUDGET CATEGORIES**

Sec. 15.13. The Institute of Government's faculty hold regular full-time faculty appointments in the Institute and devote their full time to teaching, consulting, and engaging in research and writing that supports and informs their teaching and consulting activities. In recognition of the Institute's status as a regular freestanding academic unit of the University of North Carolina at Chapel Hill that makes its own faculty appointments and conducts its own program of teaching, research, and consultation, the Director of the Budget shall transfer the budget appropriations in the Institute of Government from Purpose Code 142 to Purpose Code 105 and shall transfer its budget appropriations for teaching faculty salaries from Object Code 1110 to Object Code 1310. The transfer shall become effective July 1, 1995, and shall apply beginning with the 1995-97 biennial budget and hereafter.

#### **PART 16. COMMUNITY COLLEGES**

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

#### **BOOKS AND EQUIPMENT APPROPRIATIONS/REVERT AFTER ONE YEAR**

Sec. 16. G.S. 115D-31 is amended by adding a new subsection to read:

"(c) State funds appropriated to the State Board of Community Colleges for equipment and library books shall revert to the General Fund 12 months after the close of the fiscal year for which they were appropriated. Encumbered balances outstanding at the end of each period shall be handled in accordance with existing State budget policies. The Department shall identify to the Office of State Budget and Management the funds that revert at the end of the 12 months after the close of the fiscal year."



Requested by: Representatives Grady, Preston, Senators Plexico, Winner

**COMMUNITY COLLEGE FUNDING FLEXIBILITY**

Sec. 16.1. A local community college may use all State funds allocated to it, except for Literacy Funds and Funds for New and Expanding Industries, for any authorized purpose that is consistent with the college's Institutional Effectiveness Plan. Each local community college shall submit an Institutional Effectiveness Plan that indicates to the State Board of Community Colleges how the college will use this funding flexibility to meet the demands of the local community and maintain a presence in all previously funded categorical programs.

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

**COURSE REPETITION POLICY FOR FIRE, RESCUE, AND POLICE PERSONNEL**

Sec. 16.2. The course repetition policy adopted by the State Board of Community Colleges in accordance with Section 102(a) of Chapter 321 of the 1993 Session Laws does not apply to fire, rescue, or law enforcement training courses taken by fire, rescue, or law enforcement personnel.

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

**PENALTY FOR AUDIT EXCEPTIONS MODIFIED**

Sec. 16.3. The audit policies of the State Board of Community Colleges shall provide that if a community college is in violation of a State or federal law or of a State Board rule or policy, the program auditors shall cite the college for an audit exception and not a concern. The State Board shall assess a twenty-five percent (25%) fiscal penalty in addition to the audit exception on all audits of both dollars and student membership hours excepted, unless the State Board finds that the audit exception was caused only by a processing or clerical error; no penalty shall be assessed in the case of a processing or clerical error.

The president of each community college shall present the findings of the college's program audit to the board of trustees of the college.

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

**MULTI-ENTRY/MULTI-EXIT CLASSES IN PRISONS AUTHORIZED**

Sec. 16.4. G.S. 115D-5(c1) reads as rewritten:

"(c1) Community colleges shall report full-time equivalent (FTE) student hours for correction education programs on the basis of contact hours rather than student membership hours. No community college shall operate a multi-entry/multi-exit class or program in a prison ~~facility~~-facility, except for a literacy class or program.

The State Board shall work with the Department of Correction on offering classes and programs that match the average length of stay of an inmate in a prison facility."

Requested by: Representatives Grady, Preston, Cummings, Senators Plexico, Little, Winner

## **MODIFY 1994-95 FACULTY SALARY LIMITATIONS**

Sec. 16.5. (a) Section 18.6 of Chapter 769 of the 1993 Session Laws is repealed.

(b) Funds appropriated by the General Assembly for the 1995-96 fiscal year for the purpose of community college faculty salary increases shall be used only to provide community college faculty with salary increases.

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

## **CENSUS REPORTING DATES**

Sec. 16.6. (a) For the 1995-96 fiscal year, the census dates for reporting student membership hours for curriculum and occupational extension classes shall be at the thirty percent (30%) point of the class and at the ten percent (10%) point of the class which typically coincides with the end of each college's drop-add period. It is the intent of the General Assembly to determine during the Regular 1996 Session which census date shall be used in computing FTE enrollment.

(b) This section does not apply to courses offered on a contact-hour basis.

Requested by: Representatives Grady, Preston, Senators Plexico, Winner

## **STATE BOARD RESERVE FUNDS**

Sec. 16.7. The State Board of Community Colleges shall use one-half of its Board Reserve for the 1995-96 fiscal year for expenses incurred during the North Carolina Community College System's conversion from the quarter credit system to the semester credit system.

## **PART 17. PUBLIC SCHOOLS**

Requested by: Representatives Grady, Preston, Senators Winner, Plexico

## **PUBLIC SCHOOLS WORKERS' COMPENSATION**

Sec. 17. (a) Salaries for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

(b) G.S. 115C-337(a) reads as rewritten:

"(a) Workers' Compensation Act Applicable to School Employees. – The provisions of the Workers' Compensation Act shall be applicable to all school employees, and the State Board of Education shall make ~~such~~ arrangements as necessary to carry out the provisions of the Workers' Compensation Act applicable to ~~such~~ these employees paid from State school funds. Liability of the State for compensation shall be confined to school employees paid by the State from State school funds for injuries or death caused by accident arising out of and in the course of their employment in connection with the state-operated school term. The State shall be liable for ~~said~~ this compensation on the basis of the average weekly wage of ~~such~~ the employees as defined in the Workers' Compensation Act, ~~whether all of said~~

~~compensation for the school term is paid from State funds or in part supplemented by local funds, to the extent of the proportionate part of each employee's salary that is paid from State funds.~~ The State shall also be liable for workers' compensation for all school employees employed in connection with the teaching of vocational agriculture, home economics, trades and industries, and other vocational subjects, supported in part by State and federal funds, which liability shall cover the entire period of service of ~~such employees.~~ these employees, to the extent of the proportionate part of each employee's salary that is paid from State funds. The local school administrative units shall be liable for workers' compensation for school employees, including lunchroom employees, whose salaries or wages are paid by ~~such~~ the local units from local or special funds. ~~Such~~ The local units ~~are authorized and empowered to~~ may provide insurance to cover ~~such~~ this compensation liability and to include the cost of ~~such~~ this insurance in their annual budgets.

The provisions of this subsection shall not apply to any person, ~~firm~~ firm, or corporation making voluntary contributions to schools for any purpose, and ~~such~~ the person, firm, or corporation shall not be liable for the payment of any sum of money under this Chapter."

Requested by: Representatives Grady, Preston, Senators Winner, Plexico

#### **USE OF SUBSTITUTE TEACHER FUNDS FOR LEAVE FROM SICK LEAVE BANKS**

Sec. 17.1. State funds for substitute teachers shall be used to pay for substitute teachers on days that teachers use sick leave from voluntary sick leave banks established in accordance with G.S. 115C-336(b).

Requested by: Representatives Grady, Preston, Senator Plexico

#### **OUTCOME-BASED EDUCATION PROGRAM REPEALED**

Sec. 17.2. Part 5 of Article 16 of Chapter 115C of the General Statutes is repealed.

Requested by: Senators Winner, Plexico, Little, Representatives Grady, Preston, Cummings

#### **CAREER DEVELOPMENT**

Sec. 17.3. (a) Funds appropriated to the State Board of Education for local school administrative units receiving career development funds for the 1995-96 and 1996-97 fiscal years shall be used only to ensure that individual employees do not receive less on a monthly basis in salary and State-funded bonuses during the 1995-96 fiscal year or during the 1996-97 fiscal year than they received on a monthly basis during the 1994-95 fiscal year, so long as the employees qualify for bonuses under the local differentiated pay plan. The State Board of Education may also use funds appropriated to State Aid to Local School Administrative Units for the 1995-96 and 1996-97 fiscal years as is necessary to hold individual employees harmless as provided in this subsection.

(b) Funds appropriated for local school administrative units receiving career development funds for the 1994-95 fiscal year that did not revert on June 30, 1995, shall not be used for expenses other than the costs of holding individual employees harmless as provided in subsection (a) of this section.

(c) If funds are necessary to hold teachers harmless after the 1996-97 fiscal year, the General Assembly urges the Governor to include these funds in the continuation budget request.

Requested by: Representatives Grady, Preston, Senators Winner, Plexico

**TEACHER LEAVE IN CASES OF CATASTROPHIC ILLNESS**

Sec. 17.4. G.S. 115C-336 is amended by adding a new subsection to read:

"(c) The State Board of Education shall also adopt rules and regulations to authorize an employee who requires a substitute to use annual leave on days that students are in attendance if the employee has exhausted all of the employee's sick leave and if the employee's absence is due to the catastrophic illness of the employee. The employee shall not be required to pay the substitute."

Requested by: Senators Winner, Plexico, Little, Representatives Grady, Preston, Cummings

**IMPLEMENTATION OF THE REORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION**

Sec. 17.5. Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Education shall reorganize the Department of Public Instruction in accordance with the reorganization plan adopted by the State Board of Education and submitted to the General Assembly in May 1995, and to implement the base budget reduction in this act of nine million three hundred eighteen thousand four hundred thirty-six dollars (\$9,318,436) for the 1995-96 fiscal year and ten million six hundred sixty-five thousand two hundred twenty dollars (\$10,665,220) for the 1996-97 fiscal year.

Requested by: Senators Winner, Plexico, Little, Representatives Grady, Preston, Cummings

**LEGISLATIVE INTENT TO USE SAVINGS FROM THE REORGANIZATION OF THE DEPARTMENT OF PUBLIC INSTRUCTION FOR EXPANSION BUDGET APPROPRIATIONS FOR THE PUBLIC SCHOOLS**

Sec. 17.6. It is the intent of the General Assembly to appropriate in the expansion budget for the 1995-97 fiscal biennium for State Aid to Local School Administrative Units all funds saved in this act by reorganizing the Department of Public Instruction. These funds shall be used for classroom services for pupils only.

Requested by: Senators Winner, Plexico, Little, Representatives Grady, Preston, Cummings

**TRANSFER FUNDS FOR TACS TO LOCAL SCHOOL ADMINISTRATIVE UNITS**

Sec. 17.7. Effective July 1, 1996, the State Board of Education shall reallocate funds from Technical Assistance Centers to local school administrative units in accordance with a formula adopted by the State Board. Local boards of education may use these funds to contract with Technical Assistance Centers, contract with other entities, hire personnel, or otherwise acquire staff development, training, planning, and other forms of technical assistance.

The Technical Assistance Centers shall be funded solely by receipts from local boards of education and from other non-State sources. The State Board shall establish a management structure for the Technical Assistance Centers that enables superintendents, principals, and teachers from the local school administrative units to be served by the Centers to have input into the priorities and personnel decisions at the Centers.

Requested by: Senators Plexico, Winner, Little, Representatives Grady, Preston, Cummings

**SITE-BASED MANAGEMENT TASK FORCE/STAFF**

Sec. 17.8. (a) Effective July 1, 1995, G.S. 115C-238.7 reads as rewritten:

**"§ 115C-238.7. Creation of the Task Force on Site-Based Management; ~~appointment of a Director of the Task Force of Site-Based Management.~~ Management.**

(a) There is created the Task Force on Site-Based Management ~~within the Department of Public Instruction.~~ under the State Board of Education.

The Task Force shall be composed of ~~21~~20 members appointed as follows:

- (1) The Superintendent of Public Instruction;
- (2) One member of the State Board of Education appointed by the State Board of Education;
- (3) Two members of the Senate appointed by the President Pro Tempore of the Senate;
- (4) Two members of the House of Representatives appointed by the Speaker of the House of Representatives;
- (5) One member of a local board of education appointed by the President Pro Tempore of the Senate after receiving recommendations from The North Carolina State School Boards Association, Inc.;
- (6) One member of a local board of education appointed by the Speaker of the House of Representatives after receiving recommendations from The North Carolina State School Boards Association, Inc.;
- (7) One local school superintendent appointed by the President Pro Tempore of the Senate after receiving recommendations from the North Carolina Association of School Administrators;
- (8) One local school superintendent appointed by the Speaker of the House of Representatives after receiving recommendations from the North Carolina Association of School Administrators;
- (9) One school principal appointed by the President Pro Tempore of the Senate after receiving recommendations from the Tar Heel Association

- of Principals/Assistant Principals and the Division of Administrators of the North Carolina Association of Educators;
- (10) One school principal appointed by the Speaker of the House of Representatives after receiving recommendations from the Tar Heel Association of Principals/Assistant Principals and the Division of Administrators of the North Carolina Association of Educators;
  - (11) One school teacher appointed by the President Pro Tempore of the Senate after receiving recommendations from the North Carolina Association of Educators, Inc., the North Carolina Federation of Teachers, and the Professional Educators of North Carolina, Inc.;
  - (12) One school teacher appointed by the Speaker of the House of Representatives after receiving recommendations from the North Carolina Association of Educators, Inc., the North Carolina Federation of Teachers, and the Professional Educators of North Carolina, Inc.;
  - (13) ~~The Director of the Task Force on Site-Based Management, appointed by the Superintendent of Public Instruction in accordance with subsection (d) of this section;~~
  - (14) One parent of a public school child appointed by the Superintendent of Public Instruction;
  - (15) Two at-large members appointed by the Superintendent of Public Instruction;
  - (16) One representative of business and industry appointed by the Governor;
  - (17) One representative of institutions of higher education appointed by the Board of Governors of The University of North Carolina; and
  - (18) One county commissioner appointed by the Superintendent of Public Instruction after receiving recommendations from the North Carolina Association of County Commissioners.

Members of the Task Force shall serve for two-year terms.

All members of the Task Force shall be voting members. Vacancies in the appointed membership shall be filled by the officer who made the initial appointment. The ~~Director of the Task Force on Site-Based Management~~ shall select a member of the Task Force to serve as chair of the Task Force.

Members of the Task Force shall receive travel and subsistence expenses in accordance with the provisions of G.S. 120-3.1, G.S. 138-5, and G.S. 138-6.

(b) The Task Force shall:

- (1) ~~Monitor~~ Advise the State Board of Education on the implementation of the School Improvement and Accountability Act of 1989, as amended, especially the development and implementation of building-level plans;
- (2) ~~Advise the Director of the Task Force on Site-Based Management~~ State Board of Education on how to provide training and assistance to the public schools so as to facilitate the implementation of site-based management;

- (3) Review publications produced by the Department of Public Instruction on the development and implementation of building-level plans;
- (4) Report annually to the ~~General Assembly and the Joint Legislative Education Oversight Committee~~ State Board of Education on the implementation of site-based management in the public schools on the first Friday in December. This report may contain a summary of recommendations for changes to any law, rule, and policy that would improve site-based management.

(c) The Department of Public Instruction ~~shall~~ shall, with the approval of the State Board of Education, provide staff to the Task Force at the request of the Task Force.

(d) ~~The State Superintendent of Public Instruction~~ State Board of Education shall appoint a Director of the Task Force on Site-Based Management. ~~The Director shall direct a program in the Department of Public Instruction to provide training and assistance to the public schools to facilitate the implementation of site-based management.~~

~~The Director shall supervise such site-based management specialists from each of the six technical assistance centers of the Department of Public Instruction as may be assigned by the State Superintendent. The specialists shall work directly with the local school administrative units and with school-based committees to provide them with training and assistance to facilitate the implementation of site-based management. The specialists shall coordinate their activities with the central office."~~

(b) The State Board of Education shall develop a plan for the reconfiguration of staff development activities, with an emphasis on assistance to schools.

Requested by: Senators Plexico, Winner, Little, Representatives Grady, Preston, Cummings

### **TEACHER ACADEMY TRANSFER/UNC LEADERSHIP PROGRAMS**

Sec. 17.9. (a) The Task Force on Teacher Staff Development established by Section 141 of Chapter 321 of the 1993 Session Laws, all funds appropriated by the General Assembly for the Task Force and the Teacher Academy Program, and all resources and personnel provided for the Task Force and the Teacher Academy Program by the Department of Public Instruction are transferred from the Department of Public Instruction to The University of North Carolina. This transfer shall have all of the elements of a Type I transfer, as that term is defined in G.S. 143A-6(a). Where a conflict arises in connection with the transfer, the transfer shall be resolved by the Governor, and the decision of the Governor shall be final.

The Task Force is renamed the North Carolina Teacher Academy Board of Trustees.

The Board of Governors of The University of North Carolina shall delegate to the Board of Trustees all the powers and duties the Board of Governors considers necessary or appropriate for the effective discharge of the functions of the North Carolina Teacher Academy.

(b) Subsection (g) of Section 141 of Chapter 321 of the 1993 Session Laws is repealed.

(c) The North Carolina Teacher Academy Board of Trustees shall establish a statewide network of high quality, integrated, comprehensive, collaborative, and substantial professional development for teachers, which shall be provided through summer programs.

(d) The Board of Trustees shall consist of 20 members appointed as follows:

- (1) The Superintendent of Public Instruction or the Superintendent's designee;
- (2) One member of the State Board of Education appointed by the Chair of the State Board;
- (3) One member of the Board of Governors of The University of North Carolina appointed by the Chair of the Board of Governors;
- (4) The Director of the North Carolina Center for the Advancement of Teaching;
- (5) Two deans of Schools of Education appointed by the President of The University of North Carolina;
- (6) Four public school teachers appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, one of whom teaches in preschool through grade 2, one of whom teaches in grades 3 through 5, one of whom teaches in grades 6 through 8, and one of whom teaches in grades 9 through 12;
- (7) Four public school teachers appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, one of whom teaches in preschool through grade 2, one of whom teaches in grades 3 through 5, one of whom teaches in grades 6 through 8, and one of whom teaches in grades 9 through 12;
- (8) Two public school teachers appointed by the Governor;
- (9) One superintendent of a local school administrative unit appointed by the Governor;
- (10) Two public school principals appointed by the Governor; and
- (11) The President of the North Carolina Association of Independent Colleges and Universities, or a designee.

(e) Members appointed prior to September 1, 1995, shall serve until June 30, 1997, except that the terms of members appointed pursuant to subdivisions (6) and (7) of subsection (d) of this section shall expire June 30, 1995. Subsequent appointments shall be for four-year terms, except that two of the members appointed by the 1995 General Assembly pursuant to subdivision (6) of subsection (d) of this section and two of the members appointed by the 1995 General Assembly pursuant to subdivision (7) of subsection (d) of this section shall serve for two-year terms.

Members may serve two consecutive four-year terms.



Legislative appointments shall be made in accordance with G.S. 120-121. A vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

The Board of Trustees shall elect a new chair every two years from its membership. The chair may serve two consecutive two-year terms as chair.

(f) The chief administrative officer of the Teacher Academy shall be a director appointed by the Board of Trustees.

(g) The Board of Trustees shall collaborate and coordinate its programming with NCCAT.

(h) The Board of Trustees shall report on its summer programs to the Joint Legislative Education Oversight Committee prior to November 1, 1995.

(i) G.S. 120-123 is amended by adding a new subdivision to read:

"(63) The Teacher Academy Board of Trustees, as established by Section 17.9 of House Bill 229 of the 1995 General Assembly."

