

GENERAL ASSEMBLY OF NORTH CAROLINA  
SECOND EXTRA SESSION 1996

CHAPTER 18  
HOUSE BILL 53

AN ACT TO MODIFY THE CONTINUATION BUDGET OPERATIONS APPROPRIATIONS ACT OF 1995, AND THE EXPANSION AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 1995, AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

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 Current Operations Appropriations Act of 1996.

**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 1996-97 fiscal year.

<u>Current Operations - General Fund</u>	<u>1996-97</u>
General Assembly	\$ (225,000)
Judicial Department	7,895,957
Office of the Governor	

01.	Office of the Governor	(31,388)
02.	Office of State Budget and Management	(37,689)
03.	Office of State Planning	(5,000)
04.	Housing Finance Agency	3,500,000
	Department of Secretary of State	437,048
	Department of State Treasurer	2,200,000
	Department of Public Education	98,021,116
	Department of Justice	1,260,151
	Department of Administration	(270,049)
	Department of Agriculture	972,020
	Department of Labor	419,183
	Department of Insurance	1,895,364
	Department of Environment, Health, and Natural Resources	21,490,126
	Office of Administrative Hearings	262,754
	Department of Human Resources	
01.	Office of the Secretary	795,466
02.	Division of Aging	5,150,231
03.	Division of Child Development	8,804,765
04.	Division of Services for the Deaf and Hard of Hearing	(148,984)
05.	Division of Social Services	(5,462,841)
06.	Division of Medical Assistance	(13,609,703)
07.	Division of Services for the Blind	(36,419)
08.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	(5,596,205)
09.	Division of Facility Services	431,977
10.	Division of Vocational Rehabilitation Services	978,310
11.	Division of Youth Services	184,566

Total Department of Human Resources	(8,508,837)
Department of Correction	(37,214,282)
Department of Commerce	
01. Commerce	11,353,334
02. MCNC	(14,000,000)
03. Rural Economic Development Center	2,700,000
04. Biotechnology Center	1,000,000
Department of Revenue	1,793,876
Department of State Auditor	175,000
Department of Cultural Resources	3,466,303
Department of Crime Control and Public Safety	738,944
Office of the State Controller	8,935,985
University of North Carolina - Board of Governors	
01. General Administration	13,000,000
02. University Institutional Programs	29,904,337
03. Related Educational Programs	3,880,160
04. University of North Carolina at Chapel Hill	
a. Academic Affairs	(422,425)
b. Health Affairs	(29,424)
05. North Carolina State University at Raleigh	
a. Academic Affairs	(246,316)
06. University of North Carolina at Greensboro	(114,556)
07. University of North Carolina at Charlotte	(5,000)
08. University of North Carolina at Asheville	(4,500)
09. North Carolina Agricultural and Technical State University	(438,523)
10. Western Carolina University	(91,286)

11.	Appalachian State University	(203,487)
12.	University of North Carolina at Pembroke	(3,190)
13.	Winston-Salem State University	(500)
14.	Elizabeth City State University	(125,503)
15.	Fayetteville State University	(9,000)
16.	North Carolina Central University	(67,779)
17.	North Carolina School of the Arts	(317,543)
18.	North Carolina School of Science and Mathematics	(28,036)
19.	UNC Hospitals at Chapel Hill	(20,000,000)
	Total University of North Carolina - Board of Governors	24,677,429
	Department of Community Colleges	20,795,894
	State Board of Elections	175,000
	Debt Service	(9,000,000)
	Salary Adjustment Fund	1,500,000
	Reserve for Compensation Increase	267,546,807
	Reserve for Military Affairs	200,000
	Reduction in Postage	(300,000)
	Retirement Rate Adjustment	(325,600)
	Criminal Justice Information System	400,000
	Reserve for Structured Sentencing	1,433,800
	<b>GRAND TOTAL CURRENT OPERATIONS – GENERAL FUND</b>	<b>\$415,328,246</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>1996-97</u>
Department of Transportation	
01. Administration	\$ 960,000
02. Construction and Maintenance	2,206,000
03. Division of Motor Vehicles	1,894,190
04. Reserve for Salary Increases	<u>14,008,494</u>
 GRAND TOTAL CURRENT OPERATIONS/HIGHWAY FUND	 \$ 19,068,684

**CURRENT OPERATIONS/HIGHWAY FUND - NONRECURRING APPROPRIATIONS**

Sec. 3.1. Appropriations are made from the Highway Fund of the 1996-97 fiscal year for use by the Department of Transportation, and for other purposes to provide for one-time expenditures according to the following schedule:

<u>Current Operations/Highway Fund - Nonrecurring</u>	<u>1996-97</u>
Department of Transportation	
01. Administration	\$ 2,781,145
02. Construction and maintenance	
(a) State Maintenance	
(01) Contract Resurfacing	6,748,423
03. Division of Motor Vehicles	1,296,716
04. Reserve for Capital Projects	1,958,126
05. Reserve for Rail Travel Enhancement	1,700,000
 Department of Crime Control and Public Safety	 3,288,000
 Reserve for Salary Increases	 <u>851,906</u>
 GRAND TOTAL CURRENT OPERATIONS/HIGHWAY FUND - NONRECURRING	 \$18,624,316

**PART 4. HIGHWAY TRUST FUND**

Sec. 4. In addition to the appropriations made by Section 4 of Chapter 324 of the 1995 Session Laws, appropriations from the Highway Trust Fund are made for the 1996-97 fiscal year as follows:

01. Intrastate System	\$ 8,569,105
02. Secondary Roads Construction	612,813

03.	Urban Loops	3,464,990
04.	State Aid - Municipalities	899,099
05.	Program Administration	271,993
06.	Transfer to General Fund	_____ -

GRAND TOTAL/HIGHWAY TRUST FUND \$ 13,818,000

**PART 5. GENERAL FUND AVAILABILITY STATEMENTS**

Requested by: Senators Plyler, Perdue, Odom

**BUDGET REFORM STATEMENTS**

Sec. 5. The General Fund and availability used in developing the 1996-97 budget is as shown below:

(1)	Composition of the 1996-97 beginning availability:		(\$ Million)
a.	Revenue collections in 1995-96 authorized but not appropriated by the 1995 General Assembly		\$183.8
b.	Revenue collections in 1995-96 in excess of authorized estimates		320.6
c.	Estimated unexpended appropriations for 1995-96 (reversions)		220.0
	1995-96 Ending Credit Balance		\$724.4
d.	Plus: Reserved 1994-95 Disproportionate Share Funds		1.6
e.	Less: Transfer to Savings Reserve Account		77.4
f.	Less: Transfer to Reserve for Repair and Renovations		130.0
g.	Less: Transfer to Clean Water Management Trust Fund		47.1
h.	Transfer to Capital Improvement Reserve		39.5
i.	Transfer to Federal Retiree Refund Account		26.2
(2)	Beginning Unrestricted Fund Balance, July 1, 1996		\$405.8
(3)	Authorizations by the 1995 General Assembly for 1996-97:		
a.	Revenue collections left unaddressed	242.1	
b.	1996-97 capital authorizations	<u>-47.8</u>	194.3

(4)	Projected revenue collections above 1995 Session estimates under existing tax structure		109.4
(5)	Disproportionate Share Revenue Estimates lowered		-15.7
(6)	Non-tax Revenue		
	a. Increase Court Fees	4.2	
	b. Local Sales Tax–Local Government Commission	<u>1.2</u>	5.4
(7)	Reserve for Tax Reductions and Federal Retiree Refunds/Credits		<u>-85.2</u>
TOTAL AVAILABILITY			\$614.0

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

**DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS CLARIFICATION**

Sec. 5.2. Section 6.8 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"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 Holmes, Creech, Esposito, Senators Perdue, Plyler, Odom

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

Sec. 5.3. (a) Of the funds in the Reserve for Repairs and Renovations for the 1996-97 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 location 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.

(b) Funds earmarked in the 1995-96 fiscal year for the Repairs and Renovations Reserve but not appropriated are hereby appropriated. The Office of State Budget and Management may allocate these funds for land acquisition, matching federal funds, State grants, and grants-in-aid.

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

**USE OF FUNDS FROM REPAIRS AND RENOVATIONS RESERVE ACCOUNT/REPORT TO GOVERNMENTAL OPERATIONS**

Sec. 5.4. Notwithstanding G.S. 143-16.3, funds from the Repairs and Renovations Reserve Account may be used for purposes consistent with G.S. 143-15.3A and reported to the Joint Legislative Commission on Governmental Operations.

**PART 6. BLOCK GRANT APPROPRIATIONS**

Requested by: Representatives Holmes, Creech, Esposito, Gardner, Nye, Russell, Senators Plyler, Perdue, Odom, Martin of Guilford, Lucas

**DHR BLOCK GRANT PROVISIONS**

Sec. 6. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1997, according to the following schedule:

**COMMUNITY SERVICES BLOCK GRANT**

01.	Community Action Agencies	\$ 9,198,794
02.	Limited Purpose Agencies	511,044
03.	Department of Human Resources to administer and monitor the activities of the Community Services Block Grant	511,044
	<b>TOTAL COMMUNITY SERVICES BLOCK GRANT</b>	<b>\$ 10,220,882</b>

**SOCIAL SERVICES BLOCK GRANT**



01.	County Departments of Social Services	\$ 30,395,663
02.	Allocation for In-Home Services provided by County Departments of Social Services	2,101,113
03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	4,764,124
04.	Division of Services for the Blind	3,205,711
05.	Division of Youth Services	950,674
06.	Division of Facility Services	343,341
07.	Division of Aging - Home and Community Care Block Grant	1,915,234
08.	Day Care Services	15,694,900
09.	Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
10.	State Administration	1,954,237
11.	Child Medical Evaluation Program	238,321
12.	Adult Day Care Services	599,551
13.	County Departments of Social Services for Child Abuse/Prevention and Permanency Planning	394,841
14.	Transfer to Preventive Health Block Grant for Emergency Medical Services	213,128
15.	Allocation to Preventive Health Block Grant for AIDS Education, Counseling and Testing	66,939
16.	Transfer to Department of Administration for the N.C. Commission of Indian Affairs In Home Services Program for the elderly	203,198

17.	Division of Vocational Rehabilitation- Easter Seals Society	116,779
18.	UNC-CH CARES Program for training and consultation services	247,920
19.	Transfer to Department of Environment, Health and Natural Resources for the Adolescent Pregnancy Prevention Program	239,261
20.	Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 63,757,721
LOW INCOME ENERGY BLOCK GRANT		
01.	Energy Assistance Programs	\$ 5,216,233
02.	Crisis Intervention	5,709,258
03.	Administration	1,275,611
04.	Weatherization Program	4,078,042
05.	Indian Affairs	33,022
TOTAL LOW INCOME ENERGY BLOCK GRANT		\$ 16,312,166
MENTAL HEALTH SERVICES BLOCK GRANT		
01.	Provision of Community-Based Services in accordance with the Mental Health Study Commission's Adult Severe and Persistently Mentally Ill Plan	\$ 3,794,179
02.	Provision of Community-Based Services in accordance with the Mental Health Study Commission's Child Mental Health Plan	1,802,819

03. Administration	572,897
<b>TOTAL MENTAL HEALTH SERVICES BLOCK GRANT</b>	<b>\$ 6,169,895</b>

**BLOCK GRANT FOR THE PREVENTION AND TREATMENT OF SUBSTANCE ABUSE**

01. Provision of Community-Based Alcohol and Drug Abuse Services, Tuberculosis Services, and Services provided by the Alcohol, Drug Abuse Treatment Centers	\$ 10,935,939
02. Continuation of Services for Pregnant Women and Women with Dependent Children	5,060,076
03. Continuation and Expansion of Services to IV Drug Abusers and others at risk for HIV diseases	4,836,407
04. Provision of services in accordance with the Mental Health Study Commission's Child and Adolescent Alcohol and other Drug Abuse Plan	5,964,093
05. Administration	1,841,742
<b>TOTAL BLOCK GRANT FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE</b>	<b>\$ 28,638,257</b>

**CHILD CARE AND DEVELOPMENT BLOCK GRANT**

01. Child Day Care Services	\$ 17,826,641
02. Administrative Expenses and Quality and Availability Initiatives	1,980,738
03. Before and After School Child Care Programs and Early Childhood Development Programs	4,951,845
04. Quality Improvement Activities	1,650,614

TOTAL CHILD CARE AND DEVELOPMENT  
BLOCK GRANT

\$ 26,409,838

(b) Decreases in Federal Fund Availability

If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of the federal block grants listed above, shall be reduced equally to total the reduction in federal funds.

(c) Increases in Federal Fund Availability

Any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Human Resources, with the approval of the Office of State Budget and Management, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly. All these budgeted increases shall be reported to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

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

(d) If funds appropriated through the Child Care and Development Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to other programs, in accordance with the federal requirements of the grant, in order to use the federal funds fully.

(e) The Division of Vocational Rehabilitation shall evaluate the services currently provided by the United Cerebral Palsy contract and shall report any recommended changes in this funding allocation for the 1997-1998 Social Services Block Grant to the 1997 General Assembly and to the Fiscal Research Division.

(f) Of the funds appropriated in the Low Income Energy Block Grant for the Weatherization Program, one million six hundred thirty-one thousand two hundred eighteen dollars (\$1,631,218) are contingent upon approval of a federal waiver. In the event this waiver is not approved these funds shall be transferred to the Crisis Intervention Program.

(g) The Department shall explore and report by April of 1997, on the use of private nonprofit organizations for the administration of Low Income Energy Block Grant funds for Crisis Intervention.