(j) This section becomes effective September 1, 1995, except that the General Assembly may make appointments pursuant to subsection (d) of this section prior to September 1, 1995.

Sec. 17.9A. The Board of Governors of The University of North Carolina shall study the operation, organization, and governance of the programs operated by the Board, affiliated entities, or its constituent institutions, that provide ongoing professional development and continuing education for public school teachers and administrators. The Board shall include in its study the North Carolina Center for the Advancement of Teaching, the Teacher Academy, the Principals' Executive Program, the Math-Science Education Network, and other groups identified by the Board. The Board shall develop a plan for the provision of continuing education and professional development for public school teachers and administrators, including location and governance of the various functions. The Board shall consult with the State Board of Education in developing this plan.

The Board shall report the results of its study and plan to the Joint Education Oversight Committee by April 15, 1996.

Requested by: Senators Plexico, Winner, Little, Representatives Grady, Preston, Cummings

### **COSTS OF REORGANIZATION**

Sec. 17.10. The State Board of Education, with the approval of the Director of the Budget, shall use funds from the following sources to cover the costs incurred in accordance with G.S. 126-4(7a) related to the separation of Department of Public Instruction employees and the salaries and support of any positions that will be eliminated prior to January 1, 1996:

- (1) Refunds from local school administrative units of funds allocated for the 1994-95 fiscal year; and
- (2) Funds carried forward from the 1994-95 fiscal year from State Aid to Local School Administrative Units.

If these funds are not adequate to cover the costs, the State Board may also use unexpended funds appropriated for the 1995-96 fiscal year for State Aid to Local School Administrative Units.

Requested by: Senators Winner, Plexico, Little, Representatives Grady, Preston, Cummings

#### **CHILD NUTRITION SERVICES**

Sec. 17.11. (a) The 16 personnel positions in the Department of Public Instruction that have responsibility in the areas of the Child and Adult Food Program and the Summer Food Program are transferred from Department of Public Instruction to the Maternal and Child Health Section of the Department of Environment, Health, and Natural Resources.

Where a conflict arises in connection with the transfer, the transfer shall be resolved by the Governor, and the decision of the Governor shall be final.

(b) This section becomes effective October 1, 1995.

Requested by: Senators Winner, Plexico, Little, Representatives Grady, Preston, Cummings

#### **TRANSFER OF NORTH CAROLINA EDUCATION STANDARDS AND ACCOUNTABILITY COMMISSION**

Sec. 17.12. (a) The North Carolina Education Standards and Accountability Commission is transferred from the Office of the Governor to the State Board of Education. This transfer shall have all of the elements of a Type II transfer, as that term is defined in G.S. 143A-6(b).

(b) G.S. 115C-105.1 reads as rewritten:

#### **"§ 115C-105.1. Creation of the Commission.**

The General Assembly believes that all children can learn. The General Assembly further believes that all graduates of North Carolina public schools should have mastered the skills required to become productive members of the workforce and succeed in life. The General Assembly further believes that having a highly qualified workforce is essential to strengthening North Carolina's competitive position in the modern world economy, improving workforce productivity, and ensuring a more prosperous future for all our citizens. With that mission as its guide, the General Assembly creates the North Carolina Education Standards and Accountability Commission.

The Commission shall be located administratively ~~in the Office of the Governor~~ under the State Board of Education but shall exercise all its prescribed statutory powers independently of the ~~Office of the Governor.~~ State Board of Education."

Requested by: Senators Winner, Plexico, Little, Representatives Grady, Preston, Cummings

#### **TRANSFER OF NORTH CAROLINA STANDARDS BOARD FOR PUBLIC SCHOOL ADMINISTRATION**

Sec. 17.13. (a) The North Carolina Standards Board for Public School Administration is transferred from the Office of the Governor to the State Board of Education. This transfer shall have all of the elements of a Type II transfer, as that term is defined in G.S. 143A-6(b).

(b) G.S. 115C-290.4(a), as rewritten by Chapter 116 of the 1995 Session Laws, reads as rewritten:

"(a) The North Carolina Standards Board for Public School Administration is created. The Standards Board shall be located for administrative purposes in the ~~Office of the Governor.~~ State Board of Education. The Standards Board shall exercise its powers independently of ~~that Office.~~ the State Board of Education."

Requested by: Senators Winner, Plexico, Little, Representatives Grady, Preston, Cummings

#### **REPORTS ON REORGANIZATION**

Sec. 17.14. The State Board of Education shall report on a quarterly basis, beginning September 1, 1995, to the Joint Legislative Education Oversight Committee on its progress in reorganizing the Department of Public Instruction, transfers of funds and positions necessitated by the reorganization, and recommended statutory changes necessary to enable the Board to complete the reorganization and to implement the Board's proposed accountability model.

Requested by: Senators Winner, Plexico, Hartsell, Little, Representatives Grady, Preston, Cummings

#### **SUBSTITUTE TEACHER PAY**

Sec. 17.15. (a) G.S. 115C-12(8) reads as rewritten:

"(8) Power to Make Provisions for Sick ~~Leave.~~ Leave and for Substitute Teachers. – The Board shall provide for a ~~minimum of five days per school year term of~~ sick leave with pay for all public school employees in accordance with the provisions of this Chapter and shall promulgate rules and regulations providing for necessary substitutes on account of ~~said sick leave.~~ leave and other teacher absences.

The pay for a substitute shall be fixed by the Board. If a teacher assistant assigned to a classroom in kindergarten through third grade acts as a substitute teacher for that classroom, the salary of the teacher assistant for the day shall be the same as the daily salary of an entry-level teacher with an 'A' certificate.

The Board may provide to each local school administrative unit not exceeding one percent (1%) of the cost of instructional services for the purpose of providing substitute teachers for those on sick leave as authorized by law or by regulations of the Board, but not exceeding the provisions made for other State employees."

(b) Substitute teachers who are not certified as teachers but have worked as teacher assistants in the public schools shall be paid at the same rate as substitute

teachers who are not certified as teachers but have previously taken teacher effectiveness training.

## **PART 18. DEPARTMENT OF TRANSPORTATION**

Requested by: Representatives Barbee, Bowie, Senator Hoyle

### **GENERAL SERVICES FOR THE DEPARTMENT OF TRANSPORTATION CONSOLIDATED**

Sec. 18. The Facilities Management Branch of the Division of Highways and the General Services Branch of the Division of Motor Vehicles shall be merged into the General Services Division of the Department of Transportation. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on or before October 31, 1995, concerning the merger of these three agencies and the savings resulting from the consolidation and elimination of duplication.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

### **ADOPT-A-HIGHWAY PROGRAM**

Sec. 18.1. Chapter 136 of the General Statutes is amended by adding a new section to read:

#### **"§ 136-140.1. Adopt-A-Highway.**

(a) Notwithstanding any other provision of this Article, the Department of Transportation may permit individuals or groups participating in its Adopt-A-Highway Program access to controlled access facilities for the purpose of removing litter from the right-of-way. Acknowledgment of participation in the program may be indicated by appropriate signs that shall be owned, controlled, and erected by the Department of Transportation. The size, style, specifications, and content of the signs shall be determined in the sole discretion of the Department of Transportation. The Department of Transportation may issue rules and policies necessary to administer the program.

(b) Adopt-A-Highway participants may use contract services to clean the roadside of the sections of highway the participants have adopted only in accordance with the rules and policies issued by the Department of Transportation."

Requested by: Representatives Barbee, Bowie, Senators Hoyle, Hartsell

### **RAILROAD DIVIDEND USES SUBMITTED AS PART OF ANNUAL DEPARTMENT OF TRANSPORTATION BUDGET**

Sec. 18.2 G.S. 136-16.6 reads as rewritten:

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

(a) There is annually appropriated one hundred percent (100%) of the annual dividends received in the prior fiscal year by the State from its ownership of stock in the North Carolina Railroad Company ~~and the Atlantic and North Carolina Railroad Company~~ to the Highway Fund for use by the Department of Transportation for railroad purposes.

(b) The Department of Transportation shall include in its annual budget the purposes for which the annual dividends received by the State from its ownership of stock in the North Carolina Railroad Company will be used.

These purposes may include the following project types to be included in the annual Transportation Improvement Program:

- (1) Track and signal improvements for passenger service.
- (2) Rail passenger stations and multimodal transportation centers.
- (3) Grade crossing protection, elimination, and hazard removal.
- (4) Rail rolling stock cars and locomotives.
- (5) Rail rehabilitation.
- (6) Industrial rail access.

The Department of Transportation shall use these funds to supplement but not supplant funds allocated for projects approved as part of the Transportation Improvement Program."

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**GLOBAL TRANSPARK AUTHORITY TO REIMBURSE HIGHWAY FUND FROM FEDERAL SOURCES**

Sec. 18.3. When funds are provided from the Highway Fund to the Global TransPark Authority for environmental impact statements or assessments and the Global TransPark Authority applies for and receives reimbursement for those expenses from federal sources up to one million eight hundred thousand dollars (\$1,800,000), the federal reimbursements shall be paid over by the Global TransPark Authority into the Highway Fund within 30 days of receipt. These funds shall be allocated to State-funded maintenance appropriations in the manner approved by the Board of Transportation.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**AIRCRAFT AND FERRY ACQUISITIONS**

Sec. 18.4. Before approving the purchase of an aircraft from the Equipment Fund or a ferry in a Transportation Improvement Program, the Board of Transportation shall prepare an estimate of the operational costs and capital costs associated with the addition of the aircraft or ferry and shall report those additional costs to the General Assembly pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**SOME FERRY OPERATIONAL FUNDS REVERTED**

Sec. 18.5. Of the unencumbered funds appropriated for Ferry Operations as of June 30, 1995, two hundred thousand dollars (\$200,000) shall revert to the Highway Fund.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**DEPARTMENT OF TRANSPORTATION TO PAY DEPARTMENT OF CORRECTION ONLY FOR ACTUAL MEDIUM CUSTODY INMATE LABOR**

Sec. 18.6. The Department of Transportation shall pay the Department of Correction only for the actual labor performed by medium custody inmates.

Requested by: Senators Hoyle, Hartsell, Representatives Barbee, Bowie

**VISITOR CENTER OPERATIONAL FUNDS**

Sec. 18.7. (a) G.S. 20-79.7(c)(2) reads as rewritten:

"(2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is appropriated from the Special Registration Plate Account the sum of ~~three hundred twenty five thousand dollars (\$325,000) for the 1993-94 fiscal year and the sum of three hundred seventy five thousand dollars (\$375,000) for the 1994-95 fiscal year~~ four hundred fifty thousand dollars (\$450,000) for the 1995-96 fiscal year to provide operating assistance for the Visitor and Welcome Centers:

- a. on U.S. Highway 17 in Camden County, (\$75,000);
- b. on U.S. Highway 17 in Brunswick County, (\$75,000);
- c. on U.S. Highway 441 in Macon County, (\$75,000);
- d. in the Town of Boone, Watauga County, (\$75,000); ~~and~~
- e. on U.S. Highway 29 in Caswell County, ~~(\$25,000) for the 1993-94 fiscal year and (\$75,000) for the 1994-95 fiscal year.~~ (\$75,000); and
- f. on U.S. Highway 70 in Carteret County, (\$75,000)."

(b) The Joint Legislative Transportation Oversight Committee shall investigate the continued use of the Special Registration Plate Fund as a source of operational funds for visitors centers and shall report the results of that investigation to the 1996 Session of the General Assembly.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**HIGHWAY FUND ALLOCATIONS BY CONTROLLER**

Sec. 18.8. The Controller of the Department of Transportation shall allocate at the beginning of each fiscal year from the various appropriations made to the Department of Transportation in this act, Titles:

- State Construction
- State Funds to Match Federal Highway Aid
- State Maintenance
- Ferry Operations,

sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and these allocations shall not be diverted to other purposes.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS**

Sec. 18.9. (a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 1997-98	\$1,075.6 Million
For Fiscal Year 1998-99	\$1,093.1 Million

(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 1997-98	\$ 775.8 Million
For Fiscal Year 1998-99	\$ 799.8 Million

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**HIGHWAY FUND LIMITATIONS ON OVEREXPENDITURES**

Sec. 18.10. (a) Overexpenditures from Section 3 of this act may be made by authorization of the Director of the Budget, Titles:

- State Construction Primary Construction
- State Construction Urban Construction
- Spot Safety Construction
- State Construction Access and Public Service Roads
- State Funds to Match Federal Highway Aid
- State Maintenance
- Ferry Operations,

provided that there are corresponding underexpenditures from these same Titles. Overexpenditures or underexpenditures in any Titles shall not vary by more than ten percent (10%) without prior consultation with the Advisory Budget Commission. Written reports covering overexpenditures or underexpenditures of more than ten percent (10%) shall be made to the Joint Legislative Transportation Oversight Committee. The reports shall be delivered to the Director of the Fiscal Research Division not less than 96 hours prior to the beginning of the Commission's full meeting.

(b) Overexpenditures from Section 3 of this act, Titles:

- State Construction Primary Construction
- State Construction Urban Construction
- Spot Safety Construction
- State Construction Access and Public Service Roads
- State Funds to Match Federal Highway Aid
- State Maintenance
- Ferry Operations,

for the purpose of providing additional positions shall be approved by the Director of the Budget and shall be reported on a quarterly basis to the Joint Legislative Transportation Oversight Committee and to the Fiscal Research Division.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**RESURFACED ROADS MAY BE WIDENED**

Sec. 18.11. Of the contract maintenance resurfacing program funds appropriated in this act to the Department of Transportation, an amount not to exceed

fifteen percent (15%) of the Board of Transportation's allocation of these funds may be used for widening existing narrow pavements that are scheduled for resurfacing.

Requested by: Representatives Barbee, Bowie, Senators Hoyle, Hartsell

**SMALL URBAN CONSTRUCTION PROGRAM DISCRETIONARY FUNDS**

Sec. 18.12. Of the funds appropriated in this act to the Department of Transportation, fourteen million dollars (\$14,000,000) shall be allocated in each fiscal year for small urban construction projects. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for the small urban construction program for small urban construction projects that are located within the area covered by a one-mile radius of the municipal corporate limits. Discretionary funds of six million dollars (\$6,000,000) shall be used statewide for rural or small urban highway improvements as approved by the Secretary of the Department of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formula as provided in G.S. 136-44.5.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**HIGHWAY FUND ADJUSTMENTS TO REFLECT ACTUAL REVENUE**

Sec. 18.13. Any unreserved credit balance in the Highway Fund on June 30 of each of the fiscal years of this biennium shall support appropriations in the succeeding fiscal year. If all of the balance is not needed for these appropriations, the Director of the Budget may use the remaining excess to establish a reserve for access and public roads, a reserve for unforeseen happening of a state of affairs requiring prompt action as provided by G.S. 136-44.1, and other required reserves. If all of the remaining excess is not used to establish these reserves, the remainder shall be allocated to the State-funded maintenance appropriations in the manner approved by the Board of Transportation. The Board of Transportation shall report monthly to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division about the use of the reserve for highway and maintenance.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**DEPARTMENT OF TRANSPORTATION EXEMPTION FROM GENERAL STATUTES FOR EXPERIMENTAL PROJECT-CONGESTION MANAGEMENT**

Sec. 18.14. The Department of Transportation may enter into a design-build-warrant contract to develop, with Federal Highway Administration participation under The 1991 Intermodal Surface Transportation Efficiency Act, Title VI, Part B, Sections 6051-6059, a "Congestion Avoidance and Reduction for Autos and Trucks



(CARAT)”system of traffic management for the greater Charlotte-Mecklenburg urban areas. Notwithstanding any other provision of law, contractors, contractors' employees, and Department of Transportation employees involved in this project only do not have to be licensed by occupational licensing boards as "license" and "occupational licensing board" are defined in G.S. 93B-1; and for the purpose of entering into contracts, the Department of Transportation is exempted from the provisions of the following General Statutes: G.S. 136-28.1, 143-52, 143-53, 143-58, 143-128, and 143-129. These statutory exemptions are limited and available only to the extent necessary to comply with federal rules, regulations, and policies for completion of this project.

The Department of Transportation shall report quarterly to the Joint Legislative Transportation Oversight Committee on its efforts to enter into a design-build-warrant contract and to award and construct the project. The report shall include, but not be limited to, the number of types of firms bidding on the project, special qualifications of the firms bidding, and the effect statutory exemptions might have had on the award and construction of the project and the receipt of federal discretionary funding for the project.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**BRANCH AGENT/DMV COST COMPARISON**

Sec. 18.16. The Division of Motor Vehicles shall conduct a cost comparison study comparing the costs of services provided by contract branch agents with the cost of providing those services at the Division of Motor Vehicles offices in Raleigh and Charlotte. The study shall also include an analysis of the impact the planned vehicle registration computer system improvements will have on the cost, efficiency, and delivery of services to the public. The Division of Motor Vehicles shall report the results of the study to the Joint Legislative Transportation Oversight Committee by March 1, 1996.

Requested by: Senators Hoyle, Hartsell, Representatives Barbee, Bowie

**STUDY OF DRIVERS LICENSE MEDICAL EVALUATION PROGRAM**

Sec. 18.17. (a) There is established in the General Assembly a Commission to Study the Drivers License Medical Evaluation Program operated pursuant to G.S. 20-9. The Commission shall study:

- (1) Whether the program should be modified or abolished;
  - (2) Whether the program should be transferred entirely to the Division of Motor Vehicles rather than involving reviews by the Commission for Health Services;
  - (3) How applicants for drivers licenses should be removed from the program when their conditions improve; and
  - (4) Whether or not the program addresses the special needs and abilities of senior citizens.
- (b) The Commission shall be composed of six members appointed as follows:

- (1) Three members appointed by the President Pro Tempore of the Senate, at least two of whom shall be members of the Senate at the time of their appointment; and
- (2) Three members appointed by the Speaker of the House of Representatives, at least two of whom shall be members of the House of Representatives at the time of their appointment.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each select a legislative member from their appointments to serve as cochair of the Commission. Meetings shall be held at the call of the cochairs.

All members shall serve at the will of their appointing officer. Unless removed, or having resigned, members shall serve until the Commission has made its report. Vacancies in membership shall be filled by the officer making the original appointment.

(c) Upon approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign appropriate professional and clerical staff from the Fiscal Research, Research, or Bill Drafting Divisions of the Legislative Services Office of the General Assembly to assist with the study. Clerical staff shall be furnished to the Commission through the Senate and House of Representatives Supervisors of Clerks. The employment of the clerical staff shall be borne by the Commission. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and department of the State to provide any information and any data within their possession and ascertainable from their records, and the power to subpoena witnesses.

The Commission may request the assistance of the Department of Environment, Health, and Natural Resources, the Department of Transportation, and the Office of State Budget and Management in conducting this study.

Members of the Commission shall receive per diem, subsistence, and travel allowances as provided by law.

The Commission may make an interim report, including any legislative proposals, to the 1995 General Assembly, Regular Session 1996, and shall make a final report, including any legislative proposals, to the 1997 General Assembly.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

### **REVERSIONS FOR HIGHWAY FUND PROJECTS**

Sec. 18.18. Except as permitted in other sections of this act, the appropriations for capital improvements from the Highway Fund made by the 1995 General Assembly may be expended only for the specific projects set out by the 1995 General Assembly and for no other purpose.