**NER BLOCK GRANT FUNDS**

Sec. 6.1 (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1997, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	\$ 1,000,000
02.	Urgent Needs and Contingency	2,177,500

03.	Community Empowerment	2,613,000
04.	Economic Development	8,710,000
05.	Community Revitalization	29,178,500
06.	State Technical Assistance	450,000
07.	Housing Development	871,000

TOTAL COMMUNITY DEVELOPMENT  
BLOCK GRANT - 1997 Program Year \$ 45,000,000

TOTAL JOB TRAINING PARTNERSHIP ACT \$ 35,796,741

MATERNAL AND CHILD HEALTH BLOCK GRANT

01.	Healthy Mother/Healthy Children Block Grants to Local Health Departments	\$ 9,838,074
02.	High Risk Maternity Clinic Services, Perinatal Education and Training, SIDS, and Consultation/Technical Assistance	1,810,112
03.	Services to Children With Special Health Care Needs	5,065,331

TOTAL MATERNAL AND CHILD  
HEALTH BLOCK GRANT \$ 16,713,517

PREVENTIVE HEALTH SERVICES BLOCK GRANT

01.	Emergency Medical Services	\$ 213,128
02.	Hypertension Programs	711,813
03.	Statewide Health Promotion Programs	2,568,940
04.	Dental Health for Fluoridation of Water Supplies	210,269
05.	Rape Prevention and Rape Crisis Programs	187,110

06.	Rape Prevention and Rape Education	1,335,126
07.	AIDS/HIV Education, Counseling, and Testing	66,939
08.	Office of Minority Health and Minority Health Council	174,915
09.	Administrative and Indirect Cost	199,048

TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT      \$ 5,667,288

(b) Decreases in Federal Fund Availability

For JTPA and Community Development Block Grants: If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

For the Maternal and Child Health Services and Preventive Health Services federal block grants: If federal funds are reduced less than ten percent (10%) below the amounts specified above after the effective date of this act, then every program in the Maternal and Child Health Services and in the Preventive Health Services block grants shall be reduced by the same percentage as the reduction in federal funds. If federal funds are reduced by ten percent (10%) or more below the amounts specified above after the effective date of this act, then for the Maternal and Child Health Services and the Preventive Health Services block grants the Department of Environment, Health, and Natural Resources shall allocate the decrease in funds after considering the effectiveness of the current level of services.

(c) Increases in Federal Fund Availability

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

- (1) For the Community Development Block Grant – Each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.
- (2) For the Maternal and Child Health Services Block Grant – Thirty percent (30%) of these additional funds shall be allocated to services for children with special health care needs and seventy percent (70%) shall be allocated to local health departments to assist in the reduction of infant mortality.
- (3) For the Preventive Health Block Grants – If federal funds are increased by ten percent (10%) or more, then the Department shall allocate the increase in funds after considering the effectiveness of the current level of services and the effectiveness of services to be funded by the increase. If federal funds are increased by less than ten percent (10%),

then these additional funds may be budgeted by the appropriate department, with the approval of the Office of State Budget and Management, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

(d) Changes to budgeted allocations to the Maternal and Child Health Services and the Preventive Health Services block grants due to increases or decreases in federal funds shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division within 30 days of the allocation. All other increases shall be reported to the Joint Legislative Commission on Governmental Operations and to the Director of the Fiscal Research Division.

(e) Education Setaside of JTPA Funds

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

(f) Limitations on Community Development Block Grant Funds

Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State administration; up to two million one hundred seventy-seven thousand five hundred dollars (\$2,177,500) may be used for Urgent Needs and Contingency; up to two million six hundred thirteen thousand dollars (\$2,613,000) may be used for Community Empowerment; up to eight million seven hundred ten thousand dollars (\$8,710,000) may be used for Economic Development; not less than twenty-nine million one hundred seventy-eight thousand five hundred dollars (\$29,178,500) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to eight hundred seventy-one thousand dollars (\$871,000) may be used for Housing Development. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

## **PART 7. GENERAL PROVISIONS**

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

### **REPAIRS RESERVE ACCOUNT CHANGES**

Sec. 7.1. (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; funds if directly appropriated; in that case, only funds sufficient to reach the five percent (5%) level shall be reserved. The State Controller shall also reserve ~~the greater of (i) one-fourth of any from the~~ 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 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(a) reads as rewritten:

"(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."

(c) This section is effective June 30, 1996.

Requested by: Senator Odom

#### **WESTERN CAROLINA CENTER FUNDS**

Sec. 7.2. Of the funds allocated in Section 5.3 of this act to the Office of State Budget and Management from the Repairs and Renovations Fund, up to three hundred thirty-nine thousand three hundred fifty-seven dollars (\$339,357) may be used for Phase II Retrofit to install a freestanding boiler at the Western Carolina Center.

Requested by: Senators Plyler, Perdue, Odom

#### **FUNDS FOR ASBESTOS REMOVAL/FIRE SAFETY**

Sec. 7.3. Of the funds allocated in Section 5.3 of this act to the Board of Governors of The University of North Carolina from the Repairs and Renovations Reserve Fund, at least four million dollars (\$4,000,000) shall be used for projects related to asbestos removal or fire safety.

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



## CHANGES IN THE EXECUTION OF THE BUDGET

Sec. 7.4. (a) G.S. 120-76 is amended by adding a new subdivision to read:

"(8) The Joint Legislative Commission on Governmental Operations shall be consulted by the Governor before the Governor does any of the following:

- a. Makes allocations from the Contingency and Emergency Fund.
- b. Authorizes expenditures in excess of the total requirements of a program as enacted by the General Assembly, except for trust funds as defined in G.S. 116-36.1(g).
- c. Proceeds to reduce programs subsequent to a reduction of ten percent (10%) or more in the federal fund level certified to a department and any subsequent changes in distribution formulas.
- d. Takes extraordinary measures under Article III, Section 5(3) of the Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall, including, but not limited to, the following: loans among funds, personnel freezes or layoffs, capital project reversions, program eliminations, and use of reserves. However, if the Committee fails to meet within 10 calendar days of a request by the Governor for its consultation, the Governor may proceed to take the actions he feels are appropriate and necessary and shall then report those actions at the next meeting of the Commission.
- e. Approves a new capital improvement project funded from gifts, grants, receipts, special funds, self-liquidating indebtedness, and other funds or any combination of funds for the project not specifically authorized by the General Assembly. The budget for each capital project must include projected revenues in an amount not less than projected expenditures.

Notwithstanding the provisions of this subdivision or any other provision of law requiring prior consultation by the Governor with the Commission, whenever an expenditure is required because of an emergency that poses an imminent threat to public health or public safety, and is either the result of a natural event, such as a hurricane or a flood, or an accident, such as an explosion or a wreck, the Governor may take action under this subsection without consulting the Commission if the action is determined by the Governor to be related to the emergency. The Governor shall report to the Commission on any expenditures made under this paragraph no later than 30 days after making the expenditure and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency."

(b) G.S. 143-15.3A is amended by adding a new subsection to read:

"(c) The Governor shall consult with the Joint Legislative Commission on Governmental Operations before making allocations from the Repairs and Renovations Reserve Account.

Notwithstanding this subsection, whenever an expenditure is required because of an emergency that poses an imminent threat to public health or public safety, and is either the result of a natural event, such as a hurricane or a flood, or an accident, such as an explosion or a wreck, the Governor may take action under this subsection without consulting the Commission if the action is determined by the Governor to be related to the emergency. The Governor shall report to the Commission on any expenditures made under this paragraph no later than 30 days after making the expenditure and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency."

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

**"§ 143-12. Bills containing proposed appropriations.**

(a) The Director shall cause to be prepared and submitted to the General Assembly the following bills:

- (1) A bill containing all proposed current operations appropriations of the budget for each year in the ensuing biennium, which shall be known as the 'Current Operations Appropriations Bill', and a bill containing all proposed capital appropriations of the budget for each year in the ensuing biennium, which shall be known as the 'Capital Improvement Appropriations Bill'.
- (2) If necessary, a bill containing the Director of the Budget's views on revenue for the ensuing biennium, which shall be known as the 'Budget Revenue Bill', and shall provide an amount of revenue for the ensuing biennium sufficient, in the opinion of the Director and the Commission, to meet the appropriations contained in the Current Operations Appropriations Bill and the Capital Improvement Appropriations Bill.
- (3) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1034, s. 153.

(b) To the end that all expenses of the State may be brought and kept within the budget, the Current Operations Appropriations Bill shall contain a specific sum as a contingent or emergency appropriation, and shall allocate a specific portion of that sum to a special reserve to be used solely for purposes as outlined in ~~G.S. 143-23(a1)(3), (4), and (5).~~ The G.S. 143-23(a1)(2). Notwithstanding any other provision of law, the manner of the allocation of such contingent or emergency appropriation shall be as follows: Any institution, department, commission, or other agency or activity of the State, or other activity in which the State is interested, desiring an allotment out of such contingent or emergency appropriation, shall upon forms prescribed and furnished by the Director of the Budget, present such request in writing to the Director of the Budget, with such information as he may require, and if the Director of the Budget shall approve such request, in whole or in part, and after consulting with the Joint Legislative

Commission on Governmental Operations, he shall forthwith present the same to the Governor and Council of State, and upon their order only shall such allotment be made. If the Director shall disapprove the request of such an allotment out of the emergency or contingent appropriation, he shall transmit his refusal and his reason therefor to the Governor and Council of State, for their information.

Funds allocated from the contingent or emergency appropriation may be used only for the purpose for which they were allocated and may not be reallocated for another purpose by the Governor. If the funds are not spent or encumbered for the purpose for which they were allocated by the end of the fiscal biennium and if the Governor and the Council of State do not reallocate them for that same purpose, the funds shall revert to the fund from which the contingent or emergency appropriation was made. Also, if the funds are not needed for the purpose for which they were allocated, the funds shall revert to the fund from which the contingent or emergency appropriation was made.

(c) The Director of the Budget may, in preparation of the Appropriations and Revenue Bills, seek the advice of the Advisory Budget Commission. If the Director and the Commission shall not agree as to the Appropriations and Revenue Bills in substantial particulars, the Director shall prepare the same, based on his 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 they shall find proper to submit as representing their own views."

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

"(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. Assembly or, if the General Assembly is not in session, the Director of the Budget has first consulted with the Joint Legislative Commission on Governmental Operations under G.S. 143-15.3A(c)."

(e) G.S. 143-18.1(c) reads as rewritten:

"(c) Upon the request of the administration of any State agency or institution, the Director of the Budget may accept funds by gift or grant for the construction of a capital improvement project not specifically provided for or authorized by the General Assembly. These funds shall be placed in a special reserve account to be held by the State Treasurer until the end of the biennium in which the account was established or until the capital improvement project is authorized by the Director of the Budget, whichever occurs first. These funds shall be invested and the interest thereon shall be added to the reserve. If the project is not authorized by the end of that biennium, the State Treasurer shall pay the funds accumulated in the special reserve account to the grantor or donor. Upon the establishment of a special reserve account under this section, the Director of the Budget shall notify the Speaker of the House and President of the Senate of the receipt of the funds and the existence of the reserve account. Upon the request of the administration of any State agency or institution, the Governor ~~may~~ may, under G.S. 120-76(8), authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be fully funded by gifts, grants, receipts, special funds, self-liquidating indebtedness, other funds, or any combination of funds, but not including funds appropriated from the General Fund. All expenditures under this authorization shall be handled in full compliance with the provisions of the Executive Budget Act.

The agency shall support its request for such capital improvement project, or projects, with the following information: the estimated annual operating costs for (i) utilities; (ii) maintenance; (iii) repairs; (iv) additional personnel; (v) any and all other expenses to the State resulting from the addition of this facility to the plant of the institution. Prior to taking any action under this section to authorize a project, the Governor or the Director of the Budget may consult with the Advisory Budget Commission and the Capital Planning Commission."

(f) G.S. 143-23 reads as rewritten:

**"§ 143-23. All maintenance funds for itemized purposes; transfers between objects or line items.**

(a) All appropriations now or hereafter made for the maintenance of the various departments, institutions and other spending agencies of the State, are for the (i) purposes or programs and (ii) objects or line items enumerated in the itemized requirements of such departments, institutions and other spending agencies submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, as amended by the General Assembly. The function of the Advisory Budget Commission under this subsection applies only if the Director of the Budget consults with the Commission in preparation of the budget.

~~(a1) No transfers may be made between objects or line items in the budget of any department, institution, or other spending agency; however, with the approval of the Director of the Budget, a department, institution, or other spending agency may spend more than was appropriated for an object or line item if the overexpenditure is:~~

- ~~(1) In a purpose or program for which funds were appropriated for that fiscal period and the total amount spent for the purpose or program is no more than was appropriated for the purpose or program for the fiscal period;~~
- ~~(2) Required to continue a purpose or program because of unforeseen events, so long as the scope of the purpose or program is not increased;~~
- ~~(3) Required by a court, Industrial Commission, or administrative hearing officer's order or award or to match unanticipated federal funds;~~
- ~~(4) Required to respond to an unanticipated disaster such as a fire, hurricane, or tornado; or~~
- ~~(5) Required to call out the National Guard.~~

~~The Director of the Budget shall report on a quarterly basis to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the Legislative Services Office, and the State Auditor the reason if the amount expended for a purpose or program is more than the amount appropriated for it from all sources. If the overexpenditure was authorized under subdivision (2) of this subsection, the Director of the Budget shall identify in the report the unforeseen event that required the overexpenditure.~~

Notwithstanding the provisions of subsection (a) of this section, a department, institution, or other spending agency may, with approval of the Director of the Budget, spend more than was appropriated for:

- (1) An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was appropriated from all sources for the purpose or program for the fiscal period;
- (2) A purpose or program, without consultation with the Joint Legislative Commission on Governmental Operations, if the overexpenditure of the purpose or program is:
  - a. Required by a court, Industrial Commission, or administrative hearing officer's order;
  - b. Required to respond to an unanticipated disaster such as a fire, hurricane, or tornado; or
  - c. Required to call out the National Guard.

The Director of the Budget shall report on a quarterly basis to the Joint Legislative Commission on Governmental Operations on any overexpenditures under this subdivision; or

- (3) A purpose or program, after consultation with the Joint Legislative Commission on Governmental Operations in accordance with G.S. 120-76(8), and only if: (i) the overexpenditure is required to continue the purpose or programs due to complications or changes in

circumstances that could not have been foreseen when the budget for the fiscal period was enacted and (ii) the scope of the purpose or program is not increased. Total overexpenditures of a purpose or program for a fiscal year under this subdivision shall be limited to the lesser of five hundred thousand dollars (\$500,000) or ten percent (10%) of the amount appropriated from all sources for the purpose or program, unless such overexpenditures are necessary to provide matching funds for federal entitlement programs.

(a2) Funds appropriated for salaries and wages are also subject to the limitation that they may only be used for:

- (1) Salaries and wages or for premium pay, overtime pay, longevity, unemployment compensation, workers' compensation, temporary wages, moving expenses of employees, payment of accumulated annual leave, certain awards to employees, tort claims, and employer's social security, retirement, and hospitalization payments;
- (2) Contracted personal services if (i) the contract is for temporary services or special project services, (ii) the term of the contract does not extend beyond the fiscal year, (iii) the contract does not impose obligations on the State after the end of the fiscal year; and (iv) the total of all overexpenditures for contracted personal services approved in a program for a fiscal year does not exceed the greater of five hundred thousand dollars (\$500,000) or ten percent (10%) of the lapsed salary funds in the program for the fiscal year; and
- (3) Uses for which overexpenditures are permitted by ~~subdivisions (3), (4), and (5)~~ subdivision (2) of subsection (a1) of this section but the Director of the Budget shall include such use and the reason for it in his quarterly report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the Legislative Services Office, and the State Auditor. quarterly report to the Joint Legislative Commission on Governmental Operations.

Lapsed salary funds that become available from vacant positions are also subject to the limitation that they may not be used for new permanent employee positions or to raise the salary of existing employees.

~~(a3) The requirements in this section that the Director of the Budget report to the Joint Legislative Commission on Governmental Operations and the State Auditor shall not apply to expenditures of receipts by entities that are wholly receipt supported, except for entities supported by the Wildlife Resources Fund.~~

~~(a4) The State Auditor shall review the report received from the Director of the Budget to ensure that the transfer complied with the intent and the provisions of this Article and shall report the Auditor's findings to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.~~

(b) Repealed by Session Laws 1985, c. 290, s. 8.

(c) Transfers or changes as between objects or line items in the budget of the Senate may be made by the President Pro Tempore of the Senate.

(d) Transfers or changes as between objects or line items in the budget of the House of Representatives may be made by the Speaker of the House of Representatives.

(e) Transfers or changes as between objects or line items in the budget of the General Assembly other than of the Senate and House of Representatives may be made jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(f) As used in this section:

(1) 'Object or line item' means a budgeted expenditure or receipt in the budget enacted by the General Assembly that is designated by (i) a thirteen-digit code in the 1000-object code series or (ii) an eleven-digit code in all other object code series, 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.

(2) 'Purpose or program' means a group of objects or line items for support of a specific activity outlined in the budget adopted by the General Assembly that is designated by a nine-digit fund code 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."

(2) For the 1996-97 fiscal year only, the Director of the Budget may deviate from the provisions of G.S. 143-23(a1)(3) that limit total overexpenditures of a purpose or program under that subdivision for a fiscal year to the lesser of five hundred thousand dollars (\$500,000) or ten percent (10%) of the amount appropriated from all sources for the purpose or program, unless such overexpenditures are necessary to provide matching funds for federal entitlement programs, if:

a. The Director of the Budget finds that compliance is impossible and that deviation is necessary because of complications in the budget process that were not contemplated when the budget for the 1996-97 fiscal year was enacted; and

b. The Director of the Budget consults with the Joint Legislative Commission on Governmental Operations prior to authorizing the overexpenditure.

(g) G.S. 143-25 reads as rewritten:

**"§ 143-25. Maintenance appropriations dependent upon adequacy of revenues to support them.**

All maintenance appropriations now or hereafter made are hereby declared to be maximum, conditional and proportionate appropriations, the purpose being to make the appropriations payable in full in the amounts named herein if necessary and then only in the event the aggregate revenues collected and available during each fiscal year of the biennium for which such appropriations are made, are sufficient to pay all of the appropriations in full; otherwise, the said appropriations shall be deemed to be payable in such proportion as the total sum of all appropriations bears to the total amount of

revenue available in each of said fiscal years. The Director of the Budget is hereby given full power and authority to examine and survey the progress of the collection of the revenue out of which such appropriations are to be made, and to declare and determine the amounts that can be, during each quarter of each of the fiscal years of the biennium properly allocated to each respective appropriation. In making such examination and survey, he shall receive estimates of the prospective collection of revenues from the Secretary of Revenue and every other revenue collecting agency of the State. The Director of the Budget may reduce all of said appropriations pro rata when necessary to prevent an overdraft or deficit to the fiscal period for which such appropriations are made. The Governor may also reduce all of said appropriations pursuant to Article III, Section 5(3) of the Constitution after consulting with the Joint Legislative Commission on Governmental Operations under G.S. 120-76(8) if prior consultation is required by that section. The purpose and policy of this Article are to provide and insure that there shall be no overdraft or deficit in the general fund of the State at the end of the fiscal period, growing out of appropriations for maintenance and the Director of the Budget is directed and required to so administer this Article as to prevent any such overdraft or deficit. Prior to taking any action under this section to reduce appropriations pro rata, the Governor may consult with the Advisory Budget Commission."

(h)(1) Effective July 1, 1996, G.S. 143-27 reads as rewritten:

**"§ 143-27. Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.**

All appropriations now or hereafter made to the educational institutions, and to the charitable and correctional institutions, and to such other departments and agencies of the State as receive moneys available for expenditure by them are declared to be in addition to such receipts of said institutions, departments or agencies, and are to be available as and to the extent that such receipts are insufficient to meet the costs anticipated in the budget authorized by the General Assembly, of maintenance of such institutions, departments, and agencies; Provided, however, that 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, 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 has consulted with the Joint Legislative Commission on Governmental Operations and unless the Director of the Budget finds that (i) the appropriations from that Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund—Fund and (ii) the funds may be expended in accordance with G.S. 143-23. Notwithstanding the foregoing provisions of this section, receipts within The University of North Carolina realized in excess of budgeted levels shall be available, up to a maximum of ten percent (10%) above budgeted levels, for each Budget Code, in addition to appropriations, to support the operations generating such receipts, as approved by the Director of the Budget.



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 on expenditures of receipts in excess of the amounts certified in General Fund Codes or Highway Fund Codes that did not result in a corresponding reduced allotment from appropriations from that Fund."

- (2) Effective July 1, 1997, G.S. 143-27, as rewritten by subdivision (1) of this subsection, reads as rewritten:

**"§ 143-27. Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.**

All appropriations now or hereafter made to the educational institutions, and to the charitable and correctional institutions, and to such other departments and agencies of the State as receive moneys available for expenditure by them are declared to be in addition to such receipts of said institutions, departments or agencies, and are to be available as and to the extent that such receipts are insufficient to meet the costs anticipated in the budget authorized by the General Assembly, of maintenance of such institutions, departments, and agencies; Provided, however, that 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 Codes, Highway Fund Codes, or budgeted Special Fund Codes, 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 has consulted with the Joint Legislative Commission on Governmental Operations and unless the Director of the Budget finds that (i) the appropriations from that Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund and (ii) the funds may be expended in accordance with G.S. 143-23. Notwithstanding the foregoing provisions of this section, receipts within The University of North Carolina realized in excess of budgeted levels shall be available, up to a maximum of ten percent (10%) above budgeted levels, for each Budget Code, in addition to appropriations, to support the operations generating such receipts, as approved by the Director of the Budget.

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 on expenditures of receipts in excess of the amounts certified in General Fund Codes or Codes, Highway Fund Codes—Codes, or budgeted Special Fund Codes, that did not result in a corresponding reduced allotment from appropriations from that Fund."

- (3) For the 1996-97 fiscal year, the 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 on expenditures of receipts in budgeted Special Fund Codes in excess of the amounts certified in those Special Fund Codes.
- (i) G.S. 116-30.2 reads as rewritten:

**"§ 116-30.2. Appropriations to special responsibility constituent institutions.**

All General Fund appropriations made by the General Assembly for continuing operations of a special responsibility constituent institution of The University of North Carolina shall be made in the form of a single sum to each budget code of the institution for each year of the fiscal period for which the appropriations are being made. Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), and ~~G.S. 143-23(a3)~~, G.S. 143-23(a3) and G.S. 120-76(8), each special responsibility constituent institution may expend the General Fund monies so appropriated to it in the manner deemed by the Chancellor to be calculated to maintain and advance the programs and services of the institutions, consistent with the directives and policies of the Board of Governors. The preparation, presentation, and review of General Fund budget requests of special responsibility constituent institutions shall be conducted in the same manner as are requests of other constituent institutions. The quarterly allotment procedure established pursuant to G.S. 143-17 shall apply to the General Fund appropriations made for the current operations of each special responsibility constituent institution. All General Fund monies so appropriated to each special responsibility constituent institution shall be recorded, reported, and audited in the same manner as are General Fund appropriations to other constituent institutions."

(j) G.S. 143-16.3 reads as rewritten:

**"§ 143-16.3. No expenditures for purposes for which the General Assembly has considered but not enacted an appropriation.**

Notwithstanding any other provision of law, no funds from any source, except for gifts, grants, and funds allocated from the Contingency and Emergency Fund ~~by the Council of State~~, in accordance with G.S. 143-12(b), may be expended for any purpose, position, or other expenditure for which the General Assembly has considered but not enacted an appropriation of funds for the current fiscal period. For the purpose of this section, the General Assembly has considered a purpose, position, or other expenditure when that purpose is included in a ~~bill~~ bill, amendment, or petition ~~or~~ and when any committee of the Senate or the House of Representatives deliberates on that purpose."

(k) G.S. 116-30.1 reads as rewritten:

**"§ 116-30.1. Special responsibility constituent institutions.**

The Board of Governors of The University of North Carolina, acting on recommendation made by the President of The University of North Carolina after consultation by him with the State Auditor, may designate one or more constituent institutions of The University as special responsibility constituent institutions. That designation shall be based on an express finding by the Board of Governors that each institution to be so designated has the management staff and internal financial controls that will enable it to administer competently and responsibly all additional management authority and discretion to be delegated to it. The Board of Governors, on recommendation of the President, shall adopt rules prescribing management staffing standards and internal financial controls and safeguards, including the lack of any significant exceptions or audit findings in the annual financial audit by the State Auditor's Office, that must be met by a constituent institution before it may be designated a special responsibility constituent institution and must be maintained in

order for it to retain that designation. These rules shall not be designed to prohibit participation by a constituent institution because of its size. These rules shall establish procedures for the President and his staff to review the annual financial audit reports or any other special or performance audit reports issued by the State Auditors Office for each special responsibility constituent institution. The President shall take immediate action regarding reported weaknesses in the internal control structure, deficiencies in the accounting records, and noncompliance with rules and regulations. In any instance where such audit exceptions are identified, the President shall notify the Chancellor of the particular special responsibility constituent institution that such exceptions must be resolved to the satisfaction of the State Auditor and the President of The University within a three-month period commencing with the date of receipt of the published financial audit report. If the exceptions are not satisfactorily resolved within a three-month period, the President of The University shall recommend to the Board of Governors at its next meeting that the designation of the particular institution as a special responsibility constituent institution be terminated until such time as the exceptions are resolved to the satisfaction of the State Auditor and the President of The University of North Carolina. However, once the designation as a special responsibility constituent institution has been withdrawn by the Board of Governors, reinstatement may not be effective until the beginning of the following fiscal year at the earliest. Any actions taken by the Board of Governors with respect to withdrawal or reinstatement of an institution's status as a special responsibility constituent institution shall be reported immediately to the Joint Legislative Education Oversight Committee.

The rules established under this section shall include review and consultation with the State Auditor, the Director of the Office of State Personnel, and the Director of the Division of State Purchasing and Contracts in ascertaining whether or not a constituent institution has the management staff and internal financial controls to administer the additional authorities authorized under G.S. 116-30.2, 116-30.4, and 143-53.1. Such review and consultation must take place no less frequently than once each biennium."

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

## **PERFORMANCE BUDGETING**

Sec. 7.6. Notwithstanding the provisions of G.S. 143-16.3, Section 10(b) of Chapter 324 of the 1995 Session Laws, and Section 6.5 of Chapter 507 of the 1995 Session Laws, the Director of the Budget may expend funds to continue to develop performance/program budget analysis for the 10 program areas of North Carolina State government that were identified by the Governmental Performance Audit Commission. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations by December 1, 1996, regarding the development of performance/program budget analysis of State departments and institutions, its effectiveness, whether it should be continued, and any modifications that should be made.

The format of the presentation of the recommended 1997-99 State budget to the 1997 General Assembly shall follow that of presenting by department budget codes the

line-item requirements for each fund along with a cross-reference to the appropriate program area and program outcome measure related to the budget fund.

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

## **HISTORIC PROPERTIES ACQUISITIONS/REPORTING REQUIREMENT**

Sec. 7.7. (a) G.S. 121-9 reads as rewritten:

### **"§ 121-9. Historic properties.**

(a) Administration of Properties Acquired by State. – Historic or archaeological properties acquired by the State for administration by the State of North Carolina shall be under the control and administration of the Department of Cultural Resources. Upon approval of the North Carolina Historical Commission and the Secretary of Cultural Resources, the Department of Cultural Resources may, in its discretion, make a contract with any county or municipality within the State or with any nonprofit corporation or organization for the administration of any portion of such property.

(b) Acquisition of Historic Properties. – For the purpose of protecting or preserving any property of historical, architectural, archaeological, or other cultural importance to the people of North Carolina, and subject to the provisions of Subchapter II of Chapter 146 of the General Statutes, the Department may, with the approval of the North Carolina Historical ~~Commission~~, Commission and after consultation with the Joint Legislative Commission on Governmental Operations, acquire, preserve, restore, hold, maintain, operate, and dispose of such properties, together with such adjacent lands as may be necessary for their protection, preservation, maintenance, and operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, or condemnation pursuant to the provisions of Chapter 40A of the General Statutes, or otherwise. Property may be acquired by the Department, using such funds as may be appropriated for the purpose or moneys available to it from any other source.

(b1) In the case of real property, the North Carolina Historical Commission shall report the following information to the Joint Legislative Commission on Governmental Operations before acquiring the property:

- (1) The statewide historical significance of the site.
- (2) The potential uses of the site.
- (3) The capital requirements of the site over a 20-year period of time.
- (4) The annual operating costs of the site.
- (5) The expected levels of visitation at the site.
- (6) Any other information that would assist in determining the full cost of maintaining, operating, and administering the site as State property.

(c) Interests Which May Be Acquired. – In the case of real property, the interest acquired shall be limited to that estate, interest, or term deemed by the Department to be reasonably necessary for the continued protection or preservation of the property. The Department may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement in gross or

appurtenant, covenant, lease, or other contractual right of or to any real property to be the most practical and economical method of protecting and preserving historic property, the lesser interest may be acquired.

(d) Conveyance of Property for Preservation Purposes. – In appropriate cases, the Department may acquire or dispose of the fee or lesser interest to any such property for the specific purpose of conveying or leasing the property back to its original owner or of conveying or leasing it to such other person, firm, association, corporation, or other organization under such covenants, deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. Where such action is taken, the property may be conveyed or leased by private sale. In all cases where property is conveyed, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the Department may prescribe, or to such conditions as may be agreed upon between the Department and the grantee or lessee to accomplish the purposes of this section.

(e) Use of Property so Acquired. – Any historic property acquired, whether in fee or otherwise, may be used, maintained, improved, restored, or operated by the Department for any public purpose within its powers and not inconsistent with the purpose of the continued preservation of the property. The property shall not be subject to condemnation by the State of North Carolina or any of its agencies or political subdivisions at any time, unless such method of acquisition is first approved by the Governor and Council of State.