Construction of all capital improvement projects enumerated by the 1995 General Assembly shall be commenced, or self-liquidating indebtedness with respect to

them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available.

If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the Highway Fund, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund if so authorized in this act.

This deadline with respect to both direct and self-liquidating appropriations from the Highway Fund may be extended with the approval of the Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

### **CAPITAL REVERSIONS**

Sec. 18.19. (a) The funds remaining unencumbered from the following projects shall revert to the Highway Fund:

DMV Additions                      Sec. 4 of Chapter 1101 of the 1987 Session Laws.

DMV Additions                      Sec. 6 of Chapter 754 of the 1989 Session Laws.

DMV Warehouse                    Sec. 6 of Chapter 754 of the 1989 Session Laws.

Land, Asheville                    Sec. 8 of Chapter 1074 of the 1989 Session Laws.

DMV Electrical                    Sec. 236.1 of Chapter 689 of the 1991 Session Laws.

DMV Building                      Sec. 5 of Chapter 561 of the 1993 Session Laws.

(b) From the funds reverted to the Highway Fund by subsection (a) of this section, sufficient funds shall be used to close the accounts on the following projects:

Handicap  
Modifications                      Sec. 4 of Chapter 1101 of the 1987 Session Laws.

Statesville DMV                    Sec. 236.1 of Chapter 689 of the 1991 Session Laws.

Handicap  
Modifications                      Sec. 236.1 of Chapter 689 of the 1991 Session Laws.

Fire Alarm                         Sec. 30 of Chapter 1044 of the 1991 Session Laws.

Goldsboro DMV                    Sec. 30 of Chapter 1044 of the 1991 Session Laws.

Kinston DMV                        Sec. 30 of Chapter 1044 of the 1991 Session Laws.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

## **UNSPENT BEAUFORT REST AREA FUNDS TO REVERT TO HIGHWAY FUND**

Sec. 18.20. Unused funds appropriated to the Department of Administration pursuant to Section 106 of Chapter 900 of the 1991 Session Laws shall revert to the Highway Fund.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

### **LAND SALES PROCEEDS TO BE APPROPRIATED**

Sec. 18.21. The proceeds from the sales of the following properties shall be placed in a capital reserve to be appropriated by the 1996 General Assembly for capital projects to be funded during the 1996-97 fiscal year:

- Goldsboro - Old District Office/Maintenance Yard
- Durham - Property at 320 Club Drive
- Dare County - Old Bridge Maintenance Yard
- Greenville - Maintenance Subyard
- Cashiers - Storage Yard.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

### **HIGHWAY FUND/HIGHWAY TRUST FUND FINANCIAL MODEL**

Sec. 18.22. The Joint Legislative Transportation Oversight Committee shall prepare a request for proposal (RFP), select a qualified firm from bids submitted in response to the RFP to develop a Highway Fund/Highway Trust Fund financial model, and contract with that firm to develop the financial model by March 31, 1996, at a cost not to exceed sixty thousand dollars (\$60,000). The funds to pay for the development of the financial model shall come from the Highway Trust Fund.

The financial model shall be a computer-based financial model used to project long-term expenditure and revenue trends under various simulations. The model will identify quantitatively the long-term "structural" implications of the interplay between the Highway Fund and the Highway Trust Fund budget, the economy, and selected demographic factors.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

### **STATE PRINTING OFFICER TO STUDY STATE PRINTING SERVICES**

Sec. 18.23. The State Printing Officer in the Division of Purchase and Contract, Department of Administration, shall study State government printing services to determine, inter alia:

- (1) The feasibility of continuing separate departmental in-house printing operations;
- (2) The feasibility of the increased use of Correction Enterprises printing services; and
- (3) Whether contracting out printing orders worth more than ten thousand dollars (\$10,000) would provide savings to the State.

The State Printing Officer shall submit a report on his findings to the Joint Legislative Commission on Governmental Operations on or before October 31, 1995.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

### **FINANCIAL ACCOUNTING AND REPORTING FUNDS REVERTED**

Sec. 18.24. Of the funds appropriated in fiscal year 1992-93 for the purpose of beginning the implementation of a new financial accounting and reporting system for the Department of Transportation, the sum of one million three hundred thousand dollars (\$1,300,000) shall revert to the Highway Fund on June 30, 1995.

The remaining unencumbered and unspent funds shall be used by the Department of Transportation in a joint effort with the Office of the State Controller to develop a comprehensive plan for the new financial accounting and reporting system for presentation to the 1996 Session of the General Assembly.

The comprehensive plan shall provide for the complete financial accounting and reporting requirements of the Department including those for work order funding and costing, billing for Federal Highway Aid and other sums owed to the Department, payment to highway and engineering contractors, fleet management and inventory management as well as core accounting functions of purchasing, accounts payable, accounts receivable, budget preparation, budget control, fixed assets, and grant accounting.

For all the above functions, the comprehensive plan shall identify:

- (1) The processing concepts and methods that will be employed;
- (2) The computer hardware and software and associated manual processes required to perform the required functions efficiently and effectively;
- (3) The implementation cost for the computer hardware and software and related costs such as training;
- (4) The time required for implementation;
- (5) The projected operating costs for the new system; and
- (6) The projected operating savings, if any.

The planned system shall conform to the applicable standards and requirements of the State Accounting System.

The Department shall make quarterly reports on the development of the plan to the Joint Legislative Transportation Oversight Committee.

Requested by: Senators Hoyle, Hartsell, Representatives Barbee, Bowie

### **ALLOCATION OF FUNDS FOR DRIVER TRAINING**

Sec. 18.27. In allocating funds for driver training, the State Board of Education shall consider the needs of small and low-wealth local school administrative units.

Requested by: Senators Hoyle, Hartsell, Representatives Barbee, Bowie

### **RADIO ISLAND RAILROAD TRESTLE FUNDS**

Sec. 18.28. (a) Section 68 of Chapter 561 of the 1993 Session Laws reads as rewritten:

"Sec. 68. Of the funds appropriated in this act from the General Fund to the ~~North Carolina Ports Railway Commission~~, the Department of Transportation, the sum of two

hundred fifty thousand dollars (\$250,000) for the 1993-94 fiscal year shall be used to plan for the replacement of the wooden trestle over the Newport River on the Beaufort and Morehead Railroad with a modern concrete trestle.

~~The Attorney General and the Department of Transportation shall identify legal issues related to the design, construction, and operation of the new trestle and shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office not later than March 1, 1994, on options available to resolve those issues."~~

(b) The Department of Transportation shall proceed with the planning and construction of the trestle, Project P-3100 in the 1996-2002 Transportation Improvement Program, and shall commence construction of the trestle during calendar year 1996. The completed bridge shall be added to the State System for maintenance purposes.

Requested by: Senators Hoyle, Hartsell, Representatives Barbee, Bowie

**CHARLOTTE MOTOR SPEEDWAY PEDESTRIAN BRIDGE**

Sec. 18.29. The Department of Transportation may permit private encroachments on the highway right-of-way of U.S. 29 in Cabarrus County for pedestrian bridges and tunnels to provide access for pedestrians and vehicles from the Charlotte Motor Speedway property on the north side of U.S. 29 to the Charlotte Motor Speedway property located on the south side of U.S. 29. Locations, plans, and specifications for the pedestrian bridges and tunnels shall be approved by the Department.

The encroachments shall not unreasonably interfere with or obstruct the public use of U.S. 29 and shall be subject to all other rules, regulations, and conditions of the Department of Transportation for encroachments.

Requested by: Senators Hoyle, Hartsell, Representatives Barbee, Bowie

**ROOFING REPAIR REVERSIONS**

Sec. 18.30. Funds remaining unencumbered from the following roofing repair projects shall revert to the Highway Fund:

Roofing                                    Sec. 8 of Chapter 1074 of the 1989 Session Laws.

Roofing                                    Sec. 236.1 of Chapter 689 of the 1991 Session Laws.

Roofing                                    Sec. 30 of Chapter 1044 of the 1991 Session Laws.

Roofing                                    Sec. 5 of Chapter 561 of the 1993 Session Laws.

**PART 19. DEPARTMENT OF CORRECTION**

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry  
**AMEND CRIMINAL JUSTICE PARTNERSHIP ACT**

Sec. 19. G.S. 143B-273.15 reads as rewritten:

**"§ 143B-273.15. Funding formula.**

To determine the grant amount for which a county or counties may apply, the granting authority shall apply the following formula:

- (a)(1) Twenty percent (20%) of the total fund—fiscal year appropriation plus any unspent or unclaimed funds in the Account shall be distributed in the discretion of the Secretary to encourage innovative efforts to develop multicounty projects; to encourage cooperation and collaboration among existing services and avoid duplication of efforts; to provide for technical assistance to the counties in the development of county plans and in the evaluation of programs funded under this Article; to encourage the renovation of existing facilities; and to encourage innovative substance abuse programs.
- (b)(2) Of the remaining eighty percent (80%) of the fund,—fiscal year appropriation, a total funding amount will be set for each county based upon the following variables:
  - (1) a. Twenty percent (20%) based on a fixed equal dollar amount for each county;
  - (2) b. Sixty percent (60%) based on the county share of the State population; and
  - (3) c. Twenty percent (20%) based on the supervised probation admissions rate for the county.

The sum of the amounts in subdivisions (1), (2), and (3) sub-subdivisions a., b., and c. is the total amount of the funding that a county may apply for under this subsection.

Grants to participating counties are for a period of one fiscal year with unobligated funds being returned to the Account at the end of the grant period. Funds are provided to participating counties on a reimbursement basis unless a county documents a need for an advance of grant funds."

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry  
**LIMIT USE OF OPERATIONAL FUNDS**

Sec. 19.1. Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds may not be expended for any other purpose, except as provided for in this act, and may not be expended for additional prison personnel positions until the new facilities are within 90 days of projected completion, except for certain management, security, and support positions necessary to prepare the facility for opening, as authorized in the budget approved by the General Assembly.

Requested by: Representatives Justus, Thompson, Senator Ballance  
**REPORT ON SUMMIT HOUSE**

Sec. 19.2. Summit House shall report quarterly during each year of the 1995-97 biennium to the Joint Legislative Commission on Governmental Operations on the

(i) expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have their probation revoked, and the number of clients who successfully complete the program while housed at Summit House; and (ii) the expansion of its program into Mecklenburg and Wake Counties.

Requested by: Senators Ballance, Odom, Rand, Representatives Justus, Thompson, Daughtry

**SUMMIT HOUSE FUNDS SHALL NOT REVERT**

Sec. 19.2A. (a) The balance of the nine hundred thousand dollars (\$900,000) appropriated in Chapter 321 of the 1993 Session Laws to the Department of Correction for the 1994-95 fiscal year for support and expansion of the programs at Summit House in Greensboro and Mecklenburg and Wake Counties shall not revert at the end of the fiscal year but shall remain in the Department for that purpose.

(b) This section becomes effective June 30, 1995.

Requested by: Representatives Justus, Thompson, Senator Ballance

**REPORT ON BOOT CAMPS**

Sec. 19.3. Subsection (c) of Section 19 of Chapter 24 of the Session Laws of the 1994 Extra Session reads as rewritten:

"(c) The Department of Correction shall evaluate the IMPACT program and the post-Boot Camp probation program funded under this section and report by January 1 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, and the Fiscal Research ~~Division prior to January 1, 1995, and annually thereafter.~~ Division. The evaluation of the IMPACT program and the post-Boot Camp probation program shall compare—include a comparison of that program's effectiveness, cost, and recidivism rate to other corrections programs for offenders aged 16-25. in the same age group and similar offense classes as that covered by the IMPACT program. ~~The evaluation of the post-Boot Camp probation program shall compare that program's effectiveness, cost, and recidivism rate to other probation programs for offenders aged 16-25."~~

Requested by: Representatives Justus, Thompson, Daughtry, Senators Ballance, Rand

**YOUTH COMMAND AUDIT**

Sec. 19.5. The Office of State Auditor shall conduct a financial audit and a performance audit of the Youth Command of the Division of Prisons, Department of Correction, and shall report its findings to the Joint Legislative Corrections Oversight Committee by May 1, 1996.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry

**HARRIET'S HOUSE FUNDS SHALL NOT REVERT**

Sec. 19.6. (a) The balance of the two hundred thousand dollars (\$200,000) appropriated in Chapter 769 of the 1993 Session Laws to the Department of Correction for the 1994-95 fiscal year to support the programs at Harriet's House shall not revert at



the end of the fiscal year but shall remain in the Department to be used for program operating costs, the purchase of equipment, and the rental of real property.

(b) This section becomes effective June 30, 1995.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry

**SUBSTANCE ABUSE FUNDS SHALL NOT REVERT**

Sec. 19.8. (a) The balance of the one hundred thousand dollars (\$100,000) appropriated in Chapter 591 of the 1993 Session Laws to the Department of Correction for the 1994-95 fiscal year for a pilot community-based treatment program for alcohol and drug abusers on probation and parole shall not revert at the end of the fiscal year but shall remain in the Department for that purpose.

(b) This section becomes effective June 30, 1995.

Requested by: Senators Rand, Ballance, Representatives Justus, Thompson, Daughtry

**REPEAL PRISON CAP/PREVENT PAROLE OF VIOLENT FELONS**

Sec. 19.9. (a) G.S. 148-4.1 is amended by adding a new subsection to read:

"(a1) Notwithstanding any other provision of this section, the Department of Correction shall at all times secure the necessary prison space to house any violent felon or habitual felon for the full active sentence imposed by the court. For purposes of this subsection, the term 'violent felon' means any person convicted of the following felony offenses: first or second degree murder, voluntary manslaughter, first or second degree rape, first or second degree sexual offense, any sexual offense involving a minor, robbery, kidnapping, or assault, or attempting, soliciting, or conspiring to commit any of those offenses."

(b) G.S. 148-4.1(c1) reads as rewritten:

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

(c) G.S. 148-4.1(g) reads as rewritten:

"(g) In order to meet the requirements of this section, the Parole Commission shall not parole any person convicted under Article 7A of Chapter 14 of a sex offense, under G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or under ~~G.S. 14-17~~G.S. 14-17, or any other violent felon as defined in subsection (a1) of this section. The Parole Commission may continue to consider the suitability for release of such persons in accordance with the criteria set forth in Articles 85 and 85A of Chapter 15A."

(d) G.S. 148-4.1(g1) reads as rewritten:

"(g1) Notwithstanding any other provision of law except for subsection (h) of this section, ~~whenever the Post-Release Supervision and Parole Commission is required to release inmates in order to meet the requirements of this section, the Post-Release~~

Supervision and Parole Commission may parole nonviolent inmates who would not otherwise be eligible for parole instead of paroling violent inmates who are eligible for parole. This subsection does not apply to sentences under Article 81B of Chapter 15A of the General Statutes."

(e) Effective January 1, 1996, G.S. 148-4.1, as rewritten by subsections (a) and (b) of this section, reads as rewritten:

**"§ 148-4.1. Release of inmates.**

(a) Whenever the Secretary of Correction determines from data compiled by the Department of Correction that it is necessary to reduce the prison population to a more manageable level, ~~level or to meet the State's obligations under law,~~ he shall direct the Post-Release Supervision and Parole Commission to release on parole over a reasonable period of time a number of prisoners sufficient to that purpose. From the time the Secretary directs the Post-Release Supervision and Parole Commission until the prison population has been reduced to a more manageable level, the Secretary may not accept any inmates ordered transferred from local confinement facilities to the State prison system under G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State prison system under an order entered pursuant to G.S. 148-32.1(b) to the local confinement facility from which the inmate was transferred. In order to meet the requirements of this section, the Parole Commission shall not parole any person convicted under Article 7A of Chapter 14 of a sex offense, under G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or under G.S. 14-17, or any other violent felon as defined in subsection (a1) of this section. The Parole Commission may continue to consider the suitability for release of such persons in accordance with the criteria set forth in Articles 85 and 85A of Chapter 15A.

(a1) Notwithstanding any other provision of this section, the Department of Correction shall at all times secure the necessary prison space to house any violent felon or habitual felon for the full active sentence imposed by the court. For purposes of this subsection, the term 'violent felon' means any person convicted of the following felony offenses: first or second degree murder, voluntary manslaughter, first or second degree rape, first or second degree sexual offense, any sexual offense involving a minor, robbery, kidnapping, or assault, or attempting, soliciting, or conspiring to commit any of those offenses.

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

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

~~(e1) For purposes of this section only, 'prison capacity' means the number of prisoners housed in facilities located in North Carolina and owned or operated by the State of North Carolina, as set by the Governor. In setting the prison capacity for purposes of this section, the Governor shall consider the number of beds available and shall make a finding that the number set would not jeopardize the State's ability to~~

~~perform its obligations under the law. In no event shall the number set by the Governor under this subsection exceed 27,500.~~

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

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

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

- ~~(1) Those persons convicted under G.S. 20-138.1 of driving while impaired or any offense involving impaired driving, and~~
- ~~(2) Those persons convicted pursuant to G.S. 130A-25 of failing to obtain the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A or of violating G.S. 130A-144(f) or G.S. 130A-145.~~

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

~~(g) In order to meet the requirements of this section, the Parole Commission shall not parole any person convicted under Article 7A of Chapter 14 of a sex offense, under G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or under G.S. 14-17, or any other violent felon as defined in subsection (a1) of this section. The Parole Commission may continue to consider the suitability for release of such persons in accordance with the criteria set forth in Articles 85 and 85A of Chapter 15A.~~

~~(g1) Notwithstanding any other provision of law except for subsection (h) of this section, the Post-Release Supervision and Parole Commission may parole nonviolent inmates who would not otherwise be eligible for parole instead of paroling violent inmates who are eligible for parole. This subsection does not apply to sentences under Article 81B of Chapter 15A of the General Statutes.~~

~~(h) A person sentenced under Article 81B of Chapter 15A of the General Statutes shall not be released pursuant to this section."~~

~~(f) Effective January 1, 1996, G.S. 148-32.1(b) reads as rewritten:~~

"(b) In the event that the custodian of the local confinement facility certifies in writing to the clerk of the superior court in the county in which said local confinement facility is located that the local confinement facility is filled to capacity, or that the facility cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221, any judge of the district court in the district court district as defined in G.S. 7A-133 where the facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the facility is located may order that the prisoner be transferred to any other qualified local confinement facility within that district or within another such district where space is available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the prisoner is a non-violent misdemeanor, which local facility shall accept the transferred prisoner, if the prison population has exceeded ~~the limits established in G.S. 148-4.1(d)~~ a manageable level as provided for in G.S. 148-4.1(a). If no such local confinement facility is available, then any such judge may order the prisoner transferred to such camp or facility as the proper authorities of the Department of Correction shall designate, notwithstanding that the term of imprisonment of the prisoner is 90 days or less. In no event, however, shall a prisoner whose term of imprisonment is less than 30 days be assigned or ordered transferred to any such camp or facility."

(g) Subsections (e) and (f) of this section become effective January 1, 1996. The remainder of this section is effective upon ratification.