(f) Emergency Acquisition Where Funds Not Immediately Available. – If funds or contributions for the acquisition of needed historic property are not available, the Governor and Council of State may, upon the recommendation of the Secretary of Cultural Resources and approval of the North Carolina Historical Commission, allocate from the Contingency and Emergency Fund an amount sufficient to acquire an option on the property or properties, which option shall continue until 90 days after the adjournment sine die of the next General Assembly. Upon recommendation of the Secretary and approval of the Historical Commission, the Governor and Council of State may allocate funds from the Contingency and Emergency Fund for the immediate acquisition, preservation, restoration, or operation of historically, archaeologically, architecturally, or culturally important properties. All funds hereinafter appropriated to purchase, restore, maintain, develop, or operate historic or archaeological or other important property shall be administered subject to the provisions of Article 1 of Chapter 143 of the General Statutes unless the statute making the appropriation shall in specific and express terms provide otherwise.

(g) Power to Acquire Property by Condemnation. – In the event that a property which has been found by the Department of Cultural Resources to be important for public ownership or assistance is in danger of being sold, used, or neglected to such an extent that its historical or cultural importance will be destroyed or seriously impaired, or that the property is otherwise in danger of destruction or serious impairment, the Department of Cultural Resources, after receiving the approval of the North Carolina Historical Commission and of the Governor and Council of State, may acquire the

historic property or any interest therein by condemnation under the provisions of Chapter 40A of the General Statutes. The Department of Cultural Resources, upon finding that destruction or serious impairment of the value of the property is imminent, shall file with the Governor and Council of State a report on the importance of the property and the desirability of ownership of the property, or the ownership of an interest therein, by the State of North Carolina. Upon giving their approval, the Governor and Council of State shall cause to have filed such approval with the clerk of the superior court in the county or counties where the property is situated. Until the approval is filed, the power of condemnation may not be exercised. All condemnation proceedings shall be instituted and prosecuted in the name of the State of North Carolina.

(h) Preservation and Custodial Care of State Capitol. – The rotunda, corridors, and stairways of the first floor of the State Capitol and all portions of the second, third, and loft floors of the said building shall be placed in the custody of the Department of Cultural Resources; and the Department shall, subject to the availability of funds for the purpose, care for and administer these areas for the edification of present and future generations. The aforesaid areas shall be preserved as historic shrines and shall be maintained insofar as practicable as they shall appear following the restoration of the Capitol. The Department of Cultural Resources is authorized to deny the use of the legislative chambers for meetings in order that they, with their historic furnishings, may be better preserved for posterity; provided, however, that the General Assembly may hold therein such sessions as it may by resolution deem proper.

The Department of Cultural Resources is hereby entrusted with the responsibilities herein specified as being the agency with the experience best qualified to preserve and administer historic properties in a suitable manner. However, for the purposes of carrying out the provisions of this section, it is hereby directed that such cooperation and assistance shall be made available to the said Department of Cultural Resources and such labor supplied, as may be feasible, by the Department of Administration.

The offices and working areas of the first floor as well as all washrooms and the exterior of the Capitol shall remain under the jurisdiction of the Department of Administration: Provided, however, that the Department of Administration shall seek the advice of the Department of Cultural Resources in matters relating to any alteration, renovation, and furnishing of said offices and areas."

(b) G.S. 146-26 reads as rewritten:

**"§ 146-26. Donations and devises to State.**

No devise or donation of land or any interest therein to the State or to any State agency shall be effective to vest title to the ~~said~~ land or any interest therein in the State or in any State agency until the devise or donation is accepted by the Governor and Council of State. If the land is devised or donated to the State or to any State agency as an historic property, then title shall not vest until the Historical Commission reports to the Joint Legislative Commission on Governmental Operations as provided in G.S. 121-9. Upon acceptance by the Governor and Council of State, title to the said land or interest therein shall immediately vest as of the time title would have vested but for the above requirement of reporting to the Joint Legislative Commission on Governmental

Operations if an historic property and acceptance by the Governor and Council of State."

Requested by: Representatives Ives, Lemmond, Senators Warren, Sherron

**TOTAL QUALITY MANAGEMENT**

Sec. 7.8. For the 1996-97 fiscal year only, the provisions of G.S. 143-16.3 do not apply to The Total Quality Management Program. This program shall be administered by the Office of State Budget and Management.

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

**DISASTER RELIEF FUNDS**

Sec. 7.9. The Director of the Budget may use lapsed salary funds for the 1995-97 fiscal biennium to match federal funds for disaster relief.

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

**CLARIFYING AND TECHNICAL CHANGES/ADMINISTRATIVE RULES**

Sec. 7.10. (a) G.S. 150B-19 reads as rewritten:

**"§ 150B-19. Restrictions on what can be adopted as a rule.**

An agency may not adopt a rule that does one or more of the following:

- (1) Implements or interprets a law unless that law or another law specifically authorizes the agency to do so.
- (2) Enlarges the scope of a profession, occupation, or field of endeavor for which an occupational license is required.
- (3) Imposes criminal liability or a civil penalty for an act or omission, including the violation of a rule, unless a law specifically authorizes the agency to do so or a law declares that violation of the rule is a criminal offense or is grounds for a civil penalty.
- (4) Repeats the content of a law, a rule, or a federal regulation. A brief statement that informs the public of a requirement imposed by law does not violate this subdivision and satisfies the 'reasonably necessary' standard of review set in G.S. 150B-21.9(a)(3).
- (5) Establishes a ~~reasonable~~-fee or other ~~reasonable~~-charge for providing a service in fulfillment of a duty unless a law specifically authorizes the agency to do so or the fee or other charge is for one of the following:
  - a. A service to a State, federal, or local governmental unit.
  - b. A copy of part or all of a State publication or other document, the cost of mailing a document, or both.
  - c. A transcript of a public hearing.
  - d. A conference, workshop, or course.
  - e. Data processing services.

(6) Allows the agency to waive or modify a requirement set in a rule unless a rule establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement."

(b) G.S. 150B-20(e) is repealed.

(c) G.S. 150B-21.1(d) reads as rewritten:

"(d) Effective Date and Expiration. – A temporary rule becomes effective on the date specified in G.S. 150B-21.3. A temporary rule expires on the earliest of the following dates:

(1) The date specified in the rule.

(2) The effective date of the permanent rule adopted to replace the temporary rule, if the Commission approves the permanent rule.

(3) The date the Commission returns to an agency a permanent rule the agency adopted to replace the temporary rule, ~~if the Commission objects to the permanent rule.~~ rule.

(4) The effective date of an act of the General Assembly that specifically disapproves a permanent rule adopted to replace the temporary rule.

(5) 270 days from the date the temporary rule was published in the North Carolina Register, unless the permanent rule adopted to replace the temporary rule has been submitted to the Commission."

(d) G.S. 150B-21.1(e) reads as rewritten:

"(e) Publication. – When the Codifier of Rules enters a temporary rule in the North Carolina Administrative Code, the Codifier must publish the rule in the North Carolina Register. Publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings for a permanent rule ~~that does not differ substantially from~~ if the permanent rule is substantially the same as the published temporary rule. ~~rule, unless the agency published a notice of rule-making proceedings at least 60 days before it adopted the temporary rule.~~"

(e) G.S. 150B-21.2(e) reads as rewritten:

"(e) Hearing. – An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and all the following apply:

(1) The notice of ~~rule-making proceedings~~ text does not schedule a public hearing on the proposed rule.

(2) The agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of ~~rule-making proceedings~~ text is published.

(3) The proposed text is not a changed version of proposed text the agency previously published in the course of rule-making proceedings but did not adopt.

An agency may hold a public hearing on a proposed rule in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes



notice of the hearing in the North Carolina Register must be at least 15 days after the date the notice is published."

(f) G.S. 150B-21.3 is amended by adding a new subsection to read:

"(f) Technical Change. – A permanent rule for which no notice or hearing is required under G.S. 150B-21.5(a) or (b) becomes effective on the first day of the month following the month the rule is approved by the Rules Review Commission."

(g) G.S. 150B-2(2) reads as rewritten:

"(2) 'Contested case' means an administrative proceeding pursuant to this Chapter to resolve a dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty. 'Contested case' does not include rulemaking, declaratory rulings, or the award or denial of a ~~scholarship or grant~~ scholarship, a grant, or a loan."

(h) G.S. 120-70.101(8) reads as rewritten:

"(8) To report to the General Assembly ~~at the beginning of each regular session~~ from time to time concerning the Committee's activities and any recommendations for statutory changes."

(i) G.S. 89C-3(6) reads as rewritten:

"(6) Practice of engineering. –

a. Any service or creative work, the adequate performance of which requires engineering education, training, and experience, in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, engineering surveys, and the observation of construction for the purposes of assuring compliance with drawings and specifications, including the consultation, investigation, evaluation, planning, and design for either private or public use, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this Chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer, or through the use of some other title implies that he is a professional engineer or that he is registered under this Chapter;

or who holds himself out as able to perform, or who does perform any engineering service or work not exempted by this Chapter, or any other service designated by the practitioner which is recognized as engineering.

- b. The term 'practice of engineering' shall not be construed to permit the location, description, establishment or reestablishment of property lines or descriptions of land boundaries for conveyance. The term does not include the assessment of an underground storage tank required by applicable rules at closure or change in service unless there has been a discharge or release of the product from the tank.
- (j) G.S. 89E-3(4) reads as rewritten:
  - "(4) 'Geology' means the science dealing with the earth and its history; investigation, prediction and location of the materials and structures which compose it; the natural processes that cause change in the earth; and the applied science of utilizing knowledge of the earth and its constituent rocks, minerals, liquids, gases and other materials for the benefit of mankind. This definition shall not include any ~~service of the following:~~
  - a. Service or creative works, the adequate performance of which requires engineering education, training, and experience.
  - b. The assessment of an underground storage tank required by applicable rules at closure or change in service unless there has been a discharge or release of the product from the tank.

- (k) G.S. 89C-14(b) reads as rewritten:

"(b) ~~The registration fee shall be established by the Board in an~~ An applicant for registration who is required to take the written examination shall pay a fee equal to the cost of the examination to the Board plus an additional amount not to exceed one hundred dollars (\$100.00) which (\$100.00). ~~The fee shall accompany the applications.~~ application. The fee for comity registration of engineers and land surveyors who hold unexpired certificates in another state or a territory of the United States or in Canada shall be the total current fee as fixed by the Board."

(l) Subsection (c) of this section becomes effective December 1, 1996, and applies to temporary rules published on or after December 1, 1995, except temporary rules published on or after December 1, 1995, for which the permanent rules adopted to replace the temporary rules have not been submitted to the Rules Review Commission within 270 days of publication of the temporary rules may remain effective under this section if the permanent rules are submitted to the Rules Review Commission by December 1, 1996. All other subsections of this section are effective upon ratification of this act.

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

**CAPITAL RESERVE**

Sec. 7.11. Of the funds appropriated in Chapters 324 and 507 of the 1995 Session Laws from the General Fund for the 1995-96 fiscal year for current operations, the sum of thirty-nine million five hundred nineteen thousand five hundred sixty-seven dollars (\$39,519,567) shall be transferred to a reserve for capital expenditures. Funds in the reserve shall be used for capital projects authorized as follows:

<u>Capital Improvements - General Fund</u>	<u>1996-1997</u>
Department of Administration	
Prison Construction	
1. Southern Piedmont Area Unit	\$ 9,000,000
2. Modular Housing Units	5,000,000
3. Prison Unit Improvements	1,600,000
4. Plan and Design Facilities	2,350,000
Department of Environment, Health, and Natural Resources	
1. Water Resources	8,705,000
2. Museum of Natural Sciences	500,000
University of North Carolina - Board of Governors	
1. NCSU - Advanced planning for an Undergraduate General Chemistry and Physics Building	2,000,000
2. NCA&T - Advanced planning for a General Classroom and Lab Bldg.	1,000,000
3. UNC-G - Advanced planning for a Science Instructional Bldg.	2,000,000
4. UNC-C - Advanced planning for Classroom Facilities	1,000,000
5. Western Carolina - Advanced planning for a Fine Arts Center	2,000,000
6. ECU - Advanced planning for the Science Laboratories and Technology Bldg.	1,000,000
Department of Crime Control and Public Safety	
1. National Guard Armory - Mecklenburg	87,567
Department of Transportation	
1. Global Transpark Education and	

Training Center (State match)

3,277,000

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

#### **USE OF FUNDS IN RESERVES**

Sec. 7.12. (a) Of the funds appropriated from the General Fund for the 1995-96 fiscal year, the Director of the Budget shall transfer the sum of five million seventy-six thousand four hundred sixty-six dollars (\$5,076,466) to the Reserve for Disaster Relief. These funds shall not be subject to the provisions of G.S. 143-16.3.

(b) Of the funds appropriated from the General Fund for the 1996-97 fiscal year, the Director of the Budget shall transfer the sum of five million one hundred thousand dollars (\$5,100,000) to the Reserve for Moving Expenses. These funds shall not be subject to the provisions of G.S. 143-16.3.

(c) Subsection (a) of this section becomes effective June 30, 1996.

#### **PART 7A. OFFICE OF STATE TREASURER**

Requested by: Representatives Creech, Holmes, Esposito, Ives, Lemmond, Senators Warren, Sherron

#### **FORFEITED RESERVATION DEPOSITS DO NOT ESCHEAT**

Sec. 7A. (a) Article 2 of Chapter 116B of the General Statutes is amended by adding a new section to read:

#### **"§ 116B-23. Exclusion for forfeited reservation deposits.**

Property or funds withheld by a business association as a penalty or forfeiture or as damages in the event a person who has reserved the services of the business association fails to make use of and pay for the services, regardless of any practice or policy of the business association related to the return of withheld funds, is not unclaimed or abandoned property."

(b) The Legislative Research Commission shall study the implementation and enforcement of Chapter 116B of the General Statutes, Escheats and Abandoned Property, including relevant policies and procedures of the Office of State Treasurer. The study shall include a review of: (i) the policy of the Office of State Treasurer regarding the requirement that funds withheld by persons and business associations, including nonprofit corporations, as penalties, forfeitures, or damages for unused reservations escheat, (ii) the effects the policy has on the economy of the State and on the business industry, and (iii) the effects G.S. 116B-23 will have on the citizens of the State as consumers. The Legislative Research Commission shall report its findings and recommendations to the 1997 General Assembly.

(c) Subsection (a) of this section applies to funds held or collected by business associations on or after July 1, 1996. Subsection (a) of this section expires June 30, 1997, but all funds collected or held by business associations before June 30, 1997, shall not escheat.

#### **PART 8. GENERAL ASSEMBLY**

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

**LEGISLATIVE SERVICES OFFICER POSITION**

Sec. 8. (a) G.S. 20-79.5(a) reads as rewritten:

"(a) Plates. – The State government officials listed in this section are eligible for a special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the following table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
Speaker of the House of Representatives	3
President Pro Tempore of the Senate	4
Secretary of State	5
State Auditor	6
State Treasurer	7
Superintendent of Public Instruction	8
Attorney General	9
Commissioner of Agriculture	10
Commissioner of Labor	11
Commissioner of Insurance	12
Speaker Pro Tempore of the House	13
<del>Legislative Administrative Officer</del>	14
<u>Legislative Services Officer</u>	
Secretary of Administration	15
Secretary of Environment, Health, and Natural Resources	16
Secretary of Revenue	17
Secretary of Human Resources	18
Secretary of Commerce	19
Secretary of Correction	20
Secretary of Cultural Resources	21
Secretary of Crime Control and Public Safety	22
Governor's Staff	23-29
State Budget Officer	30
State Personnel Director	31
Advisory Budget Commission Nonlegislative Member	32-41
Chair of the State Board of Education	42
President of the U.N.C. System	43
Alcoholic Beverage Control Commission	44-46
Assistant Commissioners of Agriculture	47-48
Deputy Secretary of State	49

Deputy State Treasurer	50
Assistant State Treasurer	51
Deputy Commissioner for the Department of Labor	52
Chief Deputy for the Department of Insurance	53
Assistant Commissioner of Insurance	54
Deputies and Assistant to the Attorney General	55-65
Board of Economic Development Nonlegislative Member	66-88
State Ports Authority Nonlegislative Member	89-96
Utilities Commission Member	97-104
<u>Post-Release Supervision and</u> Parole Commission Member	105-109
State Board Member, Commission Member, or State Employee Not Named in List	110-200".

(b) G.S. 120-3.1(a)(3) reads as rewritten:

"(3) A subsistence allowance for meals and lodging at a daily rate equal to the maximum per diem rate for federal employees traveling to Raleigh, North Carolina, as set out at 58 Federal Register 67959 (December 22, 1993), while the General Assembly is in session and, except as otherwise provided in this subdivision, while the General Assembly is not in session when, with the approval of the Speaker of the House of Representatives in the case of Representatives or the President Pro Tempore of the Senate in case of Senators, the member is:

- a. Traveling as a representative of the General Assembly or of its committees or commissions, or
- b. Otherwise in the service of the State.

A member who is authorized to travel, whether in or out of session, within the United States outside North Carolina, may elect to receive, in lieu of the amount provided in the preceding paragraph, a subsistence allowance of twenty-six dollars (\$26.00) a day for meals, plus actual expenses for lodging when evidenced by a receipt satisfactory to the ~~Legislative Administrative Officer, Legislative Services Officer,~~ the latter not to exceed the maximum per diem rate for federal employees traveling to the same place, as set out at 58 Federal Register 67950-67964 (December 22, 1993) and at 59 Federal Register 23702-23709 (May 6, 1994)."

(c) G.S. 120-32.1 reads as rewritten:

**"§ 120-32.1. Use and maintenance of buildings and grounds.**

- (a) The Legislative Services Commission shall:

- (1) Establish policy for the use of the State legislative buildings and grounds;
- (2) Maintain and care for the State legislative buildings and grounds, but the Commission may delegate the actual work of the maintenance of those buildings and grounds to the Department of Administration, which shall perform the work as delegated;
- (3) Provide security for the State legislative buildings and grounds;
- (4) Allocate space within the State legislative buildings and grounds; and
- (5) Have the exclusive authority to assign parking space in the State legislative buildings and grounds.

(b) The ~~Legislative Administrative Officer~~ Legislative Services Officer shall have posted the rules adopted by the Legislative Services Commission under the authority of this section in a conspicuous place in the State Legislative Building and the Legislative Office Building. The ~~Legislative Administrative Officer~~ Legislative Services Officer shall have filed a copy of the rules, certified by the chairman of the Legislative Services Commission, in the office of the Secretary of State and in the office of the Clerk of the Superior Court of Wake County. When so posted and filed, these rules shall constitute notice to all persons of the existence and text of the rules. Any person, whether on his own behalf or for another, or acting as an agent or representative of any person, firm, corporation, partnership or association, who knowingly violates any of the rules adopted, posted and filed under the authority of this section is guilty of a Class 1 misdemeanor. Any person, firm, corporation, partnership or association who combines, confederates, conspires, aids, abets, solicits, urges, instigates, counsels, advises, encourages or procures another or others to knowingly violate any of the rules adopted, posted and filed under the authority of this section is guilty of a Class 1 misdemeanor.

(c) The Legislative Services Commission may cause to be removed at the owner's expense any vehicle parked in the State legislative buildings and grounds in violation of the rules of the Legislative Services Commission and may cause to be removed any vehicle parked in any State-owned parking space leased to an employee of the General Assembly where the vehicle is parked without the consent of the employee to whom the space is leased.

(d) For the purposes of this section, the term 'State legislative buildings and grounds' means:

- (1) At all times:
  - a. The State Legislative Building and the area between outer walls of the State Legislative Building and the near curblines of those sections of Jones, Wilmington, Lane, and Salisbury Streets which border land on which the State Legislative Building is situated;
  - b. The Legislative Office Building and the areas between its outer walls and the near curblines of those sections of Lane and Salisbury Streets that border the land on which it is situated;

- c. Any State-owned parking lot which is leased to the General Assembly; and
  - d. The bridge between the State Legislative Building and the State Governmental Mall.
- (2) In addition, the surface area to the far curblin of those sections of Jones, Wilmington, Lane, and Salisbury Streets which border the land on which the State Legislative Building is situated:
- a. When the General Assembly is in regular or extra session; and
  - b. On other days on which one or more standing committees of either or both houses of the General Assembly are meeting and the ~~Legislative Administrative Officer~~ Legislative Services Officer determines that additional parking is needed for the functioning of the General Assembly and files notice of the committee's or committees' meetings and his finding that additional parking is needed in the office of the Secretary of State and that of Clerk of the Superior Court of Wake County."

(d) G.S. 120-36.6 reads as rewritten:

**"§ 120-36.6. Legislative Fiscal Research staff participation.**

Legislative fiscal research staff members may attend all meetings of the Advisory Budget Commission and all hearings conducted by or for the Commission, and may accompany the Commission to inspect the facilities of the State. The ~~Legislative Administrative Officer~~ Legislative Services Officer shall designate a member of the Fiscal Research staff, and a member of the General Research or Bill Drafting staff who may attend all meetings of the Board of Awards and Council of State, unless the Board or Council has voted to exclude them from the specific meeting, provided that no final action may be taken while they are so excluded. The Legislative Services Officer and the Director of Fiscal Research shall be notified of all such meetings, hearings and trips in the same manner and at the same time as notice is given to members of the Board, Commission or Council. The Legislative Services Officer and the Director of Fiscal Research shall be provided with a copy of all reports, memoranda, and other informational material which are distributed to the members of the Board, Commission, or Council; these reports, memoranda and materials shall be delivered to the Legislative Services Officer and the Director of Fiscal Research at the same time that they are distributed to the members of the Board, Commission, or Council."

(e) G.S. 120-70.36 reads as rewritten:

**"§ 120-70.36. Staffing.**

The ~~Legislative Administrative Officer~~ Legislative Services Officer shall assign as staff to the Joint Select Committee professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Joint Select Committee through the offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Joint Select Committee."

(f) G.S. 120-70.46 reads as rewritten:

**"§ 120-70.46. Staffing.**



The ~~Legislative Administrative Officer~~ Legislative Services Officer shall assign as staff to the Environmental Review Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Environmental Review Commission through the offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Environmental Review Commission."

(g) G.S. 120-70.52(c) reads as rewritten:

"(c) The Committee shall be funded by appropriations made to the Highway Trust Fund and allocated to the Intrastate System projects. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the ~~Legislative Administrative Officer~~, Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

(h) G.S. 120-70.65 reads as rewritten:

**"§ 120-70.65. Staffing.**

The ~~Legislative Administrative Officer~~ Legislative Services Officer shall assign as staff to the Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Commission through the Offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Commission."

(i) G.S. 120-70.82(c) reads as rewritten:

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

(j) G.S. 120-70.92(c) reads as rewritten:

"(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Legislative Services Commission, through the ~~Legislative Administrative Officer~~, Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

(k) G.S. 120-70.95(c) reads as rewritten:

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

(l) G.S. 120-70.102(c) reads as rewritten:

"(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Legislative Services Commission, through the ~~Legislative Administrative Officer~~, Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be paid by the Committee."

(m) G.S. 143-8 reads as rewritten:

**"§ 143-8. Reporting of legislative and judicial expenditures and financial needs.**

On or before the first day of September, biennially, in the even-numbered years, the ~~Legislative Administrative Officer~~ Legislative Services Officer shall furnish the Director a detailed statement of expenditures of the General Assembly for the current fiscal biennium, and an estimate of its financial needs, itemized in accordance with the budget classification adopted by the Director and approved and certified by the President ~~pro tempore~~ Pro Tempore of the Senate and the Speaker of the House of Representatives for each year of the ensuing biennium, beginning with the first day of July thereafter. The Administrative Officer of the Courts shall furnish the Director a detailed statement of expenditures of the judiciary, and for each year of the current fiscal biennium an estimate of its financial needs as provided by law, itemized in accordance with the budget classification adopted by the Director and approved and certified by the Chief Justice for each year of the ensuing biennium, beginning with the first day of July thereafter. The Director shall include these estimates and accompanying explanations in the budget submitted with such recommendations as the Director may desire to make in reference thereto."

(n) G.S. 147-64.12(b) reads as rewritten:

"(b) The Auditor shall not conduct an audit on a program or activity for which he had management responsibility or in which he has been employed during the preceding two years. The General Assembly shall otherwise provide for the necessary audit of programs and activities within the meaning of this subsection.

If the Auditor's hotline receives a report of allegations of improper governmental activities in a program or activity that the Auditor is prohibited by this subsection from auditing, the Hotline Manager shall transmit the report to the ~~Legislative Administrative~~

~~Officer~~ Legislative Services Officer or his designee. The report shall retain the same confidentiality after transmittal to the General Assembly that it had in the possession of the Auditor."

(o) All powers, duties, and responsibilities assigned to the Legislative Administrative Officer of the Legislative Services Commission, including the assignment of professional and clerical staff to assist in the work of studies and commissions, shall be transferred to the Legislative Services Officer of the Legislative Services Commission. All rules and policies of the Legislative Services Commission relating to the Legislative Administrative Officer shall apply to the Legislative Services Officer unless otherwise expressly amended or repealed.

Requested by: Representatives Holmes, Creech, Esposito, Senator Warren  
**EXTENSION OF TERRITORIAL JURISDICTION OF LEGISLATIVE SERVICES COMMISSION TO ALL OF LANE STREET**

Sec. 8.1. G.S. 120-32.1(d) reads as rewritten:

"(d) For the purposes of this section, the term 'State legislative buildings and grounds' means:

(1) At all times:

- a. ~~The State Legislative Building and the area~~ Building:
  - a1. The areas between the outer walls of the State Legislative Building and the near curblineline of those sections of Jones, Wilmington, ~~Lane~~, and Salisbury Streets which border land on which ~~the State Legislative Building~~ it is situated;
  - a2. The area between the outer walls of the State Legislative Building and the far curblineline of that section of Lane Street which borders the land on which it is situated;
- b. The Legislative Office Building and the areas between its outer walls and the near curblineline of those sections of Lane and Salisbury Streets that border the land on which it is situated;
- c. Any State-owned parking lot which is leased to the General Assembly; and
- d. The bridge between the State Legislative Building and the State Governmental Mall.

(2) In addition, the surface area to the far curblineline of those sections of Jones, Wilmington, ~~Lane~~, and Salisbury Streets which border the land on which the State Legislative Building is situated:

- a. When the General Assembly is in regular or extra session; and
- b. On other days on which one or more standing committees of either or both houses of the General Assembly are meeting and the Legislative Administrative Officer determines that additional parking is needed for the functioning of the General Assembly and files notice of the committee's or committees' meetings and his finding that additional parking is needed in the

office of the Secretary of State and that of Clerk of the Superior Court of Wake County."

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

**ACCESS TO STATE INFORMATION BY LEGISLATIVE SERVICES OFFICE**

Sec. 8.2. G.S. 120-32.01 reads as rewritten:

**"§ 120-32.01. Information to be supplied.**

(a) Every State department, State agency, or State institution shall furnish the Legislative ~~Administrative Services~~ Office and the Research, Fiscal Research, and Bill Drafting Divisions any information or records requested by them. Except when accessibility is prohibited by a federal statute, federal regulation or State statute, every State department, State agency, or State institution shall give the Legislative Services Office and the Fiscal Research Division access to any data base or stored information maintained by computer, telecommunications, or other electronic data processing equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage or transmission.

(b) Notwithstanding subsection (a) of this section, access to the State Personnel Management Information System ~~by the Legislative Administrative Office and by the Research and Bill Drafting Divisions~~ shall only be through the Fiscal Research Division."

Requested by: Representatives Ives, Lemmond, Senators Warren, Sherron

**AUTOMATED RULE MANAGEMENT SYSTEM FUNDS**

Sec. 8.5. From the funds appropriated to the General Assembly for fiscal year 1996-97, up to three hundred thirty-five thousand dollars (\$335,000) shall be used for the development of an automated rule management system to provide electronic access by the General Assembly, the Office of Administrative Hearings, and the Rules Review Commission to all phases of the Administrative Procedure Act rule-making process. Of these funds, up to thirty-five thousand dollars (\$35,000) may be transferred to the Office of Administrative Hearings for computer equipment to implement this automated process.

**PART 9. OFFICE OF STATE BUDGET AND MANAGEMENT**

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

**RESERVE FOR MOVING EXPENSES/STATE AGENCIES**

Sec. 9. Funds transferred in this act to the Reserve for Moving Expenses shall be used to pay for expenses involved in the relocation of State agencies. The Office of State Budget and Management shall solicit requests for allocations from this reserve from all agencies moving into the Old Education Building, the New Education Building, the Old Revenue Building, and any other new building for which construction will be completed during the 1996-97 fiscal year. The Office of State Budget and Management shall first allocate funds needed to pay moving expenses and other costs associated with moving, including telephone lines, data communication lines, and

related equipment. No funds shall be expended to furnish new conference rooms, reception areas, open space, and to add centralized filing systems until all agencies scheduled to be moved have been relocated.