Requested by: Representatives Justus, Thompson, Daughtry, Senators Ballance, Rand  
**CONTRACTS FOR HOUSING STATE PRISONERS IN LOCAL CONFINEMENT FACILITIES/ALLOW CONTRACTS FOR PRIVATE PRISONS/REMOVE SUNSET ON OUT-OF-STATE HOUSING/REMOVE LIMIT ON PRISONERS IN NON-STATE-OWNED FACILITIES**

Sec. 19.10. (a) G.S. 148-37 reads as rewritten:

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

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

(b) The Secretary of Correction may contract with the proper official of the United States or of any county or city of this State for the confinement of federal prisoners after they have been sentenced, county, or city prisoners in facilities of the

State prison system or for the confinement of State prisoners in any county or any city facility located in North Carolina, or any facility of the United States Bureau of Prisons, when to do so would most economically and effectively promote the purposes served by the Department of Correction. ~~Any~~ Except as otherwise provided, any contract made under the authority of this ~~section~~ subsection shall be for a period of not more than two years, and shall be renewable from time to time for a period not to exceed two years. Contracts made under the authority of this subsection for the confinement of State prisoners in local or district confinement facilities may be for a period of not more than 10 years and renewable from time to time for a period not to exceed 10 years, and shall be subject to the approval of the Council of State and the Department of Administration after consultation with the Joint Legislative Commission on Governmental Operations. Contracts for receiving federal, county and city prisoners shall provide for reimbursing the State in full for all costs involved. The financial provisions shall have the approval of the Department of Administration before the contract is executed. Payments received under such contracts shall be deposited in the State treasury for the use of the State Department of Correction. Such payments are hereby appropriated to the State Department of Correction as a supplementary fund to compensate for the additional care and maintenance of such prisoners as are received under such contracts.

(c) In addition to the authority contained in subsections (a) and (b) of this section, and in addition to the contracts ratified by subsection (f) of this section, the Secretary of Correction may enter into contracts with any public entity or any private nonprofit or for-profit firms for the confinement and care of State prisoners in any out-of-state ~~public~~ correctional facility when to do so would most economically and effectively promote the purposes served by the Department of Correction. Contracts entered into under the authority of this subsection shall be for a period not to exceed two years and shall be renewable from time to time for a period not to exceed two years. ~~Subject to the provisions of subsection (e) of this section, the combined authority contained in this subsection and in subsection (f) of this section may be used to house a maximum of 1,000 prisoners at any one time, which maximum shall include those housed on March 25, 1994, under contracts ratified by subsection (f) of this section.~~ Prisoners may be sent to out-of-state correctional facilities only when there are no available facilities in this State within the State prison system to appropriately house those prisoners. Any contract made under the authority of this subsection ~~shall expire not later than June 30, 1995, and~~ shall be approved by the Department of Administration before the contract is executed. Before expending more than the amount specifically appropriated by the General Assembly for the out-of-state housing of inmates, the Department shall obtain the approval of the Joint Legislative Commission on Governmental Operations and shall report such expenditures to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Chairs of the Joint Legislative Corrections Oversight Committee.

(d) Prisoners confined in out-of-state correctional facilities pursuant to subsection (c) of this section shall remain subject to the rules adopted for the conduct of persons committed to the State prison system. The rules regarding good time and gain time,

discipline, classification, extension of the limits of confinement, transfers, housing arrangements, and eligibility for parole shall apply to inmates housed in those out-of-state correctional facilities. The operators of those out-of-state correctional facilities may promulgate any other rules as may be necessary for the operation of those facilities with the written approval of the Secretary of Correction. Custodial officials employed by an out-of-state correctional facility are agents of the Secretary of Correction and may use those procedures for use of force authorized by the Secretary of Correction not inconsistent with the laws of the State of situs of the facility to defend themselves, to enforce the observance of discipline in compliance with correctional facility rules, to secure the person of a prisoner, and to prevent escape. Prisoners confined to out-of-state correctional facilities may be required to perform reasonable work assignments within those facilities. Private firms under subsection (c) of this section shall employ inmate disciplinary and grievance policies of the North Carolina Department of Correction.

~~(e) The Department of Correction shall not contract to house in non State-owned facilities within the State more than a total of 1,500 inmates at any one time, excluding any beds in private substance abuse treatment centers authorized by the General Assembly. If the number of inmates housed in non State-owned facilities pursuant to this section exceeds 500, then the maximum number of prisoners authorized to be housed out of state pursuant to subsection (c) of this section is reduced by the amount of the excess.~~

~~(f) Any contracts entered into by the Department of Correction with public contractors prior to March 25, 1994, for the out-of-state housing of inmates are ratified. The Department of Correction shall take such actions not inconsistent with the terms of the contracts so that without further approval by the General Assembly they are not effective for the confinement or care of State prisoners after June 30, 1995.~~

(g) The Secretary of Correction may contract with private for-profit or nonprofit firms for the provision and operation of confinement facilities totaling up to 1,000 beds in the State to house State prisoners when to do so would most economically and effectively promote the purposes served by the Department of Correction. Contracts entered under the authority of this subsection shall be for a period not to exceed 10 years, shall be renewable from time to time for a period not to exceed 10 years, and are subject to the approval of the Council of State and the Department of Administration, after consultation with the Joint Legislative Commission on Governmental Operations. The Secretary of Correction shall enter contracts under this subsection only if funds are appropriated for this purpose by the General Assembly.

Contracts made under the authority of this subsection may provide the State with an option to purchase the confinement facility or may provide for the purchase of the confinement facility by the State. The Department of Correction may give preference to facilities intended for joint county and State use where such facilities are developed by public/private partnerships and financed by tax-exempt bond issues, and where such facilities offer general terms and conditions favorable to the State in the competitive bidding process pursuant to Article 8 of Chapter 143 of the General Statutes. All contracts for the housing of State prisoners in private confinement facilities shall require

a minimum of ten million dollars (\$10,000,000) of occurrence-based liability insurance and shall hold the State harmless and provide reimbursement for all liability arising out of actions caused by operations and employees of the private confinement facility.

Prisoners housed in private confinement facilities pursuant to this subsection shall remain subject to the rules adopted for the conduct of persons committed to the State prison system. The Secretary of Correction may review and approve the design and construction of private confinement facilities before housing State prisoners in these facilities. The rules regarding good time, gain time, and earned credits, discipline, classification, extension of the limits of confinement, transfers, housing arrangements, and eligibility for parole shall apply to inmates housed in private confinement facilities pursuant to this subsection. The operators of private confinement facilities may adopt any other rules as may be necessary for the operation of those facilities with the written approval of the Secretary of Correction. Custodial officials employed by a private confinement facility are agents of the Secretary of Correction and may use those procedures for use of force authorized by the Secretary of Correction to defend themselves, to enforce the observance of discipline in compliance with confinement facility rules, to secure the person of a prisoner, and to prevent escape. Private firms under this subsection shall employ inmate disciplinary and grievance policies of the North Carolina Department of Correction.

(h) Private confinement facilities under this section shall be designed, built, and operated in accordance with applicable State laws, court orders, fire safety codes, and local regulations.

(i) The Department of Correction shall make a written report no later than March 1 of every odd-numbered year, beginning in 1997, on the substance of all outstanding contracts for the housing of State prisoners entered into under the authority of this section. The report shall be submitted to the Council of State, the Department of Administration, the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Corrections Oversight Committee. In addition to the report, the Department of Correction shall provide information on contracts for the housing of State prisoners as requested by these groups."

(b) Section 16(c) of Chapter 24 of the Session Laws of the 1994 Extra Session reads as rewritten:

"(c) Subsections (a) and (b) of this section are effective upon ~~ratification, but subsection (a) of this section expires on June 30, 1995.~~ ratification."

(c) When contracting with private for-profit or nonprofit firms for the housing of State prisoners, the Department of Correction may give preference to contracts for facilities to be located in the State when to do so would most efficiently house those prisoners.

(d) This section becomes effective June 30, 1995.

## **PART 20. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

Requested by: Representatives Justus, Thompson, Senator Ballance

## **LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER GRANTS**

Sec. 20. (a) Section 1303(4) of the Omnibus Crime Control and Safe Streets Act of 1968 provides that State applications for drug law enforcement grants are subject to review by the State legislature or its designated body.

(b) The North Carolina General Assembly hereby provides that State applications for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, are subject to review by the Joint Legislative Commission on Governmental Operations if at the time of review the General Assembly is not in session. Any State agency submitting a grant application for review shall also report to the House Appropriations Subcommittee on Justice and Public Safety and to the Senate Appropriations Subcommittee on Justice and Public Safety with regard to the grant.

(c) Unless a State statute provides a different forum for review, when a federal law or regulation provides that a State application for a grant must be reviewed by the State legislature or its designated body and at the time of the review the General Assembly is not in session, that application shall be reviewed by the Joint Legislative Commission on Governmental Operations. Any State agency submitting a grant application for review shall also report to the House Appropriations Subcommittee on Justice and Public Safety and to the Senate Appropriations Committee on Justice and Public Safety with regard to the grant.

Requested by: Representatives Justus, Thompson, Daughtry, Senators Ballance, Rand  
**VICTIMS ASSISTANCE NETWORK FUNDS**

Sec. 20.1. (a) Of the funds appropriated in this act to the Department of Crime Control and Public Safety, the sum of one hundred fifty thousand dollars (\$150,000) for the 1995-96 fiscal year and the sum of one hundred fifty thousand dollars (\$150,000) for the 1996-97 fiscal year shall be used to support the Victims Assistance Network. These funds shall be used by the Victims Assistance Network to perform the following functions under the direction of and as required by the Department of Crime Control and Public Safety:

- (1) Conduct surveys and gather data on crime victims and their needs;
  - (2) Act as a clearinghouse for crime victims services;
  - (3) Provide an automated crime victims bulletin board for subscribers;
  - (4) Coordinate and support the activities of other crime victims advocacy groups;
  - (5) Identify training needs of crime victims services providers and criminal justice personnel and coordinate training efforts for those persons; and
  - (6) Provide other services as identified by the Governor's Crime Commission or the Department of Crime Control and Public Safety.
- (b) This section becomes effective July 1, 1995.



Requested by: Representatives Justus, Thompson, Daughtry, Senators Ballance, Rand  
**REPORT ON COMMUNITY SERVICE WORKERS**

Sec. 20.2. The Department of Crime Control and Public Safety shall report quarterly in the 1995-96 fiscal year and the 1996-97 fiscal year to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the number of community service workers who were available during each month of the time period preceding that report to perform repairs and maintenance of the parks and when and where they were available.

Requested by: Representatives Justus, Thompson, Daughtry, Senators Ballance, Rand  
**REPORT ON CRIME VICTIMS COMPENSATION FUND**

Sec. 20.3. The Department of Crime Control and Public Safety shall report annually to the Senate and House Appropriations Base Budget Committees on Justice and Public Safety and the Fiscal Research Division on the administrative expenditures of the North Carolina Crime Victims Compensation Fund.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry  
**STUDY DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

Sec. 20.4. (a) There is established a Study Commission on the Department of Crime Control and Public Safety to be composed of 12 members: the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, one member to be appointed by the Speaker of the House of Representatives, and two members to be appointed by the President Pro Tempore of the Senate. The members shall serve until the termination of the Commission. The Speaker of the House and the President Pro Tempore of the Senate shall each designate a cochair from the members from their respective houses. Either cochair may call the first meeting of the Commission. Vacancies shall be filled in the same manner as the original appointments were made.

(b) The Commission shall review the efficiency and effectiveness of the Department of Crime Control and Public Safety and determine whether the Department should be reorganized or any of its divisions eliminated or transferred. The Commission shall also consider whether other law enforcement agencies in the State should be transferred to the Department. The Commission shall determine the potential cost savings of any recommended reorganizations or transfers.

(c) With the prior approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the Offices of the House and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Commission. With the prior approval of the Legislative Services Commission, the Commission may hold its meetings in the State Legislative Building or the Legislative Office Building.

(d) The Study Commission shall submit a final written report of its findings and recommendations to the General Assembly by May 1, 1996. All reports shall be filed

with the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Upon filing its final report, the Commission shall terminate.

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

- (1) Commission members who are also members of the General Assembly, at the rate established in G.S. 120-3.1.
- (2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6.
- (3) All other Commission members at the rate established in G.S. 138-5.

(f) There is allocated from the funds appropriated to the Legislative Services Commission's studies reserve to the Study Commission on the Department of Crime Control and Public Safety the sum of fifty thousand dollars (\$50,000) for the 1995-96 fiscal year to conduct the study directed by this section.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry  
**STUDY TRANSFER OF BUTNER PUBLIC SAFETY**

Sec. 20.5. (a) There is established a Study Commission on the Transfer of Butner Public Safety to be composed of 12 members: six members to be appointed by the Speaker of the House of Representatives and six members to be appointed by the President Pro Tempore of the Senate. The appointees shall serve until the termination of the Commission. The Speaker of the House and the President Pro Tempore of the Senate shall each designate a cochair from their appointees. Either cochair may call the first meeting of the Commission. Vacancies shall be filled in the same manner as the original appointments were made.

(b) The Commission shall:

- (1) Examine the potential for transferring the functions and responsibilities of Butner Public Safety from the Department of Crime Control and Public Safety to other State or local entities, including the sale or transfer of equipment, State buildings, or property currently occupied by Butner Public Safety;
- (2) Determine the most appropriate means of meeting the service needs of both the State institutions and the local residents that would be affected by such a transfer, including the feasibility of incorporating Butner; and
- (3) Determine the most cost-effective means of accomplishing such a transfer.

(c) With the prior approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the Offices of the House and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Commission. With the prior approval of the Legislative Services Commission, the Commission may hold its meetings in the State Legislative Building or the Legislative Office Building.

(d) The Study Commission shall submit a final written report of its findings and recommendations to the General Assembly by May 1, 1996. All reports shall be filed with the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Upon filing its final report, the Commission shall terminate.

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

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

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

(3) All other Commission members at the rate established in G.S. 138-5.

(f) There is allocated from the funds appropriated to the Legislative Services Commission's studies reserve to the Study Commission on the Transfer of Butner Public Safety the sum of twenty-five thousand dollars (\$25,000) for the 1995-96 fiscal year to conduct the study directed by this section.

## **PART 21. JUDICIAL DEPARTMENT**

Requested by: Representatives Justus, Thompson, Senator Ballance

### **JUDICIAL DEPARTMENT REDUCTIONS**

Sec. 21. In addition to specific position reductions provided for in this act, the Director of the Administrative Office of the Courts shall reduce the salary and wage line item for the Judicial Department by four hundred thousand dollars (\$400,000) for each year of the 1995-97 biennium by either eliminating positions, using salary reserve funds, or both.

Requested by: Representatives Justus, Thompson, Senator Ballance

### **JURY FEE WAIVER PROGRAM**

Sec. 21.1. (a) G.S. 7A-312 reads as rewritten:

#### **"§ 7A-312. Uniform fees for jurors; meals.**

A juror in the General Court of Justice including a petit juror, or a coroner's juror, but excluding a grand juror, shall receive twelve dollars (\$12.00) per day, except that if any person serves as a juror for more than five days in any 24-month period, the juror shall receive thirty dollars (\$30.00) per day for each day of service in excess of five days. A grand juror shall receive twelve dollars (\$12.00) per day. However, any juror may waive payment of the per diem fees provided for in this section. A juror required to remain overnight at the site of the trial shall be furnished adequate accommodations and subsistence. If required by the presiding judge to remain in a body during the trial of a case, meals shall be furnished the jurors during the period of sequestration. Jurors from out of the county summoned to sit on a special venire shall receive mileage at the same rate as State employees."

(b) The Administrative Office of the Courts shall conduct a program to determine the extent to which cost savings may be generated by allowing jurors to waive payment of the per diem jury fees pursuant to subsection (a) of this section. The Administrative

Office of the Courts shall report its findings on savings generated by this program to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by March 1, 1997.

(c) Subsection (a) of this section expires June 30, 1997.

Requested by: Representatives Justus, Thompson, Senator Ballance

#### **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

Sec. 21.3. Funds appropriated to the Judicial Department in the 1995-97 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts shall have the authority to transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds may not be expended for any other purpose. The Administrative Office of the Courts shall make quarterly reports on transfers made pursuant to this section to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety.

Requested by: Representatives Justus, Thompson, Senator Ballance

#### **REPORT ON DISPUTE SETTLEMENT CENTERS**

Sec. 21.5. (a) All local dispute settlement centers currently receiving State funds shall report annually to the Judicial Department on the program's funding and activities, including:

- (1) Types of dispute settlement services provided;
- (2) Clients receiving each type of dispute settlement service;
- (3) Number and type of referrals received, cases actually mediated, cases resolved in mediation, and total clients served in the cases mediated;
- (4) Total program funding and funding sources;
- (5) Itemization of the use of funds, including operating expenses and personnel;
- (6) Itemization of the use of State funds;
- (7) Level of volunteer activity; and
- (8) Identification of future service demands and budget requirements.

The Judicial Department shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

(b) Each local dispute settlement center requesting State funds for the first time shall provide the General Assembly with (i) the information enumerated in subsection (a) of this section, or projections where historical data is not available, as well as a detailed statement justifying the need for State funding, and (ii) certification that at least fifty percent (50%) of total funding for the first fiscal year in which funding is requested shall come from non-State sources, and (iii) if funding is requested for a second fiscal

year, certification that at least sixty percent (60%) of total funding for the second fiscal year shall come from non-State sources.

(c) Each local dispute settlement center requesting an expansion of State funding shall provide the General Assembly with (i) the information enumerated in subsection (a) of this section, or projections where historical data is not available, as well as a detailed statement justifying the need for the expansion of State funding, and (ii) certification that at least sixty percent (60%) of total funding shall come from non-State sources.

Requested by: Representatives Justus, Thompson, Senator Ballance

### **SPECIAL CAPITAL CASE REHEARING FUND**

Sec. 21.8. There is continued in the Judicial Department the nonreverting special fund known as "The Special Capital Case Rehearing Fund". The funds shall be used to provide for resentencing hearings, related appeals, and postconviction hearings required by the decisions of the United States Supreme Court in McKoy v. North Carolina, decided March 5, 1990, and of the Supreme Court of North Carolina upon remand of that case, including the payment of attorneys' fees and related expenses for representation of indigent persons as specified in Subchapter IX of Chapter 7A of the General Statutes. As determined by the Director of the Administrative Office of the Courts, any amounts in this fund not required to meet the needs of special capital case rehearings may be transferred to the Indigent Persons' Attorney Fee Fund.

Requested by: Representatives Justus, Thompson, Daughtry, Senators Ballance, Rand

### **COMMUNITY PENALTIES PROGRAM**

Sec. 21.9. (a) Of the funds appropriated from the General Fund to the Judicial Department for the 1995-97 biennium to conduct the Community Penalties program, the sum of three million four hundred eighty-four thousand nine hundred twelve dollars (\$3,484,912) for the 1995-96 fiscal year and the sum of four million one hundred thirty-four thousand nine hundred twelve dollars (\$4,134,912) for the 1996-97 fiscal year may be allocated by the Judicial Department in each year of the biennium in any amount among existing community penalties programs, including any State-operated programs, or may be used to establish new State-operated community penalties programs.

(b) The Judicial Department shall report annually to the Senate and House Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research Division on the administrative expenditures of the community penalties programs. The Judicial Department shall report quarterly to the Joint Legislative Commission on Governmental Operations on any elimination or reduction of funding for community penalties programs funded in the 1994-95 fiscal year or any program receiving initial funding during the 1995-97 biennium.

(c) G.S. 7A-771(1) reads as rewritten:

"(1) 'Community penalties program' means an agency or State-run office within the judicial district which shall (i) prepare community penalty plans; (ii) arrange or contract with public and private agencies for

necessary services for offenders; and (iii) monitor the progress of offenders placed on community penalty plans."

(d) G.S. 7A-772 reads as rewritten:

**"§ 7A-772. Allocation of funds.**

(a) The Director may award grants in accordance with the policies established by this Article and in accordance with any laws made for that purpose, including appropriations acts and provisions in appropriations acts, and adopt regulations for the implementation, operation, and monitoring of community penalties programs. Community penalties programs that are grantees shall use such funds to develop, implement, and monitor community penalty plans. Grants shall be awarded by the Director to agencies whose comprehensive program plans promise best to meet the goals set forth herein.

(b) The Director may establish local community penalties programs and appoint those staff as the Director deems necessary. These personnel may serve as full-time or part-time State employees or may be hired on a contractual basis when determined appropriate by the director. Contracts entered under the authority of this subsection shall be exempt from the competitive bidding procedures under Chapter 143 of the General Statutes. The Administrative Office of the Courts shall adopt rules necessary and appropriate for the administration of the program. Funds appropriated by the General Assembly for the establishment and maintenance of community penalties programs under this Article shall be administered by the Administrative Office of the Courts."

(e) G.S. 7A-773 reads as rewritten:

**"§ 7A-773. Responsibilities of a community penalties program.**

A community penalties program shall be responsible for:

- (1) Targeting offenders who are eligible to receive an intermediate punishment based on their class of offense and prior record level and who face an imminent and substantial threat of imprisonment.
- (2) Preparing detailed community penalty plans for presentation to the sentencing judge by the offender's ~~attorney~~-attorney or at the request of the sentencing judge.
- (3) Contracting or arranging with public or private agencies for services described in the community penalty plan.
- (4) Monitoring the progress of offenders under community penalty plans."

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry  
**COURT REPORTING/USE OF AUDIO AND VIDEO EQUIPMENT**

Sec. 21.10. (a) The Administrative Office of the Courts may use funds appropriated in this act for State court reporter positions and support, including contractual services, to purchase audio and video recording equipment for use in the courtroom, provided that the purchase is to implement budget reductions for court reporter programs as required in this act.

(b) The Office of the State Auditor shall study the court reporting system and determine the most cost-effective and appropriate use of official State court reporters, contractual reporters, and audio and video recording equipment for court reporting. The

Office of the State Auditor shall consult with the Association of Official Court Reporters as part of the study. The study shall identify specific cost savings that would result from the implementation of the study recommendations. The Office of the State Auditor shall report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the results of this study by April 1, 1996.

(c) Any reduction in official court reporter positions pursuant to this section shall be implemented notwithstanding the provisions of G.S. 7A-198(f) and G.S. 7A-95(e).

(d) The Administrative Office of the Courts shall make reasonable efforts to assist official State court reporters and district court reporters in obtaining employment within the court system.

Requested by: Representatives Justus, Thompson, Senator Ballance

#### **FUNDING OF JUDGESHIPS**

Sec. 21.11. The Judicial Department may use funds available to the Department to fund the district court judgeships authorized in Section 200.6 of Chapter 321 of the 1993 Session Laws for District Court Districts 3A, 8, 12, and 18 upon the assumption of office by the initial holders of those judgeships.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry

#### **GUARDIAN AD LITEM STUDY**

Sec. 21.12. (a) The Legislative Research Commission may study the Guardian Ad Litem program in the Judicial Department and the Children's Services program in the Division of Social Services. The study shall:

- (1) Identify the amount and source of funding for legal services and administration in child abuse and neglect and dependency cases in those programs;
- (2) Identify the legal participants involved in child abuse and neglect and dependency court cases and each participant's responsibilities;
- (3) Study the purpose and activities of each program and identify activities that are similar;
- (4) Identify federal mandates and any federal funding that would be affected by any changes in legal services or administration of either program, and determine whether any federal funds are available to fund the Guardian Ad Litem program;
- (5) Review guardian ad litem programs and children's services in other states, including cost-saving measures taken by those states, and identify other methods of administering and funding those programs;
- (6) Identify methods of reducing the costs for attorneys involved in child abuse and neglect and dependency cases;
- (7) Review administrative costs of each program and identify possible cost savings; and

- (8) Determine the extent to which guardian ad litem attorneys are performing duties normally handled by volunteers and identify methods to reduce such practices.

(b) The Commission may report its findings to the 1996 Regular Session of the 1995 General Assembly.

Requested by: Representatives Justus, Thompson, Daughtry, Senators Ballance, Rand  
**CHANGE GUARDIAN AD LITEM APPOINTMENT**

Sec. 21.13. G.S. 7A-586(a) reads as rewritten:

"(a) When in a petition a juvenile is alleged to be abused or neglected, the judge shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to be dependent, the judge may appoint a guardian ad litem to represent the juvenile. The guardian ad litem and attorney advocate have standing to represent the juvenile in all actions under this Subchapter where they have been appointed. The appointment shall be made pursuant to the program established by Article 39 of this Chapter unless representation is otherwise provided pursuant to G.S. 7A-491 or G.S. 7A-492. The appointment shall terminate at the end of two years. Upon motion of any party including the guardian ad litem, or upon the judge's own motion, the guardian ad litem may be reappointed upon a showing of good cause. In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the child's legal rights ~~within the proceeding~~ through the dispositional phase of the proceedings, and after disposition when necessary to further the best interests of the child. The duties of the guardian ad litem program shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the judge at the dispositional hearing; and to protect and promote the best interest of the juvenile until formally relieved of the responsibility by the judge."

Requested by: Representatives Holmes, Creech, Esposito, Senators Plyler, Perdue, Odom

### **N.C. STATE BAR FUNDS**

Sec. 21.14. Of the funds appropriated in this act as a grant-in-aid to the North Carolina State Bar for the 1995-97 fiscal biennium, the North Carolina State Bar may in its discretion use up to the sum of two hundred fifty thousand dollars (\$250,000) for the 1995-96 fiscal year and up to the sum of two hundred fifty thousand dollars (\$250,000) for the 1996-97 fiscal year to further the criminal justice system.

## **PART 22. DEPARTMENT OF JUSTICE**

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry  
**REVERSION OF CERTAIN INSURANCE SETTLEMENT PROCEEDS**



Sec. 22. (a) Section 23.5 of Chapter 769 of the 1993 Session Laws, Regular Session 1994, is repealed.

(b) Any funds received by the Department of Justice in settlement of insurance claims arising from damage to the Blue Bell building at the North Carolina Justice Academy shall be expended by the Department for replacement of the building and for no other purpose. If any appropriation is made to the Department for replacement of the Blue Bell Building, then any funds received as insurance settlement proceeds shall revert to the General Fund.

(c) Subsection (a) of this section becomes effective June 30, 1995.

Requested by: Representatives Justus, Thompson, Senator Ballance

**DEPARTMENT OF JUSTICE SALARY FUNDS**

Sec. 22.1. Of the funds appropriated to the Department of Justice in this act, the sum of ninety-three thousand four hundred fifty-three dollars (\$93,453) for the 1995-96 fiscal year and the sum of ninety-three thousand four hundred fifty-three dollars (\$93,453) for the 1996-97 fiscal year may be used for one-time annual salary adjustments for attorneys who are determined to be eligible for the adjustments based upon outstanding job performance for the preceding year.

Requested by: Representatives Justus, Thompson, Senator Ballance

**SBI FUNDS/SPENDING PRIORITIES**

Sec. 22.2. Of the funds appropriated in this act to the Department of Justice, State Bureau of Investigation, for the 1995-97 biennium for overtime payments, the first priority for use of the funds by the Department shall be:

- (1) To make overtime payments to SBI agents in the Field Investigations Division; and
- (2) To make overtime payments to supervisory personnel receiving overtime payments as of June 30, 1995, up to a maximum of five thousand two hundred dollars (\$5,200) annually per individual.

Requested by: Representatives Justus, Thompson, Senator Ballance

**SBI USE OF COURT-ORDERED REIMBURSEMENT FUNDS**

Sec. 22.3. The State Bureau of Investigation (SBI) may use funds available from court-ordered reimbursement in undercover drug operations.

Requested by: Representatives Justus, Thompson, Senator Ballance

**PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

Sec. 22.4. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those boards by the State.

Requested by: Representatives Justus, Thompson, Daughtry, Senators Ballance, Rand

**LIMITS ON COMPUTER SYSTEM UPGRADE**

Sec. 22.5. Any proposed increase in mainframe computer capacity or system upgrade for the Judicial Department, the Department of Correction, the Department of Justice, or the Department of Crime Control and Public Safety, to be funded from the Continuation Budget, shall be reported to the Joint Legislative Commission on Governmental Operations, to the Senate and House Chairs of the Appropriations Committees, and to the Chairs of the Justice and Public Safety Committees before the department enters into any contractual agreement. This report is to be made jointly by the Information Resource Management Commission, the Office of State Budget and Management, and the requesting department.

Requested by: Senators Ballance, Rand, Representatives Justus, Thompson, Daughtry  
**CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENT AGENCIES**

Sec. 22.6. Client departments, agencies, and boards shall reimburse the Department for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department is representing that client department, agency, or board.

Requested by: Representatives Justus, Thompson, Daughtry, Senators Ballance, Rand  
**USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

Sec. 22.7. (a) Assets transferred to the Department of Justice during the 1995-97 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of that Department and shall result in an increase of law enforcement resources for the Department. Assets transferred to the Department of Crime Control and Public Safety during the 1995-97 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of that Department and shall result in an increase of law enforcement resources for the Department. The Departments shall report to the Joint Legislative Commission on Governmental Operations upon the receipt of these assets and, before using these assets, shall report the intended use of these assets and the departmental priorities on which the assets may be expended.

The General Assembly finds that the use of these assets for new personnel positions, new projects, the acquisition of real property, repair of buildings where such repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods; therefore, the Department of Justice and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly, except during the 1995-97 biennium, the Department of Justice may:

- (1) Use an amount not to exceed the sum of twenty-five thousand dollars (\$25,000) of the funds to extend the lease of space in the Town of Salemburg for SBI training; and
- (2) Use an amount not to exceed fifty thousand dollars (\$50,000) of the funds to lease space for its technical operations unit, storage of its equipment and vehicles, and command post vehicle.

(b) Nothing in this section prevents North Carolina law enforcement agencies from receiving funds from the United States Department of Justice pursuant to 19 U.S.C. § 1616a.

## **PART 23. DEPARTMENT OF HUMAN RESOURCES**

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

### **REDUCE DHR FUNDS IN ANTICIPATION OF RECEIPT OF FEDERAL FUNDS**

Sec. 23. Funds appropriated to the Department of Human Resources for the 1995-96 fiscal year have been reduced by fourteen million thirteen thousand three hundred ninety-six dollars (\$14,013,396) in anticipation of the receipt of federal funds from the Title IV A - Emergency Assistance Program and the Social Services Block Grant. If these federal funds are not received or if only a portion of these funds are received, notwithstanding G.S. 143-15.3, the Director of the Budget may use funds available to the Department, not to exceed fourteen million thirteen thousand three hundred ninety-six dollars (\$14,013,396). The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations prior to any such transfer.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

### **DHR EMPLOYEES/IN-KIND MATCH**

Sec. 23.1. Notwithstanding the limitations of G.S. 143B-139.4, the Secretary of the Department of Human Resources may assign employees of the Office of Rural Health and Resource Development to serve as in-kind match to nonprofit corporations working to establish health care programs that will improve health care access while controlling costs.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

### **LIABILITY INSURANCE**

Sec. 23.2. The Secretary of the Department of Human Resources, the Secretary of the Department of Environment, Health, and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars (\$1,000,000) on behalf of employees of the Departments licensed to practice medicine or dentistry and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Human Resources. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States, or that arises

out of any sexual, fraudulent, criminal, or malicious act, or out of any act amounting to willful or wanton negligence.

The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Human Resources, the Department of Environment, Health, and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Human Resources.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**TRANSFERS OF CERTAIN FUNDS AUTHORIZED**

Sec. 23.3. In order to assure maximum utilization of funds in county departments of social services, county or district health agencies, and area mental health, developmental disabilities, and substance abuse authorities, the Director of the Budget may transfer excess funds appropriated to a specific service, program, or fund, whether specified service in a block grant plan or General Fund appropriation, into another service, program, or fund for local services within the budget of the respective State agency.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**HEALTH CENTERS' PURCHASE OF MEDICATIONS**

Sec. 23.4. Notwithstanding any provisions of law to the contrary, State rural health centers and federally funded community and migrant health centers shall be permitted to purchase medications by participating in contracts administered by the Department of Administration, Division of Purchase and Contract.

Requested by: Representatives Gardner, Hayes, Nye, Russell, Senators Martin of Guilford, Conder

**DIVISION OF FAMILY DEVELOPMENT ABOLISHED**

Sec. 23.5. The Division of Family Development of the Department of Human Resources is abolished. The Family Preservation Program is transferred to the Division of Social Services of the Department of Human Resources. The Family Support Program is transferred to the Division of Child Development of the Department of Human Resources. The Office of Economic Opportunity is transferred to the Office of the Secretary of the Department of Human Resources.

All transfers required by this section shall include the transfer of all appropriations, budgets, and powers and duties.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**S.O.S. AND FAMILY RESOURCE CENTER GRANT PROGRAMS ADMINISTRATIVE COSTS LIMITS**

Sec. 23.6. (a) Of the funds appropriated to the Department of Human Resources in this act, the Department may use up to a total of three hundred fifty

thousand dollars (\$350,000) each fiscal year of the biennium to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

(b) Of the funds appropriated in this act to the Department of Human Resources for the Family Resource Center Grant Program, the Department may use up to three hundred thousand dollars (\$300,000) each fiscal year of the biennium to administer the Program.

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

#### **COUNCIL ON DEVELOPMENTAL DISABILITIES SERVICES MAINTAINED**

Sec. 23.6A. The Department of Human Resources is encouraged to maintain grants provided at the local level through the Council on Developmental Disabilities at the level funded in the 1994-95 fiscal year. Notwithstanding any law to the contrary, the Department may use funds available to it to maintain this minimum level of funding.

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

#### **DHR RESOURCE STUDIES**

Sec. 23.6B. The Department shall study the following two issues and shall report these two issues, together with any recommendations, to the 1995 General Assembly, Regular Session 1996, within one week of convening:

- (1) The average staff vacancy rate by division over the last five fiscal years, to determine its effect on lapsed salaries; and
- (2) An analysis of unbudgeted revenues in excess of revenues in the certified budget as amended by the General Assembly received by the Department in the last two fiscal years, including:
  - a. Indirect cost receipts; and
  - b. Prior year earned revenue.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

#### **DAY CARE FUNDS MATCHING REQUIREMENT**

Sec. 23.7. No local matching funds may be required by the Department of Human Resources as a condition of any locality's receiving any State day care funds appropriated by this act unless federal law requires such a match.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

#### **DAY CARE ALLOCATION FORMULA**

Sec. 23.8. (a) To simplify current day care allocation methodology and more equitably distribute State day care funds, the Department of Human Resources shall apply the following allocation formula to all noncategorical federal and State day care funds used to pay the costs of necessary day care for minor children of needy families:

- (1) One-third of budgeted funds shall be distributed according to the county's population in relation to the total population of the State;
- (2) One-third of the budgeted funds shall be distributed according to the number of children under 6 years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under 6 years of age in the State in families whose income is below the poverty level; and
- (3) One-third of budgeted funds shall be distributed according to the number of working mothers with children under 6 years of age in a county in relation to the total number of working mothers with children under 6 years of age in the State.

(b) A county's initial allocation shall not be less than that county's initial allocation was in fiscal year 1990-91 under the formula prescribed by Section 102 of Chapter 500 of the 1989 Session Laws. However, if the total amount available to allocate is less than the amount allocated by formula in the 1990-91 fiscal year, a county's allocation may be less than the county's initial allocation was in that fiscal year.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**CHILD DAY CARE REVOLVING LOAN FUND**

Sec. 23.9. Notwithstanding any law to the contrary, funds budgeted for the Child Day Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or to pay the Department's cost of administering the program.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**DAY CARE**

Sec. 23.10. Except for the allocation of support costs from federal grants by the General Assembly or the reallocation of federal grant funds by the Office of State Budget and Management, the Department of Human Resources shall distribute the funds appropriated and otherwise available to it for the purchase of day care for minor children of needy families so as to serve the greatest number of children possible.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**DAY CARE RATES**

Sec. 23.11. (a) Rules for the monthly schedule of payments for the purchase of day care services for low-income children shall be established by the Social Services Commission pursuant to G.S. 143B-153(8)a., in accordance with the following requirements:

- (1) For day care facilities, as defined in G.S. 110-86(3), in which fewer than fifty percent (50%) of the enrollees are subsidized by State or federal funds, the State shall continue to pay the same fee paid by

private paying parents for a child in the same age group in the same facility.

- (2) Facilities in which fifty percent (50%) or more of the enrollees are subsidized by State or federal funds may be paid the rate established by the local purchasing agency, not to exceed the county market rate.
- (3) A market rate shall be calculated for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized private paying parents for each age group of enrollees within the county. The county market rates shall be calculated from facility fee schedules collected by the Division of Child Development on a routine basis. The Division shall also calculate a statewide market rate for each age category. The Division may also calculate regional market rates for each age group and age category. The Social Services Commission shall adopt rules to establish minimum county rates that use the statewide market rates as a reference point.
- (4) Child day care homes as defined in G.S. 110-86(4) and other home-based day care arrangements that are not required to be regulated by the State licensing agency may be paid the rate established by the local purchasing agency, not to exceed market rate for day care homes, which shall be calculated at least biennially by the Division of Child Development according to the method described in subdivision (3) of subsection (a) of this section.

(b) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes may participate in the program that provides for the purchase of care in day care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, day care facilities shall be required to meet any additional applicable requirements of federal law or regulations.

Day care homes as defined in G.S. 110-86(4) from which the State purchases day care services shall meet the standards established by the Child Day Care Commission pursuant to G.S. 110-101 and G.S. 110-105.1 and any additional requirements of State law or federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child day care rate.

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

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES  
QUALITY ASSURANCE/ACCOUNTABILITY**

Sec. 23.12. (a) The General Assembly finds, in consultation with the Governor, that it is essential to begin to develop comprehensive programs that provide high quality early childhood education and development services locally for children and their families. The General Assembly also finds that it is equally essential that these programs be developed in a manner that will provide both quality assurance and performance-based accountability to the children, their families, their communities, and the State.