## **PART 10. DEPARTMENT OF ADMINISTRATION**

Requested by: Representatives Ives, Lemmond, Senator Warren

### **DOA TO EVALUATE UTILIZATION OF "STATE-OWNED SPACE"**

Sec. 10. The Department of Administration shall study and evaluate the utilization of space in the facilities owned by the State. In its study the Department shall consider the following: whether prime State office space is being used for storage purposes rather than offices; which uses of State space do not need to be located in the Capitol complex and could be located at other less expensive sites; and the merit, if any, of consolidating agency offices currently sited in various locations into either a single location or locations that are closer to each other in proximity. The Department shall also develop a priority list that indicates which uses it is most important to locate in State-owned space. Cost-effectiveness shall be a major criteria in establishing the priorities.

The Department of Administration shall develop a long-term plan to reduce the State's dependency on leased office space and shall report to the General Assembly no later than January 1, 1997, regarding the Department's findings, recommendations, and the proposed long-term plan. The report shall also include the priority list developed by the Department in accordance with this section.

Requested by: Representatives Ives, Lemmond, Senator Warren

### **DIRECTOR OF THE BUDGET AND STATE CONSTRUCTION MAY TIME SELECTION OF DESIGNERS AND RELEASE OF DESIGN AND CONSTRUCTION FUNDS TO AVOID INFLATION DUE TO MARKET PRICES BEING INCREASED BY THE NUMBER OF CONTRACTS**

Sec. 10.1. G.S. 143-135.26(1) reads as rewritten:

"(1) To adopt rules establishing standard procedures and criteria to assure that the designer selected for each State capital improvement project and the consultant selected for planning and studies of an architectural and engineering nature associated with a capital improvement project or a future capital improvement project has the qualifications and experience necessary for that capital improvement project or the proposed planning or study project. The rules shall provide that the State Building Commission, after consulting with the funded agency, is responsible and accountable for the final selection of the designer and the final selection of the consultant except when the General Assembly or The University of North Carolina is the funded agency. When the General Assembly is the funded agency, the Legislative Services Commission is responsible and accountable for the final selection of the designer and the final selection of the consultant, and

when the University is the funded agency, it shall be subject to the rules adopted hereunder, except it is responsible and accountable for the final selection of the designer and the final selection of the consultant. All designers and consultants shall be selected within 60 days of the date funds are appropriated for a project by the General Assembly or the date of project authorization by the Director of the Budget; provided, however, the State Building Commission may grant an exception to this requirement upon written request of the funded agency if (i) no site was selected for the project before the funds were appropriated or (ii) funds were appropriated for advance planning ~~only.~~ only; provided, further, the Director of the Budget, after consultation with the State Construction Office, may waive the 60-day requirement for the purpose of minimizing project costs through increased competition and improvements in the market availability of qualified contractors to bid on State capital improvement projects. The Director of the Budget also may, after consultation with the State Construction Office, schedule the availability of design and construction funds for capital improvement projects for the purpose of minimizing project costs through increased competition and improvements in the market availability of qualified contractors to bid on State capital improvement projects.

The State Building Commission shall submit a written report to the Joint Legislative Commission on Governmental Operations on the Commission's selection of a designer for a project within 30 days of selecting the designer."

Requested by: Representatives Ives, Lemmond, Senator Warren

**MOTOR FLEET MANAGEMENT MODIFICATIONS**

Sec. 10.2. G.S. 143-341(8)7a.vii is repealed.

Requested by: Representatives Ives, Lemmond, Senator Warren

**PROCEEDS OF TIMBER SALES MAY BE USED FOR VETERANS HOMES**

Sec. 10.3. Notwithstanding any other provision of law, the net proceeds derived from the sale of timber from land owned by or under the supervision and control of the Department of Administration, Division of Veterans Affairs, shall be deposited in the North Carolina Veterans Home Trust Fund and shall be used for the purposes set out in G.S. 165-48.

**PART 11. DEPARTMENT OF CULTURAL RESOURCES**

Requested by: Representatives Ives, Lemmond, Culpepper, Senator Warren

**RESERVE FUNDS MAY BE USED FOR MUSEUM OF THE ALBEMARLE OR OTHER ALBEMARLE AREA HISTORIC SITES**

Sec. 11. Of the funds appropriated in Section 2 of Chapter 324 of the 1995 Session Laws to the Department of Cultural Resources, the sum of forty-seven thousand eight hundred eighty-seven dollars (\$47,887) which is in reserve in the budget of the Department of Cultural Resources for the 1996-97 fiscal year may be used either for the Museum of the Albemarle or for other Albemarle area historic sites.

Requested by: Representative Culpepper, Senator Warren

**ROANOKE ISLAND HISTORICAL ASSOCIATION**

Sec. 11.1. (a) G.S. 143-200 reads as rewritten:

**"§ 143-200. Members of board of directors; terms; appointment.**

The governing body of said Association shall be a board of directors consisting of the Governor of the State, the Attorney General and the Secretary of Cultural Resources as ex officio members, and the following 21 members: J. Spencer Love, Greensboro; Miles Clark, Elizabeth City; Mrs. Richard J. Reynolds, Winston-Salem; D. Hiden Ramsey, Asheville; Mrs. Charles A. Cannon, Concord; Dr. Fred Hanes, Durham; Mrs. Frank P. Graham, Chapel Hill; Bishop Thomas C. Darst, Wilmington; W. Dorsey Pruden, Edenton; John A. Buchanan, Durham; William B. Rodman, Jr., Washington; J. Melville Broughton, Raleigh; Melvin R. Daniels, Manteo; Paul Green, Chapel Hill; Samuel Selden, Chapel Hill; R. Bruce Etheridge, Manteo; Theodore S. Meekins, Manteo; Roy L. Davis, Manteo; M. K. Fearing, Manteo; A. R. Newsome, Chapel Hill. The members of said board of directors herein named other than the ex officio members, shall serve for a term of two years and until their successors are appointed. Appointments thereafter shall be made by the membership of the Association in regular annual meeting or special meeting called for such ~~purpose, and in purpose.~~ In the event the Association through its membership should fail to make such appointments, then the appointments shall be made by the Governor of the State. If a vacancy occurs between annual meetings, the board of directors may fill the vacancy until the next annual meeting. All vacancies ~~Vacancies~~-occurring on the board of directors not filled by the board of directors within 30 days of the vacancy shall be filled by the Governor of the State."

(b) This section is effective upon ratification.

Requested by: Representatives Ives, Lemmond, Senator Warren

**DEPARTMENT OF CULTURAL RESOURCES TO REVIEW ADMISSION RATES FOR HISTORIC SITES**

Sec. 11.2. The Department of Cultural Resources shall review the admission fees and concession prices charged at each historic site. The Department shall evaluate on a site-by-site basis whether those charges are competitive with the admission fees and concession prices charged at other historic sites and how an increase in prices would impact visitation of each site. The Department of Cultural Resources shall report its findings and recommendations to the 1997 General Assembly.

Requested by: Senators Warren, Sherron, Representatives Ives, Lemmond

## **DEPARTMENT OF CULTURAL RESOURCES RETAIN HISTORICAL PUBLICATIONS RECEIPTS**

Sec. 11.3. The Historical Publications Section, Division of Archives and History, Department of Cultural Resources, may retain the receipts, including over-realized receipts, from the sale of its publications. The receipts from the sale of those publications retained by the Historical Publications Section, Division of Archives and History, Department of Cultural Resources, shall not revert, but shall be used to reprint the publications.

Requested by: Senators Warren, Sherron, Representatives Ives, Lemmond

## **DEPARTMENT OF CULTURAL RESOURCES TO STUDY THE HISTORIC SIGNIFICANCE OF THE PRINCEVILLE CEMETERY AND OF SOUTH GRANVILLE MEMORIAL GARDENS**

Sec. 11.4. The Department of Cultural Resources shall study the historical significance of the cemetery located in Princeville, the oldest African-American community in North America and shall also study the historical significance of the cemetery in Butner, known as South Granville Memorial Gardens. The Department shall consider what efforts should be taken to preserve and maintain the cemeteries, and shall also consider whether the cemetery in Princeville should be nominated to the National Register of Historic Places. The Department shall report its findings and recommendations to the 1997 General Assembly.

Requested by: Senators Plyler, Perdue, Odom

## **MATCH FOR ANTICIPATED NON-STATE FUNDS**

Sec. 11.5. Of the funds appropriated to the Department of Cultural Resources, the sum of one million dollars (\$1,000,000) for the 1996-97 fiscal year shall be allocated to a Reserve to Match Anticipated Non-State Funds. These funds shall be matched on a dollar-for-dollars basis for the Lost Colony Outdoor Drama.

Requested by: Representatives Ives, Lemmond, Holmes, Creech, Esposito, Senators Warren, Sherron, Plyler, Perdue, Odom

## **PUBLIC LIBRARY GRANT IN AID FUNDS**

Sec. 11.6. (a) Of the funds appropriated to the Department of Cultural Resources for the 1995-96 fiscal year, the sum of two hundred eighty-four thousand dollars (\$284,000) shall not revert at the end of the fiscal year but shall remain available to the Department to be used as grants in aid to public libraries. The Department of Cultural Resources may use up to the full amount of the two hundred eighty-four thousand dollars (\$284,000) of the funds that shall not revert under this section for grants to public libraries.

(b) This section becomes effective June 30, 1996.

## **PART 12. DEPARTMENT OF INSURANCE**

Requested by: Representatives Ives, Lemmond, Senator Warren



## CONSTRUCTION CODE RECEIPTS

Sec. 12. Section 13 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"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. This section shall not apply to receipts realized by the Department from the sale of copies of the State construction code if the receipts are used for the purchase of copies of the code for sale to the public, except that unspent construction code receipts shall revert to the General Fund at the end of each fiscal year."

## PART 13. DEPARTMENT OF SECRETARY OF STATE

Requested by: Representatives Ives, Lemmond, Senator Warren

### INVESTOR PROTECTION AND EDUCATION TRUST FUND

Sec. 13. Article 4 of Chapter 147 of the General Statutes is amended by adding a new section to read:

**"§ 147-54.5. Investor Protection and Education Trust Fund; administration; limitations on use of the Fund.**

(a) The Investor Protection and Education Trust Fund created in the Department of the Secretary of State as an expendable trust account to be used by the Secretary of State only for the purposes set forth in this section.

(b) The proceeds of the Investor Protection and Education Trust Fund shall be used by the Secretary of State to provide investor protection and education to the general public and to potential securities investors in the State through:

- (1) The use of the media, including television and radio public service announcements and printed materials; and
- (2) The sponsorship of educational seminars, whether live, recorded, or through other electronic means.

(c) The proceeds of the Investor Protection and Education Trust Fund shall not be used for:

- (1) Travel expenses of the Secretary of State or staff of the Department of the Secretary of State, unless those expenses are directly related to specific investor protection and education activities performed in accordance with this section.
- (2) General operating expenses of the Department of the Secretary of State, or to supplement General Fund appropriations to the Department of the Secretary of State for other than investor education and protection activities.
- (3) Promoting the Secretary of State or the Department of the Secretary of State.

(d) Expenditures from the Investor Protection and Education Trust Fund shall be made in compliance with State purchasing and contracting requirements for competitive

bidding in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes.

(e) Revenues derived from consent orders resulting from negotiated settlements of securities investigations by the Secretary of State shall be credited to the Fund. The State Treasurer shall invest the assets of the Fund according to law. Any interest or other investment income earned by the Investor Protection and Education Trust Fund shall remain in the Fund. The balance of the Investor Protection and Education Trust Fund at the end of each fiscal year shall not revert to the General Fund.

(f) Beginning January 1, 1997, the Department of the Secretary of State shall report annually to the General Assembly's Fiscal Research Division and to the Joint Legislative Commission on Governmental Operations on the expenditures from the Investor Protection and Education Trust Fund and on the effectiveness of investor awareness education efforts of the Department of the Secretary of State."

### **PART 13A. STATE BOARD OF ELECTIONS**

Requested by: Representatives Ives, Lemmond, Senators Warren, Sherron

#### **EQUIPMENT FUNDS**

Sec. 13A. Notwithstanding G.S. 143-16.3, the State Board of Elections may use up to fifty thousand dollars (\$50,000) of funds available to purchase a copy machine.

### **PART 14. OFFICE OF STATE CONTROLLER**

Requested by: Representative Creech, Senator Warren

#### **NORTH CAROLINA INFORMATION HIGHWAY**

Sec. 14. (a) The funds appropriated in this act to the Office of the State Controller for the operation of the North Carolina Information Highway shall be used only for costs incurred by the Office of the State Controller related to the operations and support of the North Carolina Information Highway. No funds appropriated in this act shall be expended to pay Minimum Monthly usage charges for North Carolina Information Highway Services.

(b) Of the funds appropriated to the Office of the State Controller for the North Carolina Information Highway (NCIH), an amount not to exceed five hundred thousand dollars (\$500,000) shall be used to expand the long distance capacity and provide for the establishment of regional hubs in each of the seven LATAS in North Carolina. The remaining funds shall be used to help defray the costs of existing NCIH sites except those located at university sites other than East Carolina University academic affairs campus. Any savings accrued shall be placed in reserve in the Office of the State Controller for consideration by the 1997 General Assembly.

(c) Beginning October 1, 1996, the State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations regarding the costs incurred by the Office of the State Controller related to the operations and support of the

North Carolina Information Highway and the savings placed in reserve in the Office of the State Controller.

Requested by: Representatives Ives, Lemmond, Senators Warren, Little, Sherron  
**RESERVE FOR THE YEAR 2000 CONVERSION OF THE STATE'S  
COMPUTER SYSTEM**

Sec. 14.1. The Office of the State Controller shall include in its charges for data processing services costs of converting computer applications to operate properly at the turn of the century. The Office of the State Controller shall develop procedures for managing the year 2000 conversion.