(b) The Department of Human Resources shall develop and implement a performance-based evaluation system to evaluate the Early Childhood Education and Development Initiatives authorized by Part 10B of Article 3 of Chapter 143B of the General Statutes, if enacted. The Department shall design this system:

- (1) To incorporate the elements of a formative evaluation, including process and efficiency studies, and of a summative evaluation, including outcome and effectiveness studies, in order to:
  - a. Provide information to the Department and to the General Assembly on how to improve and refine the Programs;
  - b. Enable the Department and the General Assembly to assess the overall quality and impact of the existing Programs and any future ones; and
  - c. Enable the Department and the General Assembly to determine whether to make the Early Childhood Education and Development Initiatives statewide;
- (2) To focus the Programs, as they develop and continue, on quality assurance, by making quality a central and ongoing priority and to ensure that quality improvement efforts address outcomes, such as functions and processes, rather than persons, specific details, or paperwork;
- (3) To use reliable statistical methods to measure performance of processes, functions, efforts, and outcomes, which methods shall allow adequate tracking of children and families through the program and into the school system, in order to provide a real, objective measure of the outcome of the Programs; and
- (4) To provide a detailed fiscal analysis of the use to which State funds for these Programs are put.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES  
PLAN**

Sec. 23.13. Counties participating in the Early Childhood Education and Development Initiatives authorized by Part 10B of Article 3 of Chapter 143B of the General Statutes may use the county's allocation of State and federal child care funds to



subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the Department of Human Resources. The use of federal funds shall be consistent with the appropriate federal regulations. Day care providers shall, at a minimum, comply with the applicable requirements for State licensure or registration pursuant to Article 7 of Chapter 110 of the General Statutes, with other applicable requirements of State law or rule, including rules adopted for nonregistered day care by the Social Services Commission, and with applicable federal regulations.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

### **MEDICAID**

Sec. 23.14. (a) Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

- (1) Hospital-Inpatient - Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Human Resources. Administrative days for any period of hospitalization shall be limited to a maximum of three days.
- (2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Human Resources.
- (3) Nursing Facilities - Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Human Resources. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare, must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program.
- (4) Intermediate Care Facilities for the Mentally Retarded - As prescribed in the State Plan as established by the Department of Human Resources.
- (5) Drugs - Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (f) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with the State Plan adopted by the Department of Human Resources consistent with federal reimbursement regulations. Payment of the professional services fee

shall be made in accordance with the Plan adopted by the Department of Human Resources, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents (\$5.60) per prescription. Adjustments to the professional services fee shall be established by the General Assembly.

- (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services - Fee schedules as developed by the Department of Human Resources. Payments for dental services are subject to the provisions of subsection (g) of this section.
- (7) Community Alternative Program, EPSDT Screens - Payment to be made in accordance with rate schedule developed by the Department of Human Resources.
- (8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment - Payment to be made according to reimbursement plans developed by the Department of Human Resources.
- (9) Medicare Buy-In - Social Security Administration premium.
- (10) Ambulance Services - Uniform fee schedules as developed by the Department of Human Resources.
- (11) Hearing Aids - Actual cost plus a dispensing fee.
- (12) Rural Health Clinic Services - Provider-based - reasonable cost; nonprovider based - single cost reimbursement rate per clinic visit.
- (13) Family Planning - Negotiated rate for local health departments. For other providers - see specific services, for instance, hospitals, physicians.
- (14) Independent Laboratory and X-Ray Services - Uniform fee schedules as developed by the Department of Human Resources.
- (15) Optical Supplies - One hundred percent (100%) of reasonable wholesale cost of materials.
- (16) Ambulatory Surgical Centers - Payment as prescribed in the reimbursement plan established by the Department of Human Resources.
- (17) Medicare Crossover Claims - An amount up to the actual coinsurance or deductible or both, in accordance with the Plan, as approved by the Department of Human Resources.
- (18) Physical Therapy and Speech Therapy - Services limited to EPSDT eligible children. Payments are to be made only to the Children's Special Health Services program at rates negotiated by the Department of Human Resources.
- (19) Personal Care Services - Payment in accordance with Plan approved by the Department of Human Resources.
- (20) Case Management Services - Reimbursement in accordance with the availability of funds to be transferred within the Department of Human Resources.

- (21) Hospice - Services may be provided in accordance with Plan developed by the Department of Human Resources.
- (22) Other Mental Health Services - Unless otherwise covered by this section, coverage is limited to agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, and reimbursement is made in accordance with a Plan developed by the Department of Human Resources not to exceed the upper limits established in federal regulations.
- (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children - Reimbursement in accordance with Plan approved by the Department of Human Resources.
- (24) Health Insurance Premiums - Payments to be made in accordance with the Plan adopted by the Department of Human Resources consistent with federal regulations.
- (25) Medical Care/Other Remedial Care - Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this paragraph are limited to those prescribed in the State Plan as established by the Department of Human Resources. Providers of these services must be certified as meeting program standards of the Department of Environment, Health, and Natural Resources.
- (26) Pregnancy Related Services - Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

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

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

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

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

(d) Medicaid and Aid to Families With Dependent Children Income Eligibility Standards. The maximum net family annual income eligibility standards for Medicaid

and Aid to Families with Dependent Children, and the Standard of Need for Aid to Families with Dependent Children shall be as follows:

<u>Family Size</u>	<u>Categorically Needy</u>	<u>Medically Needy</u>	
	<u>Standard of Need</u>	<u>AFDC Payment Level*</u>	<u>AA, AB, AD*</u>
1	\$ 4,344	\$ 2,172	\$ 2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

\*Aid to Families With Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

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

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

(e) All Elderly, Blind, and Disabled Persons who receive Supplemental Security Income are eligible for Medicaid coverage.

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

<u>Monthly Net Wages</u>	<u>Monthly Incentive Allowance</u>
\$1.00 to \$100.99	Up to \$50.00
\$101.00 - \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00.

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

(h) Dispensing of Generic Drugs. Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, under the Medical Assistance Program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in his own handwriting on the

prescription order, "dispense as written" or words of similar meaning. Generic drugs, when available in the pharmacy, shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs, subject to the prescriber's "dispense as written" order as noted above.

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

(i) Exceptions to Service Limitations, Eligibility Requirements, and Payments. Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Human Resources, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

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

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

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

(m) The Department of Human Resources shall provide Medicaid to 19-, 20-, and 21-year olds in accordance with federal rules and regulations.

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

- (1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits;
- (2) Infants under the age of 1 with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits;
- (3) Children aged 1 through 5 with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits;

- (4) Children aged 6 through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits. Services to pregnant women eligible under this section continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children eligible under this section, no resources test shall be applied; and
- (5) The Department of Human Resources shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

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

(p) The Department of Human Resources shall submit a monthly status report on expenditures for acute care and long-term care services to the Fiscal Research Division and to the Office of State Budget and Management. This report shall include an analysis of budgeted versus actual expenditures for eligibles by category and for long-term care beds. In addition, the Department shall revise the program's projected spending for the current fiscal year and the estimated spending for the subsequent fiscal year on a quarterly basis. Reports for the preceding month shall be forwarded to the Fiscal Research Division and to the Office of State Budget and Management no later than the third Thursday of the month.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

#### **NONMEDICAID REIMBURSEMENT**

Sec. 23.16. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

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

Notwithstanding the provisions of paragraph one, the Department of Human Resources may negotiate with providers of medical services under the various Department of Human Resources programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid

eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

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

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

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

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

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT**

Sec. 23.17. To ensure uniformity in rates charged to area programs and funded with State-allocated resources, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Human Resources may require a private agency that provides services under contract with two or more area programs, except for hospital services that have an established Medicaid rate, to complete an agency-wide uniform cost finding in accordance with G.S. 122C-143.2(a) and G.S. 122C-147.2. The resulting cost shall be the maximum included for the private agency in the contracting area program's unit cost finding.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**CLIENT SERVICES MONITORING**

Sec. 23.17A. The Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall utilize a system of monitoring and control for client services. This system shall ascertain whether services are provided in a timely manner. Notwithstanding any other

provisions of law, the Division shall withhold area mental health agencies' administrative funds until services are provided in a timely manner.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**NONSUPPLANTING OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FUNDS**

Sec. 23.18. The Department of Human Resources shall ensure that counties do not reduce county appropriations and expenditures for area mental health, developmental disabilities, and substance abuse authorities because the authorities have received additional State appropriations for services.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS**

Sec. 23.19. Funds received by the Department of Human Resources from the tax levied on mixed beverages under G.S. 18B-804(b)(8) shall be expended by the Department of Human Resources as prescribed by G.S. 18B-805(h). These funds shall be allocated to the area mental health programs for substance abuse services on a per capita basis as determined by the Office of State Budget and Management's most recent estimates of county populations.

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

**WILLIE M.**

Sec. 23.20. (a) Legislative Findings. – The General Assembly finds:

- (1) That there is a need in North Carolina to provide appropriate treatment and education programs to children under the age of 18 who suffer from emotional, mental, or neurological handicaps accompanied by violent or assaultive behavior;
- (2) That children meeting these criteria have been identified as a Class in the case of Willie M., et al. v. Hunt, et al., formerly Willie M., et al. v. Martin, et al.; and
- (3) That these children have a need for a variety of services, in addition to those normally provided, that may include, but are not limited to, residential treatment services, educational services, and independent living arrangements.

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

(c) Funds for Department of Public Education. – Funds appropriated to the Department of Public Education in this act for members of the Willie M. Class are to



establish a supplemental reserve fund to serve only members of the Class identified in Willie M., et al. v. Hunt, et al., formerly Willie M., et al. v. Martin, et al. These funds shall be allocated by the State Board of Education to the local education agencies to serve those Class members who were not included in the regular average daily membership and the census of children with special needs, and to provide the additional program costs which exceed the per pupil allocation from the State Public School Fund and other State and federal funds for children with special needs.

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

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

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

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

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

periodically to each member of the Class, and the information generated from these measures shall be used to assess client progress and program effectiveness.

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

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

- (1) That the General Assembly has evaluated the known needs of the State and has endeavored to satisfy those needs in comparison to their social and economic priorities; and
- (2) That the funds appropriated will enable the development and implementation of placement and services for the Class members in Willie M., et al. v. Hunt, et al., formerly Willie M., et al. v. Martin, et al., within a reasonable period of time considered within the context of the needs of the Class members, the other needs of the State and the resources available to the State.

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

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

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

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

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

**THOMAS S.**

Sec. 23.21. (a) Funds appropriated to the Department of Human Resources in this act for the 1995-96 fiscal year and the 1996-97 fiscal year for members of the Thomas S. Class as identified in Thomas S., et al. v. Britt, formerly Thomas S., et al. v.

Flaherty, shall be expended only for programs serving Thomas S. Class members or for services for those clients who are:

- (1) Adults with mental retardation, or who have been treated as if they had mental retardation, who were admitted to a State psychiatric hospital on or after March 22, 1984, and who are included on the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services' official list of prospective Class members;
- (2) Adults with mental retardation who have a documented history of State psychiatric hospital admissions regardless of admission date and who, without funding support, have a good probability of being readmitted to a State psychiatric hospital;
- (3) Adults with mental retardation who have never been admitted to a State psychiatric hospital but who have a documented history of behavior determined to be of danger to self or others that results in referrals for inpatient psychiatric treatment and who, without funding support, have a good probability of being admitted to a State psychiatric hospital; or
- (4) Adults who are included on the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services' official list of prospective Class members and have yet to be confirmed as Class members, who currently reside in the community, and who have a good probability of being admitted to a facility licensed as a "home for the aged and disabled".

No more than five percent (5%) of the funds appropriated in this act for the Thomas S. program shall be used for clients meeting subdivisions (2), (3), or (4) of this subsection.

(b) To ensure that Thomas S. Class members are appropriately served, no State funds shall be expended on placement and services for Thomas S. Class members except:

- (1) Funds specifically appropriated by the General Assembly for the placement and services of Thomas S. Class members; and
- (2) Funds for placement and services for which Thomas S. Class members are otherwise eligible.

(c) The Department of Human Resources shall continue to implement a prospective unit cost reimbursement system and shall ensure that unit cost rates reflect reasonable costs by conducting cost center service type rate comparisons and cost center line item budget reviews as may be necessary.

(d) Reporting requirements. The Department of Human Resources shall submit by April 1 of each fiscal year a report to the General Assembly on the progress achieved in serving members and prospective members of the Thomas S. Class. The report shall include the following:

- (1) The number of Thomas S. clients confirmed as Class members;
- (2) The number of prospective Class members evaluated;
- (3) The number of prospective Class members awaiting evaluation;

- (4) The number of Class members or prospective Class members added in the preceding 12 months due to their admission to a State psychiatric hospital;
- (5) A description of the types of treatment services provided to Class members; and
- (6) An analysis of the use of funds appropriated for the Class.

(e) Notwithstanding any other provision of law, if the Department of Human Resources determines that a local program is not providing minimally adequate services to members of the Class identified in Thomas S., et al. v. Britt, formerly Thomas S., et al. v. Flaherty, or does not show a willingness to do so, the Department may ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department of these programs.

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

**MENTAL HEALTH COUNTY FUNDS REQUIREMENT**

Sec. 23.21B. Notwithstanding any other provisions of law, the Department of Human Resources shall ensure that counties do not reduce county appropriations and expenditures for area mental health, developmental disabilities, and substance abuse authorities because of the availability of State-allocated funds, fees, or capitation amounts to the authorities.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**FOSTER CARE REPORTING**

Sec. 23.22. Counties receiving funds for foster care shall report annually, beginning with the 1995-96 fiscal year, to the Division of Social Services, Department of Human Resources, the following:

- (1) A narrative description of the use of State funds;
- (2) Workload statistics and indicators for foster care as established by the Division of Social Services; and
- (3) Development of a coordinated approach to providing children's services, with emphasis on meeting the total needs of the children and families being served.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**ADOPTION SUBSIDY**

Sec. 23.23. The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

- (1) \$315.00 per child per month for children aged birth through 5;
- (2) \$365.00 per child per month for children aged 6 through 12; and
- (3) \$415.00 per child per month for children aged 13 through 18.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**FOSTER CARE**

Sec. 23.24. The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

- (1) \$315.00 per child per month for children aged birth through 5;
- (2) \$365.00 per child per month for children aged 6 through 12; and
- (3) \$415.00 per child per month for children aged 13 through 18.

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

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**FOSTER CARE AND ADOPTION TRAINING**

Sec. 23.25. The Division of Social Services, Department of Human Resources, shall continue the in-house training component that provides a mandated minimum of 30 hours of preservice training for foster care parents and 84 hours for foster care workers and adoption care workers and a mandated minimum of 10 hours of continuing education for all foster care parents and 18 hours for foster care workers and adoption care workers.

This section remains in effect until modified or repealed by the General Assembly.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**CHILD PROTECTIVE SERVICES**

Sec. 23.26. (a) The funds appropriated in this act to the Department of Human Resources, Division of Social Services, for the 1995-96 fiscal year for Child Protective Services shall be allocated to county departments of social services based upon a formula which takes into consideration the number of Child Protective Services cases in that county and the number of Child Protective Services workers necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services.

(b) Funds allocated under subsection (a) of this section shall be used by county departments for carrying out investigations of reports of child abuse or neglect or for providing protective or preventive services in which the department confirms abuse, neglect, or dependency.

(c) The Division of Social Services, Department of Human Resources, shall establish criteria and guidelines to ensure that the allocations to county departments of social services are used in accordance with this section and that available Federal Emergency Assistance funds for Child Protective Services are maximized.

(d) As long as federal Emergency Assistance funds are available, counties shall use these federal funds, State Child Protective Services appropriations, and county funds to provide Child Protective Services.

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

**LIMITATION ON STATE ABORTION FUND**

Sec. 23.27. (a) No State funds, whether from tax revenues, gifts, bequests, grants, or any other source, in excess of fifty thousand dollars (\$50,000) each fiscal year

of the biennium shall be expended for the State Abortion Fund's funding of the performance of abortions.

(b) Eligibility for services of the State Abortion Fund shall be limited to women whose income is below the federal poverty level, as revised annually, or who are eligible for Medicaid. The State Abortion Fund shall be used to fund abortions only to terminate pregnancies resulting from cases of rape or incest, or to terminate pregnancies that, in the written opinion of one doctor licensed to practice medicine in North Carolina, endanger the life of the mother.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**HIV FOSTER CARE AND ADOPTIONS BOARD PAYMENT**

Sec. 23.28. The maximum rates for State participation in HIV Foster Care and Adoptions Board Payments are established on a graduated scale as follows:

- (1) \$800.00 per month per child with indeterminate HIV status;
- (2) \$1,000 per month per child confirmed HIV-infected, asymptomatic;
- (3) \$1,200 per month per child confirmed HIV-infected, symptomatic; and
- (4) \$1,600 per month per child terminally ill with complex care needs.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

**FOOD STAMP OUTREACH**

Sec. 23.29. The Department of Human Resources shall continue a Food Stamp Outreach Program. Under the Program, the Department shall inform public and private agencies, community groups, potentially eligible persons, and the general public regarding the eligibility requirements of the Food Stamp Program. The Department shall maintain a referral list of public and private agencies, community groups, and interested persons and organizations who serve low-income persons. The Department shall inform these agencies and persons regarding the Food Stamp Program and changes in the law that affect client eligibility or the extent of benefits. The Department shall develop and distribute informational materials, such as public service announcements, brochures, pamphlets, posters, and correspondence.

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

**AFDC PROGRAMS AND SERVICES FOR WOMEN IN THE THIRD TRIMESTER OF PREGNANCY**

Sec. 23.29A. Women in their third trimester of pregnancy with their first child who otherwise meet all the eligibility criteria for Aid to Families with Dependent Children (AFDC) are eligible for all programs and services available to AFDC recipients other than AFDC cash assistance.

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

**EMERGENCY ASSISTANCE**

Sec. 23.29C. The Division of Social Services, Department of Human Resources, shall not expend more State funds than are appropriated for the cash assistance component of the Emergency Assistance Program for the 1995-97 fiscal biennium. Within this limit, Emergency Assistance cash benefits shall not exceed three hundred dollars (\$300.00) per year per family, payable over a 30-day period. After this 30-day period, Emergency Assistance cash benefits are not available to that family until 12 months have elapsed from the initial authorization date. The family may have no more than a total of three hundred dollars (\$300.00) in liquid assets in order to qualify for the cash assistance component of the Emergency Assistance Program pursuant to this section.

It is the intent of the General Assembly that cash benefits under the Emergency Assistance Program shall only be used to provide assistance to persons to alleviate an emergency. In evaluating whether an emergency exists, the agency receiving the application shall apply prudent judgment to evaluate each emergency on its own merits. Prudent judgment will permit the agency to consider whether the client created the emergency and whether the assistance will resolve the emergency.

Requested by: Senators Martin of Guilford, Conder, Representatives Gardner, Hayes, Nye, Russell

#### **FAMILY SUPPORT ACT**

Sec. 23.29D. (a) The General Assembly finds that it is in the best interest of the State and of all its citizens to encourage recipients of Aid to Families with Dependent Children (AFDC) to obtain jobs and become self-sufficient. It further finds that, by continuing medical assistance and providing limited wage assistance to those recipients who are working, the State will make it possible to help many recipients to be able to keep their jobs, support their families, and become self-sufficient.

Therefore, the General Assembly adopts a payment method that will result in more recipients being able to find work and keep working.

(b) AFDC payments shall be determined by subtracting countable income from the State standard of need, and paying a percentage of the difference. The percentage that shall be applied to determine the amount of assistance shall be the same percentage set in this act that determines the AFDC payment level from the standard of need.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

#### **SENIOR CENTER OUTREACH**

Sec. 23.30. (a) Funds appropriated to the Department of Human Resources, Division of Aging, for the 1995-97 fiscal biennium, shall be used by the Division of Aging to enhance senior center programs as follows:

- (1) To test "satellite" services provided by existing senior centers to unserved or underserved areas; or
- (2) To provide start-up funds for new senior centers.

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

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

- (1) Formally endorse the need for such a center;
- (2) Formally agree on the sponsoring agency for the center; and
- (3) Make a formal commitment to use local funds to support the ongoing operation of the center.

(c) State funding shall not exceed ninety percent (90%) of reimbursable costs.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

### **CAREGIVER SUPPORT SHARING**

Sec. 23.31. (a) Of the funds appropriated to the Division of Aging, Department of Human Resources, for the 1995-97 fiscal biennium, the sum of one million eight thousand dollars (\$1,008,000) for the 1995-96 fiscal year and the sum of one million eight thousand dollars (\$1,008,000) for the 1996-97 fiscal year shall be used for services that support family caregivers of elderly persons with functional disabilities, whether physical or mental, who want to stay in their homes rather than be institutionalized but who need assistance with the activities of daily living in order to remain at home. The services that may be purchased from funds received under this section include:

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

(b) The Division of Aging shall expend funds for these services according to the population of persons 70 years of age or older in each region. The Division of Aging shall use a minimum of ninety-five percent (95%) of the funds it receives under this section for the services described in subdivisions (1) through (4) of subsection (a) of this section and may only use a maximum of five percent (5%) for technical assistance as described in subsection (c) of this section. The Division of Aging shall choose providers in accordance with procedures under the Older Americans Act. Funds allocated by the Division pursuant to this section shall be allocated by October 1 of each fiscal year.

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

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford

### **REIMBURSEMENT AND COMPENSATION OF MEMBERS OF THE NORTH CAROLINA VOCATIONAL REHABILITATION ADVISORY COUNCIL, THE**



## **STATEWIDE INDEPENDENT LIVING COUNCIL, AND THE COMMISSION FOR THE BLIND**

Sec. 23.32. Notwithstanding G.S. 138-5(a)(1), those members of the North Carolina Vocational Rehabilitation Advisory Council, the Statewide Independent Living Council, and the Commission for the Blind, who are unemployed or who must forfeit wages from other employment to attend council or commission meetings or to perform related duties, may receive compensation not to exceed fifty dollars (\$50.00) a day for attending these meetings or for performing related duties, as authorized in Sections 105 and 705 of P.L. 102-569, the Rehabilitation Act of 1973, 42 U.S.C. § 701 et seq., as amended. This compensation is instead of the compensation specified in G.S. 138-5(a)(1). Reimbursement for subsistence and travel expenses is as specified in G.S. 138-5.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford  
**DHR STUDY OF DIVISION OF YOUTH SERVICES' PROGRAMS AND SERVICES EXTENDED**

Sec. 23.34. Section 25.26 of Chapter 769 of the 1993 Session Laws, Regular Session 1994, which amended subsection (d) of Section 36 of Chapter 24 of the Session Laws of the 1994 Extra Session reads as rewritten:

"Sec. 25.26. Subsection (d) of Section 36 of Chapter 24 of the 1994 Extra Session reads as rewritten:

'(d) The Department shall complete this study by ~~March 1, 1995~~, October 1, 1995, and shall report the results of this study to the 1995 General Assembly by ~~April 1, 1995~~. November 1, 1995."

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford  
**COMMUNITY-BASED ALTERNATIVES PARTICIPATION**

Sec. 23.35. County governments participating in the Community-Based Alternatives Program shall certify annually to the Division of Youth Services, Department of Human Resources, that Community-Based Alternatives Aid to Counties shall not be used to duplicate or supplant other programs within the county.

## **PART 24. DEPARTMENT OF AGRICULTURE**

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt  
**AUTHORIZE THE AGRICULTURAL FINANCE AUTHORITY TO USE THE INTEREST FROM THE RESERVE FOR FARM LOANS FOR ADMINISTRATIVE EXPENSES**

Sec. 24. Funds in the Reserve for Farm Loans shall be used for the purposes set out in Chapter 122D of the General Statutes, but shall not be used for the administration of that Chapter. Interest on funds in the Reserve for Farm Loans and interest from agricultural loans, as defined in G.S. 122D-3, may be used for any of the purposes set out in Chapter 122D of the General Statutes and for the administration of that Chapter.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt  
**STUDY REGARDING THE STATE FARMERS MARKETS COSTS**

Sec. 24.1. The Department of Agriculture shall evaluate and recommend options for each of the State's Farmers Markets to reach a goal of becoming self-supporting within four years. No later than April 1, 1996, the Department shall report its findings and recommendations to the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt  
**FEASIBILITY STUDY REGARDING FEES AT THE MARITIME MUSEUM**

Sec. 24.2. The Department of Agriculture shall study the feasibility of charging admission fees at the North Carolina Maritime Museum. This study shall evaluate different options for admission fees and shall include a proposed implementation plan, anticipated revenues, anticipated costs of developing and implementing admission fees, and anticipated personnel that would be required for each admission fee option. No later than April 1, 1996, the Department shall report its findings and recommendations to the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt  
**TIMBER SALES FUNDS FOR MAINTENANCE OF STATE FARMS FORESTLANDS**

Sec. 24.3. From funds received from the sale of timber that are deposited with the State Treasurer pursuant to G.S. 146-30 to the credit of the Department of Agriculture in a capital improvement account, the sum of twenty thousand dollars (\$20,000) is transferred to the Reserve for Forest Management for expenditure during the 1995-96 fiscal year and the sum of twenty thousand dollars (\$20,000) is transferred to the Reserve for Forest Management for expenditure during the 1996-97 fiscal year. The Department may increase its expenditures of timber receipts by twenty thousand dollars (\$20,000) each year, provided that the maximum expenditure in each fiscal year shall not exceed fifty thousand dollars (\$50,000). These funds are in addition to any other funds already in that Reserve.

## **PART 25. DEPARTMENT OF COMMERCE**

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt  
**INDUSTRIAL DEVELOPMENT FUND/LOCAL MATCH**

Sec. 25. Local governments requesting financial assistance from the Industrial Development Fund that wish to request to be exempted from the local matching requirements placed on the receipt of this assistance shall demonstrate to the satisfaction of the Department of Commerce that it would be an economic hardship for the local government to match State assistance from the Fund with local funds. The Department shall develop guidelines for determining hardship.

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Weatherly, Crawford

### **REGIONAL COMMISSION REPORTS**

Sec. 25.3. The regional economic development commissions receiving grants-in-aid from the Department of Commerce shall report on their programs to the Joint Legislative Commission on Governmental Operations on or before March 1 and October 1 of each fiscal year, and more frequently as requested by the Commission. The reports shall include information on the activities and accomplishments during the past fiscal year, itemized expenditures during the past fiscal year with sources of funding, planned activities and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months.

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Weatherly, Crawford

### **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

Sec. 25.4. (a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

- (1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's distress factor by the sum of the distress factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "distress factor" means a county's distress factor as calculated under G.S. 105-130.40(c);
- (2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Zone the sum of three hundred fifteen thousand dollars (\$315,000) in each fiscal year, which sum represents the interest earnings of the Global TransPark Development Zone in each fiscal year; and
- (3) Next, the Department shall redistribute the sum of three hundred fifteen thousand dollars (\$315,000) in each fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the distress factor formula set out in

subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**TOURISM PROMOTION FUNDS**

Sec. 25.5. Funds appropriated in this act to the Department of Commerce for tourism promotion grants shall be allocated according to per capita income, unemployment, and population growth in an effort to direct funds to counties most in need in terms of lowest per capita income, highest unemployment, and slowest population growth, in the following manner:

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

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**BIOTECHNOLOGY CENTER**

Sec. 25.7. (a) The North Carolina Biotechnology Center shall recapture funds spent in support of successful research efforts in the nonacademic private sector.

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

(c) The North Carolina Biotechnology Center shall report on all of the Center's programs to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on or before March 1 of each fiscal year, and more frequently as requested by the Commission. The initial report shall include information on the activities and accomplishments during the past fiscal year, itemized expenditures during the past fiscal year with sources of funding, planned activities and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months. Subsequent reports shall include updates of the initial report.

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

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt  
**BIOTECHNOLOGY FUNDS FOR MINORITY UNIVERSITIES**

Sec. 25.8. Of the funds appropriated in this act from the General Fund to the North Carolina Biotechnology Center for the 1995-96 and the 1996-97 fiscal years, the sum of one million dollars (\$1,000,000) in each fiscal year shall be used to continue the special biotechnology program initiative for North Carolina's Public Historically Black Universities and Pembroke State University. This program initiative is a means to get more funds to these institutions of higher education in the short run to help them develop their biotechnology programs and a means to develop a mechanism to improve these institutions' capacity over the long term. The Center's special initiative shall, at a minimum, provide for:

- (1) A range of program activities, including grants, designed to enhance the existing strengths and capabilities of Pembroke State University, and the Public Historically Black Universities;
- (2) A Facilities and Infrastructure Review Committee to advise the Center on major program elements and priority projects that would be most helpful to these institutions; and
- (3) A Program Advisory Panel with representation from these institutions to advise and make recommendations to the Center's President and Board of Directors on funding proposals under this initiative.

The Center shall report on its biotechnology program grants to universities to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on or before March 1 of each fiscal year, and more frequently as requested by the Commission. These reports shall include the current number of enrollments and the capacity of enrollments in the biotechnology program in each of the universities, the number of faculty in the biotechnology program in each of the universities, whether and to what extent the enrollments, capacity, and number of faculty have changed in the last three academic years in the biotechnology program in each of the universities, how the funds allocated by this section are being used in each of the universities, and any other information that indicates whether these grants are accomplishing their purpose.

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Crawford, Weatherly  
**MCNC**

Sec. 25.9. (a) MCNC shall report on all of its programs to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on or before March 1 of each fiscal year, and more frequently as requested by the Commission. The reports shall include information on the activities and accomplishments during the past fiscal year, itemized expenditures during the past fiscal year with sources of funding, planned activities, and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months. The report on the activities of the Supercomputer program shall identify the users of the Supercomputer, the major projects conducted by the users, and the potential benefits of the projects.

(b) MCNC shall provide a report containing detailed budget information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests. Specific salary information will be provided upon written request by the Chairs of the Joint Legislative Commission on Governmental Operations or the Chairs of the House Appropriations Subcommittee on Natural and Economic Resources and the Chairs of the Senate Appropriations Committee on Natural and Economic Resources.

(c) The funds appropriated in this act to MCNC shall be used as follows:

	<u>FY 1995-96</u>	<u>FY 1996-97</u>
Microelectronics Program	\$5,362,523	\$5,362,523
Supercomputer	9,576,319	9,576,319
Telecommunications	4,826,158	4,826,158

(d) Of the funds appropriated to MCNC for the Microelectronics Program, five million three hundred sixty-two thousand five hundred twenty-three dollars (\$5,362,523) in each fiscal year is contingent upon a dollar-for-dollar match in non-State funds.

(e) If MCNC finds it necessary to make changes in the program allocations specified in subsection (c) of this section, MCNC shall report such changes to the Joint Legislative Commission on Governmental Operations 30 days before the reallocation.

(f) Funds appropriated in this act to MCNC for Migration of Current Network to the North Carolina Information Highway System (NCIHS) shall be used as follows:

- (1) To cover the costs of connecting and operating the North Carolina Research and Education Network through the North Carolina Information Highway so that universities and research centers will continue to have the capability currently available through the North Carolina Research and Education Network,
- (2) For program support, and
- (3) For MCNC to serve as gateway to the North Carolina Information Highway for the 18 sites.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**MCNC PLAN FOR SELF-SUPPORT**

Sec. 25.10. MCNC shall develop a plan for carrying out its statutory, contractual, and other duties, responsibilities, and purposes without financial support from the State through General Fund or other appropriations. The plan shall provide for MCNC to be totally self-supporting by July 1, 1999. MCNC shall submit the plan to the Joint Legislative Commission on Governmental Operations not later than April 1, 1996. The plan shall indicate, at a minimum, the following:

- (1) Financial support received from State appropriations for each of the last six years;
- (2) Activities and purposes for which State appropriated funds were used over the last six years;
- (3) Funds that will be needed to continue operations over each of the fiscal years commencing July 1, 1995; and

- (4) Public and private sources and amounts of anticipated revenue for each fiscal year commencing July 1, 1995 through June 30, 2001.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**RURAL ECONOMIC DEVELOPMENT CENTER**

Sec. 25.11. (a) Of the funds appropriated in this act to the Rural Economic Development Center the sum of one million two hundred seventy thousand dollars (\$1,270,000) for the 1995-96 fiscal year and the sum of one million two hundred seventy thousand dollars (\$1,270,000) for the 1996-97 fiscal year shall be allocated as follows:

	<u>95-96 FY</u>	<u>96-97 FY</u>
Research & Demonstration Grants		\$475,864
		\$475,864
Technical Assistance and Center Administration of Research and Demonstration Grants	444,136	444,136
Center Administration, Oversight, and Other Programs	350,000	350,000

(b) The Rural Economic Development Center, Inc., shall report on the Center's programs to the Joint Legislative Commission on Governmental Operations on or before March 1 of each fiscal year, and more frequently as requested by the Commission. The report shall include information on the activities and accomplishments during the fiscal year, itemized expenditures during the fiscal year with sources of funding, planned activities and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next fiscal year.

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

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

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

Sec. 25.12. Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one hundred thousand dollars (\$100,000) for the 1995-96 fiscal year and the sum of one hundred thousand dollars (\$100,000) for the 1996-97 fiscal year shall be allocated as follows:

- (1) \$25,000 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;

- (2) \$25,000 in each fiscal year to Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;
- (3) \$25,000 in each fiscal year to Pitt-Greenville Opportunities Industrialization Center, Inc. for its ongoing job training programs; and
- (4) \$25,000 in each fiscal year to the Opportunities Industrialization Center of Lenoir, Green, and Jones Counties.

The Rural Economic Development Center, Inc., shall report on the use of these funds to the Joint Legislative Commission on Governmental Operations on or before March 1 of each fiscal year, and more frequently as requested by the Commission.

Requested by: Representatives Weatherly, Mitchell, Crawford, Senators Martin of Pitt, Edwards

#### **COMMUNITY DEVELOPMENT INITIATIVE**

Sec. 25.13. Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million eight hundred thousand dollars (\$1,800,000) for fiscal year 1995-96 and the sum of one million eight hundred thousand dollars (\$1,800,000) for fiscal year 1996-97 shall be used to support the grant and loan fund and operations of the North Carolina Community Development Initiative, Inc. The Initiative shall provide operating and project activity grants to mature community development corporations that have demonstrated project and organizational capacity.

The North Carolina Community Development Initiative, Inc., shall report to the Joint Legislative Commission on Governmental Operations on the use of these funds on or before March 1 of each fiscal year, and more frequently as requested by the Commission.

#### **PART 26. DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

Requested by: Representatives Baker, Nichols, Senator Martin of Pitt

#### **EHNH STUDY STATE-FUNDED ENVIRONMENTAL EDUCATION**

Sec. 26. The Department of Environment, Health, and Natural Resources shall prepare a report identifying all State-funded environmental education programs, activities, and initiatives statewide, including efforts by all State entities as well as efforts by other entities funded by grants-in-aid. In addition, the Department shall include in its report a plan for consolidating some or all of these programs, activities, and initiatives. The Department shall submit this report on or before January 15, 1996, to the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

#### **FUNDS FOR VOLUNTARY REMEDIAL ACTIONS**

Sec. 26.1. (a) During the 1995-97 fiscal biennium, the Secretary of Environment, Health, and Natural Resources may contribute from the Inactive Hazardous Sites Cleanup Fund up to ten percent (10%) of the cost each fiscal year, not



to exceed fifty thousand dollars (\$50,000) per site, of implementing a voluntary remedial action program at up to three high-priority sites that substantially endanger public health or the environment.

(b) No later than April 1 of each year of the 1995-97 fiscal biennium, the Department of Environment, Health, and Natural Resources shall report to the General Assembly. Each report shall contain the location of the sites for which a voluntary remedial action program was implemented under subsection (a) of this section, the rationale for the State contributing to the cost of that remedial action, and the amount of the contribution made from the Inactive Hazardous Sites Cleanup Fund.

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Weatherly, Crawford

**WASTE REDUCTION ASSISTANCE TO SMALL BUSINESSES WITH NEED**

Sec. 26.2A. The Office of Waste Reduction shall, to the extent feasible, give greatest priority to small businesses that can demonstrate financial need when the Office of Waste Reduction awards grants or otherwise provides technical or financial assistance.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**PARTNERSHIP FOR THE SOUNDS, INC.**

Sec. 26.3. Partnership for the Sounds, Inc., shall report on all of its programs to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on March 1 of each fiscal year, and more frequently as requested by the Commission. The reports shall include information on the activities and the accomplishments during the past fiscal year, itemized expenditures during the past fiscal year with sources of funding, planned activities, and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**COMMUNICABLE DISEASE CONTROL AID TO COUNTIES FLEXIBILITY**

Sec. 26.4. (a) For the 1995-96 and 1996-97 fiscal years, the Department of Environment, Health, and Natural Resources may combine and allocate funds appropriated for Aid to Counties in the Acute Communicable Disease Control Fund, the Tuberculosis Control Fund, and the Sexually Transmitted Disease Control Fund into one Acute Communicable Disease Control Aid to Counties Grant. Communicable Disease Aid to Counties funding to local health departments and other authorized recipients will be based on a general communicable disease formula to be developed by the Department of Environment, Health, and Natural Resources.

(b) The Department of Environment, Health, and Natural Resources, in conjunction with local health departments, will maintain a system to monitor and identify Aid to Counties communicable disease expenditures by each communicable disease group. The Department shall report to the Joint Legislative Commission on Governmental Operations not later than October 1, 1995, and annually thereafter, on

Aid to Counties expenditures by county for each communicable disease group and the purpose of the expenditures for the fiscal year. The report shall also include an evaluation of the effectiveness of combining Aid to Counties funding into one grant fund and the effectiveness of the formula used to allocate funds.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

#### **DWI TEST CHANGES**

Sec. 26.5. (a) Section 272 of Chapter 321 of the 1993 Session Laws is repealed.

(b) Amounts collected under G.S. 20-16.5(j) for fiscal years 1993-94 and 1994-95 and designated for the alcohol testing program of the Injury Control Section of the Department of Environment, Health, and Natural Resources shall not revert to the General Fund unless the amounts exceed the amounts appropriated by the General Assembly for the 1993-94 and 1994-95 fiscal years.

Beginning with the 1995-96 fiscal year, any funds collected under G.S. 20-16.5(j) that are designated for the alcohol testing program of the Injury Control Section of the Department of Environment, Health, and Natural Resources and are not needed for that program shall be transferred annually to the Governor's Highway Safety Program for grants to local law enforcement agencies for training and enforcement of the laws on driving while impaired. The Governor's Highway Safety Program shall expend funds transferred to it under this section within 13 months of receipt of the funds. Amounts received by the Governor's Highway Safety Program shall not revert until the June 30 following the 13-month period.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

#### **IMMUNIZATION PROGRAM FUNDING**

Sec. 26.6. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources for the 1995-97 fiscal biennium for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of up to one million dollars (\$1,000,000) each fiscal year may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

- (1) Outreach efforts at the State and local levels to improve service delivery of vaccines. Outreach efforts may include educational seminars, media advertising, support services to parents to enable children to be transported to clinics, longer operating hours for clinics, and mobile vaccine units; and
- (2) Continued development of an automated immunization registry.