**PART 15. DEPARTMENT OF REVENUE**

Requested by: Senators Kerr, Sherron, Hoyle, Representatives Gray, Allred  
**EXPAND HOMESTEAD EXEMPTION**

Sec. 15.1. (a) G.S. 105-277.1 reads as rewritten:

**"§ 105-277.1. Property classified for taxation at reduced valuation.**

(a) Exclusion. – The following class of property is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. The first ~~fifteen thousand dollars (\$15,000)~~ twenty thousand dollars (\$20,000) in appraised value of a permanent residence owned and occupied by a qualifying owner is excluded from taxation. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

- (1) Is at least 65 years of age or totally and permanently disabled.
- (2) Has an income for the preceding calendar year of not more than ~~eleven thousand dollars (\$11,000)~~ fifteen thousand dollars (\$15,000).
- (3) Is a North Carolina resident.

An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(b) Definitions. – When used in this section, the following definitions shall apply:

- (1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.
- (1a) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.
- (1b) Owner. – A person who holds legal or equitable title, whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of a life estate or an estate for the life of

another. A manufactured home jointly owned by husband and wife is considered property held by the entirety.

- (2) Repealed by Session Laws 1993, c. 360, s. 1.
- (2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.
- (3) Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex, or a manufactured home.
- (4) Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment that substantially precludes him or her from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout his or her life.

(c) Application. – An application for the exclusion provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through April 15 preceding the tax year for which the exclusion is claimed. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each owner shall apply separately for his or her proportionate share of the exclusion.

- (1) Elderly Applicants. – Persons 65 years of age or older may apply for this exclusion by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1.
- (2) Disabled Applicants. – Persons who are totally and permanently disabled may apply for this exclusion by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability. The proof shall be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, he or she shall not be required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for the taxation at reduced valuation.

(d) Multiple Ownership. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife and one or more of the owners qualifies for this exclusion, each qualifying owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event may the total exclusion allowed for a permanent residence exceed ~~fifteen thousand dollars (\$15,000)~~ the exclusion amount provided in this section."

(b) G.S. 105-309(f) reads as rewritten:

"(f) The following information shall appear on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the notice required by this subsection. The notice shall read as follows:

**'PROPERTY TAX RELIEF FOR ELDERLY AND  
PERMANENTLY DISABLED PERSONS.**

North Carolina excludes from property taxes the first ~~fifteen thousand dollars (\$15,000)~~ twenty thousand dollars (\$20,000) in appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed ~~eleven thousand dollars (\$11,000)~~ fifteen thousand dollars (\$15,000). Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above ~~eleven thousand dollars (\$11,000)~~ fifteen thousand dollars (\$15,000), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before April 15 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by April 15."

(c) G.S. 105-277.1A reads as rewritten:

**"§ 105-277.1A. Property classified for taxation at reduced valuation; duties of tax collectors; reimbursement of localities for portion of tax lost.**

(a) On September 1, 1990, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue a list containing the name and address of each person who has qualified in that year for the exemption provided in G.S. 105-277.1. The list shall also contain for each name the total amount of property exempted, the tax rate the property is subject to, and the product obtained by multiplying those two numbers by each other. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall all be on a form prescribed by the Secretary of Revenue.

(a1) On December 1, 1997, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue two lists containing the name and address of each taxpayer who has qualified in that year for the exemption provided in G.S. 105-277.1. The first list shall include those taxpayers whose income was above eleven thousand dollars (\$11,000) and the second list shall include those taxpayers

whose income was eleven thousand dollars (\$11,000) or less. On the first list, the tax collector shall provide for each name the total amount of property exempted and on the second list, the tax collector shall provide for each name the amount of property above fifteen thousand dollars (\$15,000) exempted. On both lists, the tax collector shall provide the tax rate the property is subject to and the product obtained by multiplying the tax rate by the amount of property. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

~~(b) In addition to the list required by subsection (a) of this section, the county or city may provide a supplemental list on December 1.~~

(c) The Secretary of Revenue may, for cause, grant an extension for the submission of ~~the a~~ list required by this section.

(d) Before May 31, 1991, the Secretary of Revenue shall distribute to the county or city fifty percent (50%) of the total for the entire list provided pursuant to subsection (a) of this section of the product obtained by multiplying the tax exemption for each taxpayer times the applicable tax rate. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city that was entitled to receive a distribution under this ~~section~~ subsection in 1991 the amount it was entitled to receive in 1991.

(d1) Before May 31, 1998, the Secretary of Revenue shall distribute to the county or city fifty percent (50%) of the total for both lists provided the preceding December 1 pursuant to subsection (a1) of this section of the product obtained by multiplying the applicable tax rate times the amount listed for each taxpayer. Before May 31, 1999, the Secretary of Revenue shall pay to each county and city the amount it received under this subsection in 1998.

(e) Any funds received by any county or city pursuant to this section because the county or city was collecting taxes for another unit of government or special district shall be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

(f) In order to pay for the reimbursement under this section and the cost to the Department of Revenue of administering the reimbursement, the Secretary of Revenue shall draw from collections received under Division I of Article 4 of this Chapter an amount equal to the reimbursement and the cost of administration."

(d) This section is effective for taxes imposed for taxable years beginning on or after July 1, 1997.

Requested by: Senators Perdue, Warren, Kerr, Representatives Holmes, Creech, Esposito

### **FEDERAL PENSION WITHHOLDING**

Sec. 15.2. Of the funds appropriated to the Department of Revenue for the 1996-97 fiscal year the sum of eighty-nine thousand seven hundred fifty dollars (\$89,750) shall be used for start-up costs for participation in the United States Office of Personnel Management's voluntary program for withholding State income tax from civil service pension benefits.

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

**MODIFY STATE PORTS TAX INCENTIVE**

Sec. 15.3. (a) G.S. 105-130.41(a) reads as rewritten:

"(a) Credit. – A taxpayer whose waterborne cargo is loaded onto or unloaded from an ocean carrier calling at the State-owned port terminal at Wilmington or Morehead City, without consideration of the terms under which the cargo is moved, is allowed a credit against the tax imposed by this Division. The amount of credit allowed is equal to the excess of the wharfage, handling (in or out), and throughput charges assessed on the cargo for the current taxable year over an amount equal to the average of the charges for the current taxable year and the two preceding taxable years. The credit applies to forest products, break-bulk cargo and container cargo, including less-than-container-load cargo, that is loaded onto or unloaded from an ocean carrier calling at either the Wilmington or Morehead City port terminal and to bulk cargo that is loaded onto or unloaded from an ocean carrier calling at the Morehead City port terminal. To obtain the credit, taxpayers must provide to the Secretary a statement from the State Ports Authority certifying the amount of charges for which a credit is claimed and any other information required by the Secretary."

(b) G.S. 105-151.22(a) reads as rewritten:

"(a) Credit. – A taxpayer whose waterborne cargo is loaded onto or unloaded from an ocean carrier calling at the State-owned port terminal at Wilmington or Morehead City, without consideration of the terms under which the cargo is moved, is allowed a credit against the tax imposed by this Division. The amount of credit allowed is equal to the excess of the wharfage, handling (in or out), and throughput charges assessed on the cargo for the current taxable year over an amount equal to the average of the charges for the current taxable year and the two preceding taxable years. The credit applies to forest products, break-bulk cargo and container cargo, including less-than-container-load cargo, that is loaded onto or unloaded from an ocean carrier calling at either the Wilmington or Morehead City port terminal and to bulk cargo that is loaded onto or unloaded from an ocean carrier calling at the Morehead City port terminal. To obtain the credit, taxpayers must provide to the Secretary a statement from the State Ports Authority certifying the amount of charges for which a credit is claimed and any other information required by the Secretary."

(c) This section is effective for taxable years beginning on or after January 1, 1996.

Requested by: Senator Perdue, Representative Gray

**SOFT DRINK TAX ON MILK DRINKS**

Sec. 15.4. (a) G.S. 105-113.46 reads as rewritten:

**"§ 105-113.46. Exemptions.**

The taxes imposed by this Article do not apply to an item that is listed in this section and, if the item is a bottled soft drink or a juice concentrate included in subdivision ~~(2)~~, ~~(3)~~, ~~(3)~~ or (3a), is registered with the Secretary in accordance with G.S. 105-113.47:

~~(1) A natural liquid milk drink produced by a farmer or a dairy.~~

- (2) A bottled soft drink that contains ~~at least thirty five percent (35%) natural milk measured by volume and is not exempt under subdivision (1).~~ milk.
- (3) Natural juice.
- (3a) Juice that would be natural if it did not contain sugar.
- (4) Natural water.
- (5) A base product used to make a bottled soft drink subject to tax under this Article.
- (6) Coffee or tea in any form.
- (7) A bottled soft drink or base product sold outside the State.
- (8) A bottled soft drink or base product sold to the federal government.
- (9) A base product for domestic use that either contains milk or, according to directions on the base product's container, requires milk to be added to make a soft drink."
- (b) G.S. 105-113.47(a) reads as rewritten:

"(a) Requirement. – To be exempt from the tax imposed by this Article, the following items must be registered with the Secretary as an exempt item:

- (1) ~~A bottled soft drink that contains at least thirty five percent (35%) natural milk measured by volume and is not exempt under G.S. 105-113.46(1).~~
- (2) A natural juice bottled soft drink.
- (3) A natural juice concentrate.
- (4) A juice concentrate or juice bottled soft drink that would be natural if it did not contain sugar."

(c) This section is effective retroactively as of October 1, 1991. A taxpayer who paid an excise tax on a product that is exempt under this section may apply for a refund of the tax by submitting an application for refund to the Department of Revenue by January 1, 1997. A taxpayer who submits a timely application may receive a refund in an amount equal to the amount of taxes paid on the item since October 1, 1991, along with interest at the rate provided in G.S. 105-266 for refunds of overpaid taxes. If any penalties have been assessed for failure to pay this tax, these penalties shall be waived and, if the penalties have been paid, they shall be refunded to the taxpayer. The application must be in the form and contain the information required by the Secretary of Revenue.

Requested by: Senators Warren, Sherron, Representatives Ives, Lemmond

**DATA PROCESSING FUNDS**

Sec. 15.5. (a) Of the funds appropriated to the Department of Revenue for the 1995-96 fiscal year, the sum of two million dollars (\$2,000,000) shall not revert at the end of the fiscal year but shall remain available for expenditure to cover a deficit for the 1995-96 fiscal year of up to two million dollars (\$2,000,000) in the funds available to pay the State Information Processing System for data processing costs.

- (b) This section becomes effective June 30, 1996.



Requested by: Representatives Ives, Lemmond, Senators Warren, Sherron  
**ASSESS REVENUE STAFF REQUIREMENTS**

Sec. 15.6. The State Budget Office, Management and Productivity Unit shall work with the Department of Revenue to assess the Department's staff requirements. Specifically, it shall determine the variety of unit costs related to workload as influenced by existing laws and resulting policies and procedures adopted by the Department of Revenue.

The State Budget Officer and the Secretary of Revenue shall make a joint final report to the House and Senate Appropriations Subcommittees on General Government by March 1, 1997, on the results of this assessment.

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

**NC MEMORIAL HOSPITAL SALES TAX REFUNDS**

Sec. 15.7. (a) G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(21) The University of North Carolina Hospitals at Chapel Hill."

(b) This section becomes effective January 1, 1997, and applies to taxes paid on or after that date.

**PART 16. COLLEGES AND UNIVERSITIES**

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

**AID TO STUDENTS ATTENDING PRIVATE COLLEGES**

Sec. 16. Section 15 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"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)~~ six hundred dollars (\$600.00) 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)~~

one thousand three hundred dollars (\$1,300) 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. Expenditures made pursuant to this section shall not be used for any student who:

- (1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or
- (2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years.

(d) The State Education Assistance Authority shall document the number of full-time equivalent North Carolina undergraduate students that are enrolled in off-campus programs and the State funds collected by each institution pursuant to G.S. 116-19 for those students. The State Education Assistance Authority shall also document the number of scholarships and the amount of the scholarships that are awarded under G.S. 116-19 to students enrolled in off-campus programs. An 'off-campus program' is any program offered for degree credit away from the institution's main permanent campus.

The State Education Assistance Authority shall report to the Joint Legislative Commission on Governmental Operations by March 1, 1997, regarding its findings."

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

**DISTANCE LEARNING INITIATIVES**

Sec. 16.1. Of the funds appropriated by this act to The University of North Carolina Board of Governors, the sum of one million two hundred thousand dollars (\$1,200,000) in nonrecurring funds and the sum of five hundred thousand dollars (\$500,000) in recurring funds shall be allocated to North Carolina State University to furnish the Engineering Graduate Research Center and to operate distance learning programs. Engineering programs offered through this funding shall be a cooperative effort among North Carolina State University, North Carolina Agricultural and Technical State University, and the University of North Carolina at Charlotte.

An additional amount of two million two hundred fifty-five thousand dollars (\$2,255,000) appropriated by this act to the Board of Governors shall be allocated and used for distance learning and capacity enhancing alternatives, including expansion of the "2 + 2" engineering programs offered through North Carolina State University, incentives for summer school enrollments, and other initiatives planned by the Board of Governors.

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

**UNC EQUITY OF FUNDING**

Sec. 16.2. (a) Notwithstanding G.S. 116-30.3, the five constituent institutions (Appalachian State University, East Carolina University, University of North Carolina at Charlotte, University of North Carolina at Greensboro, and University of North Carolina at Wilmington) cited in the study of equity of funding among the constituent institutions of The University of North Carolina as receiving lower than average per pupil funding in several comparisons, shall not be required to revert two percent (2%) of their General Fund appropriations for the 1996-97 fiscal year. These funds shall be used to improve areas of need that can be addressed with nonrecurring funds.

(b) Of the funds appropriated to the Board of Governors of The University of North Carolina for the 1996-97 fiscal year, the sum of two million two hundred twenty-six thousand dollars (\$2,226,000) in nonrecurring funds shall be used to assure that the total funds retained pursuant to subsection (a) of this section and the additional funds from this allocation shall provide a minimum of thirty-seven and one-half percent (37.5%) of the funding needs identified for each of the campuses cited as having funding below an equitable level in the Board of Governors' Phase I final report on "An Analysis of Funding Equity in The University of North Carolina."

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

**CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE**

Sec. 16.3. The General Assembly recommends that the Governor continue funding the Center for Prevention of School Violence from the current source of grant monies through the 1996-97 fiscal year.

Requested by: Representatives Holmes, Creech, Esposito, Grady, Preston, Cummings, Senators Plexico, Winner, Little, Conder

**EVALUATE UNIVERSITY RESIDENCES FOR FIRE SAFETY AND REPORT ON ESTIMATED COST TO INSTALL ANY NEEDED FIRE DETECTION AND SAFETY EQUIPMENT**

Sec. 16.4. (a) The Board of Governors of The University of North Carolina shall survey each constituent institution and the North Carolina School of Science and Mathematics regarding its campus residential facilities, potential fire hazards at those facilities, and the fire detection and safety equipment currently installed in those facilities. Each constituent institution shall indicate whether each residential facility on its campus has an adequate fire alarm system including smoke detectors and fire sprinklers, and, if not, the estimated cost to install adequate fire detection and safety equipment. The Board of Governors shall report as soon as possible to the General Assembly regarding the findings of the survey.