(b) Funds authorized to be used for immunization efforts under subsection (a) of this section shall not be used to fund additional State positions in the Department of Environment, Health, and Natural Resources.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

## **PUBLIC HEALTH NUTRITION INTERN PROGRAM**

Sec. 26.7. Of the funds appropriated to the Department of Environment, Health, and Natural Resources for the Special Supplemental Food Program for Women, Infants, and Children (WIC), the sum of up to one hundred seventy thousand dollars (\$170,000) for the 1995-96 fiscal year and the sum of up to one hundred seventy thousand dollars (\$170,000) for the 1996-97 fiscal year may be used for the purpose of establishing and maintaining a Public Health Nutritionist Internship Program.

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Weatherly, Crawford

## **MOSQUITO CONTROL FUNDS/USAGE**

Sec. 26.7A. G.S. 130A-347 reads as rewritten:

### **"§ 130A-347. Mosquito control funds.**

Funds received by the Department for mosquito control may be used to aid mosquito control districts and other units of local government engaged in mosquito control. The Commission shall adopt rules concerning the allocation of the funds. The rules shall provide for priority funding to those local activities that involve the abatement of breeding grounds. The rules may include provisions to withhold part of the mosquito control funds for the suppression of potential or documented mosquito-borne disease outbreaks. State aid for local physical control methods such as, but not limited to, cleaning, reopening or construction of ditches, restoration of streams and construction of impoundments shall not exceed the amount of funds and the value of services and facilities provided locally except State aid may be provided up to twice the locally provided amount for physical control methods in salt marsh areas. State aid for local chemical and biological control methods such as, but not limited to, control of immature and adult mosquitoes by use of chemicals, bacteria, fungi and mosquito fish shall not exceed the amount of funds and the value of services and facilities provided locally. State aid shall not be granted with respect to each individual project until the Department finds and certifies in writing for each project that: (i) the required local share is available; (ii) there is a documented mosquito problem which requires abatement; (iii) a work plan describing the method and procedures to be used for abatement is appropriate; and (iv) the rules of the Commission have been met."

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Weatherly, Crawford

## **ADOLESCENT PREGNANCY PREVENTION COALITION OF N.C./REPORTING**

Sec. 26.7B. The Adolescent Pregnancy Prevention Coalition of N.C. shall report on all of its programs to the Joint Legislative Commission on Governmental Operations on or before March 1 of each fiscal year and more frequently as requested by the Commission. The reports shall include information on the Coalition's activities and accomplishments during the past fiscal year, a list of the groups, organizations, communities, and other recipients of assistance from the Coalition in the last 12 months, itemized expenditures during the past fiscal year with sources of funding, planned

activities, and accomplishments for at least the next 12 months, and itemized anticipated expenditures with sources of funding for the next 12 months.

Requested by: Representatives Mitchell, Weatherly, Crawford, Senators Martin of Pitt, Edwards

#### **AQUARIUM STUDY**

Sec. 26.8. The Department of Environment, Health, and Natural Resources may study whether the State needs three aquariums and may make recommendations to the Joint Legislative Commission on Governmental Operations on or before April 1, 1996, on the beneficialness and feasibility of the consolidation of the aquariums at Fort Fisher, Pine Knoll Shores, and Roanoke Island.

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Weatherly, Crawford

#### **ADDITIONAL USE OF AQUARIUM FEES**

Sec. 26.8A. Notwithstanding the provisions of G.S. 143B-344.17, the Department of Environment, Health, and Natural Resources may use funds in the North Carolina Special Aquariums Fund for one full-time position at each aquarium site to collect admission fees and to maintain records of visitors at the sites and, during high visitation periods, for seasonal temporary positions at each site for additional maintenance, housekeeping, and educational services and to collect admission fees.

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Weatherly, Crawford

#### **BLUE RIBBON ADVISORY COUNCIL ON OYSTERS**

Sec. 26.8C. (a) Subsection (f) of Section 27.16 of Chapter 769 of the 1993 Session Laws reads as rewritten:

"(f) The Advisory Council shall make written quarterly reports to the Marine Fisheries Commission and the Joint Legislative Commission on Seafood and Aquaculture beginning October 1, 1994. The Advisory Council shall complete its study and make its final written report on or before ~~October 1, 1995~~. June 30, 1997. Upon making its final written report, the Advisory Council shall terminate."

(b) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of one hundred thousand dollars (\$100,000) for the 1995-96 fiscal year and the sum of one hundred thousand dollars (\$100,000) for the 1996-97 fiscal year shall be used for administrative and other expenses incurred by the Blue Ribbon Advisory Council on Oysters.

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Weatherly, Crawford

#### **OCCONEECHEE MOUNTAIN, BIRD ISLAND, HAMMOCKS BEACH STATE PARK LAND ACQUISITION FUNDS**

Sec. 26.8D. Notwithstanding G.S. 143-16.3, the Divisions of Parks and Recreation and of Coastal Management of the Department of Environment, Health, and

Natural Resources may apply to the Natural Heritage Trust Fund and to other State and federal agencies for funds to acquire Occoneechee Mountain, Bird Island, and additional land at Hammocks Beach State Park.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

**GRASSROOTS SCIENCE PROGRAM**

Sec. 26.10. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources for the Grassroots Science Program, the sum of five hundred thousand dollars (\$500,000) for fiscal year 1995-96 and the sum of five hundred thousand dollars (\$500,000) for fiscal year 1996-97 are allocated as grants-in-aid for each fiscal year as follows:

Catawba Science Center	\$50,000
Discovery Place	\$50,000
Imagination Station	\$50,000
North Carolina Museum of Life and Science	\$50,000
Rocky Mount Children's Museum	\$50,000
Schiele Museum of Natural History	\$50,000
Sci Works Science Center and Environmental Park of Forsyth County	\$50,000
Natural Science Center of Greensboro	\$50,000
Western North Carolina Nature Center	\$15,000
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$35,000
Cape Fear Museum	\$50,000

Requested by: Representatives Mitchell, Weatherly, Crawford, Senators Martin of Pitt, Edwards

**SPECIAL ZOO FUND**

Sec. 26.11. G.S. 143B-336.1 reads as rewritten:

**"§ 143B-336.1. Special Zoo Fund.**

A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created. The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor services facilities, construction of visitor services facilities and support facilities such as greenhouses and temporary animal holding areas, and for the replacement of tram equipment as required to maintain adequate service to the public. The Special Zoo Fund may also be used to match private funds which are raised for these purposes. Funds may be expended for these purposes by the Department of Environment, Health, and Natural Resources on the advice of the North Carolina Zoological Park Council and with the approval of the Office of State Budget and Management. The Department of Environment, Health, and Natural Resources shall

provide an annual report to the Office of State Budget and Management and to the Fiscal Research Division of the Legislative Services Office on the use of fees collected pursuant to this section."

Requested by: Senators Martin of Pitt, Edwards, Representatives Mitchell, Weatherly, Crawford

#### **RECLASSIFICATION OF EHNH REGIONAL OFFICE MANAGERS**

Sec. 26.12. The Department of Environment, Health, and Natural Resources shall reclassify its four regional office management positions as intergovernmental liaison positions. One position shall be located in Mooresville, one shall be located in Washington, one shall be located in Fayetteville, and one shall be located in Asheville. Each person assigned to fill a position must reside in the area in which the position is located.

#### **PART 27. DEPARTMENT OF LABOR**

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

#### **ELEVATOR DIVISION SELF-SUPPORTING**

Sec. 27. The Department of Labor shall study and make recommendations to the General Assembly on a plan to make the Elevator Division of the Department of Labor self-supporting. The report shall study the corresponding fee increases that will be required for inspection periods of six months, nine months, and twelve months. The report shall also state the corresponding operating costs and personnel requirements, including expansions and reductions of positions, for each inspection period. The Department's plan shall be developed as if it were to be implemented in the 1996-97 fiscal year. The Department shall report to the Joint Legislative Commission on Governmental Operations of the General Assembly on or before April 1, 1996.

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt

#### **OSHA POSITIONS**

Sec. 27.1. (a) The Department of Labor may use funds appropriated to the Department of Labor for the Occupational Safety and Health Act of North Carolina (OSHANC) program to fully fund enforcement personnel in the Compliance Bureau of the OSHANC program, provided the Department of Labor certifies to the Office of State Budget and Management that no federal match is available for the 1995-96 fiscal year and for the 1996-97 fiscal year.

(b) If federal Occupational Safety and Health Administration funds are granted to match all or part of the funds for enforcement positions and support that are one hundred percent (100%) State-funded, then State funds equivalent to the federal match shall revert to the General Fund at the end of the fiscal year for which the federal match was received.

Requested by: Representative K. Miller, Senator Martin of Pitt

## **DEPARTMENTAL STUDY OF WORKPLACE RETALIATORY DISCRIMINATION DIVISION OF THE DEPARTMENT OF LABOR**

Sec. 27.2. The Department of Labor, the Department of Commerce, and the Employment Security Commission shall jointly undertake a study to determine if the functions of the Workplace Retaliatory Discrimination Division of the Department of Labor can effectively and efficiently be combined with certain related activities of the Employment Security Commission. The study shall include review of federal law pertaining to employment security and retaliatory discrimination to ensure that the combining of these functions would not conflict with pertinent federal law. The Department of Labor shall be the lead agency on this study and shall report the results and recommendations of the study to the Joint Legislative Commission on Governmental Operations by March 1, 1996.

## **PART 27A. EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**

Requested by: Representatives Holmes, Creech, Esposito, Senators Plyler, Perdue, Odom

### **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**

Sec. 27A. Notwithstanding any other provision of law, the Early Childhood Education and Development Initiatives, under Part 10B of Article 3 of Chapter 143B of the General Statutes, are subject to the following terms and conditions for the 1995-97 fiscal biennium:

(1) **Accountability.**

The intent of the General Assembly is to strengthen the accountability of the Department of Human Resources, the North Carolina Partnership for Children, Inc., and the local partnerships in the expenditure of public funds and achievement of Program goals for the Early Childhood Education and Development Initiatives Program, as authorized under Part 10B of Article 3 of Chapter 143B of the General Statutes. The importance of education as a part of all initiatives in this Program shall be emphasized.

In order to accomplish this level of accountability, the Joint Legislative Commission on Governmental Operations shall, consistent with current law, be the legislative oversight body for the Program. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may appoint a subcommittee of the Joint Legislative Commission on Governmental Operations to carry out this function. This subcommittee may conduct all initial reviews of plans, reports, and budgets relating to the Program and shall make recommendations to the Joint Legislative Commission on Governmental Operations.

a. Existing Partnerships - Local partnerships receiving State funds shall submit a Certification Annual Report on April 1 of each

year to the North Carolina Partnership for Children, Inc., the Joint Legislative Commission on Governmental Operations, or any committee designated by Joint Legislative Commission on Governmental Operations. Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. Quality incentive grants shall be administered at the partnership level. A definition of administrative costs shall be determined by the independent firm selected under sub-subdivision b. of this subdivision.

- b. Program Audit - The Joint Legislative Commission on Governmental Operations shall select an independent firm recognized in performance auditing to conduct an independent performance audit of the first two years of operations of the 24 existing partnerships and of the administration of the Program by the Department of Human Resources. The audit's directives shall be determined by the Joint Legislative Commission on Governmental Operations and the independent firm. An interim program and performance audit report shall be submitted to the Joint Legislative Commission on Governmental Operations by January 1, 1996, and a final program and performance audit report shall be submitted to the Joint Legislative Commission on Governmental Operations by April 1, 1996. A definition of administrative costs shall be determined by the independent firm. Only in-kind contributions that are quantifiable, as determined by the independent firm, may be applied to the in-kind match requirement. The match requirement in subdivision (3) of this section shall be studied by the independent firm and recommendations for revision, if any, shall be reported to the Joint Legislative Commission on Governmental Operations.
- c. The North Carolina Partnership for Children, Inc., shall continue to make quarterly reports to the Joint Legislative Commission on Governmental Operations as provided for in G.S. 143B-168.13(5).
- d. New partnerships - In subsequent fiscal biennia, any new local partnership, before receiving State funds, shall be required to submit a detailed plan for expenditure of State funds for appropriate programs to the North Carolina Partnership for Children, Inc., and the Joint Legislative Commission on Governmental Operations for approval in April of the fiscal year in which the local partnership received planning funds. State funds to implement the programs shall not be allocated to the local partnership until the program plan is approved by the



North Carolina Partnership for Children, Inc., after consultation with the Joint Legislative Commission on Governmental Operations. After receipt of initial program funds, local partnerships shall then be required to submit annual Certification Reports as provided for in sub-subdivision a. of this subdivision.

- e. Contracting for Services - The North Carolina Partnership for Children, Inc., and all local Partnerships shall use competitive bidding practices in contracting for goods and services on all contract amounts of \$1,500 and above, and where practicable, for amounts of less than \$1,500.
- f. Role of North Carolina Partnership for Children, Inc. - The role of the North Carolina Partnership for Children, Inc., shall be expanded to provide technical assistance to local partnerships, assess outcome goals for children and families, ensure that statewide goals and legislative guidelines are being met, help establish policies and outcome measures, obtain non-State resources for early childhood and family services, and document and verify the cumulative contributions received by the partnerships.

(2) Funding.

- a. Existing partnerships - All 24 local partnerships that received State funds during the 1993-95 biennium shall receive their State funds proposed for the 1995-96 fiscal year. Existing partnerships shall file budgets and plans for review by the North Carolina Partnership for Children, Inc. Funds for the 1996-97 fiscal year shall be available after the Joint Legislative Commission on Governmental Operations has reviewed the independent evaluation discussed in sub-subdivision (1)b. of this subdivision, and the Partnership has approved these plans and budgets in consultation with the Joint Legislative Commission on Governmental Operations. These 24 partnerships shall be required to submit a Certification Annual Report as provided in sub-subdivision a. of subdivision (1) of this section, beginning in April 1997.
- b. New partnerships - Funds for planning, up to a maximum of \$3,500,000, may be made available to the 12 new partnerships in the 1995-96 fiscal year out of the continuation monies designated for the program. If the performance audit report is determined to be satisfactory to the Joint Legislative Commission on Governmental Operations, funding and other recommendations for expansion shall be made to the General Assembly by the Joint Legislative Commission on Governmental Operations for the 1996-97 fiscal year.

- c. Department of Human Resources; State-level administrative funding in the 1995-96 fiscal year and the 1996-97 fiscal year - Of the funds appropriated to the Department of Human Resources for Early Childhood Education and Development Initiatives for the 1995-97 fiscal biennium:
  - 1. No funds shall be used for State education technology;
  - 2. The Department of Human Resources shall receive \$500,000 for the 1995-96 fiscal year and \$250,000 for the 1996-97 fiscal year for State administration;
  - 3. The Joint Legislative Commission on Governmental Operations shall receive \$500,000 for the 1995-96 fiscal year for the independent performance audit contract; and
  - 4. Funding for the North Carolina Partnership for Children, Inc., shall be \$700,000 for each fiscal year of the biennium.

(3) Matching requirement.

The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than 50% of the total amount budgeted for the Early Childhood Education and Development Initiatives in each fiscal year of the biennium as follows: contributions of cash equal to at least ten percent (10%) and in-kind donated resources equal to no more than ten percent (10%) for a total match requirement of twenty percent (20%) for each fiscal year. Only in-kind contributions that are quantifiable, as determined by the independent auditing firm, shall be applied to the in-kind match requirement.

Failure to obtain a twenty percent (20%) match by May 1 of each fiscal year shall result in a proportionate reduction in the appropriation for the Early Childhood Education and Development Initiatives Program for the next fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations pursuant to G.S. 143B-168.13(5) in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

Sec. 27A.1. G.S. 143B-168.12(a) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

- (1) Members of the Board of Directors shall consist of the following ~~33~~39 members:
  - a. The Secretary of Human Resources, ex officio;
  - b. The Secretary of Environment, Health, and Natural Resources, ex officio;
  - c. The Superintendent of Public Instruction, ex officio;

- d. The President of the Department of Community Colleges, ex officio;
  - e. One resident from each of the 1st, 3rd, 5th, 7th, 9th, and 11th Congressional Districts, appointed by the President Pro Tempore of the Senate;
  - f. One resident from each of the 2nd, 4th, 6th, 8th, 10th, and 12th Congressional Districts, appointed by the Speaker of the House of Representatives; ~~and~~
  - g. Seventeen members, of whom four shall be members of the party other than the Governor's party, appointed by the ~~Governor~~ Governor;
  - h. The President Pro Tempore of the Senate, or a designee;
  - i. The Speaker of the House of Representatives, or a designee;
  - j. The Majority Leader of the Senate, or a designee;
  - k. The Majority Leader of the House of Representatives, or a designee;
  - l. The Minority Leader of the Senate, or a designee; and
  - m. The Minority Leader of the House of Representatives, or a designee.
- (2) The North Carolina Partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department.
- (3) The North Carolina Partnership shall oversee the development and implementation of the local demonstration projects as they are selected."

**PART 28. MISCELLANEOUS PROVISIONS**

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

**EFFECT OF HEADINGS**

Sec. 28. 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: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

**EXECUTIVE BUDGET ACT REFERENCE**

Sec. 28.1. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

### **CONFERENCE REPORT**

Sec. 28.2. (a) The House and Senate Conference Report on the Continuation Budget, dated June 21, 1995, which was distributed in the House and Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act.

(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 1995-97 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. his budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, in accordance with the steps that follow and the line item detail in the budget enacted by the General Assembly may be derived accordingly:

- (1) Negative reserves set out in the submitted budget were deleted and the totals were increased accordingly.
- (2) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the House and Senate Conference Report on the Continuation Budget, dated May 31, 1995.
- (3) Transfers of funds supporting programs were made in accordance with the House and Senate Conference Report on the Continuation Budget, dated June 21, 1995.

The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

(c) The base budget reductions set out in the House and Senate Conference Report on the Continuation Budget, dated June 21, 1995, and in this act that cannot be implemented unless House Bill 994 of the 1995 General Assembly is enacted by the 1995 General Assembly shall not become effective unless, or to the extent, that this bill is enacted making the statutory changes necessary to implement the reductions. If and to the extent that this bill making the statutory changes necessary to implement the reductions is not enacted by the 1995 General Assembly, the reductions shall not become effective and the General Fund appropriations to the corresponding departments for the corresponding purposes are hereby increased accordingly.

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

**MOST TEXT APPLIES ONLY TO 1995-97**

Sec. 28.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1995-97 biennium, the textual provisions of this act shall apply only to funds appropriated for and activities occurring during the 1995-97 biennium.

Requested by: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

**SEVERABILITY CLAUSE**

Sec. 28.4. 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: Representatives Holmes, Creech, Esposito, Senators Odom, Plyler, Perdue

**EFFECTIVE DATE**

Sec. 28.5. Except as otherwise provided, this act becomes effective July 1, 1995.

In the General Assembly read three times and ratified this the 26th day of June, 1995.

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Dennis A. Wicker  
President of the Senate

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Harold J. Brubaker  
Speaker of the House of Representatives