(b) The Board of Governors of The University of North Carolina shall begin to address fire safety needs in campus residential facilities including the North Carolina School of Science and Mathematics during the 1996-97 fiscal year. The Board of Governors shall give top priority to those fire safety needs that are determined to be the most egregious and shall address those needs first. The Board of Governors shall use available reserves in institutional housing trust funds, as well as funds allocated to the Board from the Reserve for Repairs and Renovations to comply with this section. Should the Board of Governors allocate funds from the Reserve for Repairs and Renovations for fire safety improvements in campus residential facilities not supported from the General Fund, it shall first find that sufficient funds are not available from other sources. 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.

(c) The Board of Governors of The University of North Carolina shall include in its budget requests for the 1997-99 biennium the estimated amount needed to address any remaining fire safety needs of the residential facilities located on its campuses including the North Carolina School of Science and Mathematics.

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

**FACILITATE FINANCING OF FIRE WARNING AND SUPPLEMENTAL FIRE PROTECTION SYSTEMS IN STUDENT HOUSING**

Sec. 16.5. (a) Article 1 of Chapter 116 of the General Statutes is amended by adding a new Part to read:

"Part 7. Fire Safety.

**"§ 116-44.6. Definitions.**

**Unless the context clearly requires another meaning, the following definitions apply in this Part:**

- (1) Fraternity or sorority. – A social, professional, or educational incorporated organization that, by official recognition, is affiliated or

identified with a public or nonpublic institution of higher education in this State and which maintains a living facility that provides accommodations for five or more students enrolled at the recognition-granting institution of higher education.

- (2) Fund. – The Fire Safety Loan Fund authorized by this Part.
- (3) Living facility. – A sleeping facility capable of overnight accommodation and other capabilities which support continuous occupancy.
- (4) Residence hall. – A living facility maintained by a public or nonpublic institution of higher education in North Carolina or by the North Carolina School of Science and Mathematics for use by enrolled students.
- (5) Supplemental fire safety protection system. – A water system capability which is sized to accommodate the added water supply pressure and volume required for building fire protection.
- (6) Water system. –
  - a. A city, county, or sanitary district; or
  - b. A water and sewer authority, a metropolitan water district, or county water and sewer district, established pursuant to Chapter 162A of the General Statutes.

**"§ 116-44.7. Exemption from certain fees and charges.**

No water system serving a residence hall or fraternity or sorority housing shall levy or collect any water-meter fee, water-hydrant fee, tap fee, or similar service fee on a residence hall or fraternity or sorority house with respect to supporting a supplemental fire safety protection system in excess of the actual cost to the water system to support the fire safety protection system.

**"§ 116-44.8. Fire Safety Loan Fund.**

(a) There is established the Fire Safety Loan Fund. The Fund shall be a revolving loan fund for installing fire safety equipment and systems in fraternity and sorority housing.

(b) The Fund shall be administered by the Office of the State Treasurer, and that office may establish the policies and procedures that it deems appropriate for the operation of the Fund. The Office of the State Treasurer may enlist the assistance of other State departments or entities which have expertise that would be useful in administering the Fund, and those State departments or entities shall provide the assistance requested.

(c) The Fund shall be operated on a revolving basis with proceeds from the repayment of prior loans being made available for subsequent loans.

(d) Loans from the Fund shall be secured by a first or second mortgage or other pledge. Loans shall be made for a period not to exceed 10 years. Interest shall not be charged on loans from the Fund."

(b) Of the funds allocated by this act to the Board of Governors of The University of North Carolina from the Reserve for Repairs and Renovations, the sum of one million two hundred sixty-three thousand eight hundred three dollars (\$1,263,803)

for the 1996-97 fiscal year shall be used to add central fire alarm and warning systems to residence halls at the constituent institutions of The University and at the North Carolina School of Science and Mathematics that are not currently so equipped. The central alarm and warning systems to be installed shall be interconnected with a supervisory campuswide system of reporting into a station that is continuously monitored.

(c) Of the funds appropriated to the Office of the State Treasurer, the sum of one million dollars (\$1,000,000) for the 1996-97 fiscal year shall be used for the purpose of establishing the Fire Safety Loan Fund for installing fire safety equipment and systems in fraternity and sorority housing at public and nonpublic institutions of higher education located in North Carolina as authorized by G.S. 116-44.8.

(d) Subsection (a) of this section is effective upon ratification.

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

#### **REPORT ON SERVICES PROVIDED BY FACULTY AND STUDENT ADVISORS**

Sec. 16.6. The Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Committee prior to January 2, 1997, on the implementation by each constituent institution of the recommendations included in the report on "Academic Advising in the University of North Carolina." The report shall include the following information collected from each constituent institution: (i) the progress of the institution's initiative to improve advising, (ii) the results of the senior survey referenced in the report on "Academic Advising in the University of North Carolina", and (iii) the plans of each constituent institution to address specifically any item of student dissatisfaction on the senior survey that had a score of dissatisfaction above thirty-three percent (33%).

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

#### **PARENTAL SAVINGS TRUST FUND**

Sec. 16.7. Article 23 of Chapter 116 of the General Statutes is amended by adding a new section to read:

##### **"§ 116-209.25. Parental Savings Trust Fund.**

(a) Policy. – The General Assembly of North Carolina hereby finds and declares that encouraging parents and other interested parties to save for the postsecondary education expenses of eligible students is fully consistent with and furthers the long-established policy of the State to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).

(b) Parental Savings Trust Fund. – There is established a parental savings trust fund to be administered by the State Education Assistance Authority to enable qualified parents to save funds to meet the costs of the postsecondary education expenses of eligible students.

(c) Contributions to the Trust Fund. – The Authority is authorized to accept, hold, and disburse contributions, and interest earned on such contributions, from qualified parents and other interested parties in the Parental Savings Trust Fund. The contributions to the Parental Savings Trust Fund shall be held by the Authority in a separate institutional trust fund and, as such, contributions to the trust fund shall be invested by the State Treasurer as authorized in G.S. 147-69.2(b)(1) through (6) and the applicable provisions of G.S. 147-69.3. The contributions to the Parental Savings Trust Fund shall not be considered State moneys, assets of the State, or State revenue for any purpose.

(d) Administration of the Trust Fund. – The Authority is authorized to develop and perform all functions necessary and desirable to administer the Parental Savings Trust Fund and to provide such other services as the Authority shall deem necessary to facilitate participation in the Parental Savings Trust Fund.

(e) Loan Program. – The Authority is authorized to develop and administer a loan program in conjunction with the Parental Savings Trust Fund to provide loan assistance to qualified parents and interested parties in order to facilitate the postsecondary education of eligible students. All funds appropriated to, or otherwise received by the Authority for loans under this section, all funds received as repayment of such loans, and all interest earned on these funds shall be placed in an institutional trust fund. This institutional trust fund may be used only for loans made to qualified parents and interested parties who contributed to the Parental Savings Trust Fund and administrative costs associated with the recovery of funds advanced under this loan program."

Requested by: Representatives Holmes, Creech, Esposito, Senators Plexico, Winner  
**SUPERCOMPUTER AND THE RESEARCH AND EDUCATION NETWORK/BOARD OF GOVERNORS TO MAINTAIN FUNDS**

Sec. 16.8. The Board of Governors of The University of North Carolina shall maintain the funds transferred by this act for the purchase of the Supercomputer and the Research and Education Network in a central identifiable budget purpose.

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

**AGRICULTURE RESEARCH FUNDS**

Sec. 16.9. Of the funds appropriated to the Board of Governors of The University of North Carolina for the 1996-97 fiscal year the following sums shall be allocated as follows:

- (1) The sum of \$1,000,000 in nonrecurring funds shall be allocated for research efforts focused upon eradicating diseases in the State's turkey population. Any of these funds remaining at the end of the 1996-97 fiscal year shall not revert but shall remain available for use pursuant to this section.
- (2) The sum of \$90,000 in nonrecurring funds shall be allocated to enhance fish hatcheries research and production.

- (3) The sum of \$250,000 in nonrecurring funds shall be allocated for turfgrass research.

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

**UNC FUNDING FOR NEW ENROLLMENT POLICY CHANGE**

Sec. 16.10. In requesting funds for additional students, the Board of Governors of The University of North Carolina shall revise its methodology to ensure sufficient funding for support services needed due to enrollment growth. The policy change shall be implemented for the 1996-97 fiscal year and each fiscal year thereafter. Funds are provided in this act to implement this policy change for the 1996-97 fiscal year.

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

**ACADEMIC ENHANCEMENT FUNDS**

Sec. 16.11. Of the funds appropriated to The University of North Carolina Board of Governors, the sum of seventeen million eight hundred thousand dollars (\$17,800,000) shall be allocated to constituent institutions classified as Research University I campuses in direct proportion to the funds to be raised on each campus for the 1996-97 fiscal year from the tuition increases authorized under Section 15.15 of Chapter 507 of the 1995 Session Laws.

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

**COMPREHENSIVE PLAN FOR HIGHER EDUCATION ENROLLMENT**

Sec. 16.12. Subsection (a) of Section 15.12 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"(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 consider the capacity of the physical facilities of the private colleges and universities in developing its plan for additional incentives for private colleges.

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."

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

**HEALTH INSURANCE FOR GRADUATE ASSISTANTS**

Sec. 16.13. Notwithstanding any other provision of law, a special responsibility constituent institution of The University of North Carolina may use the funding flexibility granted to it to provide health insurance for graduate assistants from funds carried forward to the next fiscal year pursuant to G.S. 116-30.3.

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

**UNIVERSITY OF NORTH CAROLINA SYSTEM – FUNDS TO REWARD EXCELLENCE IN TEACHING**

Sec. 16.14. Effective September 1, 1996, the Board of Governors of The University of North Carolina shall develop policies for the distribution of an average one-half percent (1/2%) salary increase for teaching faculty members, to be given to those who have demonstrated excellence in teaching, except that the policies shall not apply to teaching faculty members at the University of North Carolina at Chapel Hill or at North Carolina State University.

**PART 17. COMMUNITY COLLEGES**

Requested by: Representatives Russell, Grady, Preston, Senators Plexico, Winner  
**COMPUTATION OF FTE FOR COURSES TAUGHT IN PRISONS**

Sec. 17. Community colleges shall compute full-time equivalent (FTE) student hours on the bases of both contact hours and student membership hours for curriculum education programs that are taught in prison facilities and that are offered in compliance with the State Board of Community College's correctional course offering matrix. The State Board of Community Colleges shall report both counts to the General Assembly by January 15, 1997.

The 1997 General Assembly shall consider the question of whether to compute FTE for these courses on the basis of contact hours or on the basis of student membership hours.

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

## **IN-STATE TUITION FOR FAMILIES TRANSFERRED INTO STATE**

Sec. 17.1. (a) G.S. 115D-39 reads as rewritten:

### **"§ 115D-39. Student tuition and fees.**

The State Board of Community Colleges shall fix and regulate all tuition and fees charged to students for applying to or attending any institution pursuant to this Chapter.

The receipts from all student tuition and fees, other than student activity fees, shall be State funds and shall be deposited as provided by regulations of the State Board of Community Colleges.

The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and G.S. 116-143.3, shall apply to students attending institutions operating pursuant to this Chapter; provided, however, that when an employer other than the armed services, as that term is defined in G.S. 116-143.3, pays tuition for an employee to attend an institution operating pursuant to this Chapter and when the employee works at a North Carolina business location, the employer shall be charged the in-State tuition ~~rate~~rate; provided further, however, a community college may charge in-State tuition to up to one percent (1%) of its out-of-state students, rounded up to the next whole number, to accommodate the families transferred by business, the families transferred by industry, or the civilian families transferred by the military, consistent with the provisions of G.S. 116-143.3, into the State. Notwithstanding these requirements, a refugee who lawfully entered the United States and who is living in this State shall be deemed to qualify as a domiciliary of this State under G.S. 116-143.1(a)(1) and as a State resident for community college tuition purposes as defined in G.S. 116-143.1(a)(2)."

(b) The State Board of Community Colleges shall adopt rules to implement this section, effective for the fall 1996 quarter.

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

### **ELIMINATION OF BARRIERS AMONG PUBLIC SCHOOLS, COMMUNITY COLLEGES, AND UNIVERSITIES/STUDY**

Sec. 17.2. (a) The Education Cabinet shall study ways to eliminate barriers to cooperation among public schools, community colleges, and universities in the area of distance learning. The Education Cabinet shall develop a plan for sharing registration, credit hours, funding for full-time equivalent students (FTE), counseling and financial aid services, tuition receipts, and administrative responsibilities, and shall report to the General Assembly prior to January 31, 1997, on the plan it develops. The report shall include a list of any statutory or rule changes that are necessary prior to implementation of the plan and an explanation of why each change is necessary and appropriate.

(b) The State Board of Community Colleges shall examine ways to encourage pilot projects for higher education two plus two programs while continuing to recognize the community college system's statutory role as primary lead agency for providing vocational and technical job training programs.

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

### **COMMUNITY COLLEGES FUNDING FORMULAS/STUDY**

Sec. 17.3. The State Board of Community Colleges shall undertake a comprehensive study of the funding formula used to distribute funds to local community colleges and shall make any recommendations for changes to the General Assembly by January 31, 1997. The study shall include, but not be limited to, the development of a plan to increase the level of funding for occupational extension courses to the funding level for curriculum courses and the cost of such a plan. In developing the plan, the State Board shall consider whether one or more colleges receive a disproportionate share of the occupational extension formula funds, the appropriateness of such a distribution, and any recommendations for changes in that distribution. The State Board of Community Colleges shall use Board Reserve funds to hire an outside, independent consultant to study the funding formula.

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

**EXPENDITURE FOR NEW AND EXPANDING INDUSTRY/REPORT**

Sec. 17.4. G.S. 115D-5 is amended by adding a new subsection to read:

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

- (1) The total amount of funds received by the company or individual;
- (2) The amount of funds per trainee received by the company or individual;
- (3) The amount of funds received per trainee by the community college training the trainee;
- (4) The number of trainees trained by company and by community college; and
- (5) The number of years the companies or individuals have been funded.

The September 1, 1996, report shall include this information for the prior three fiscal years."

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

**UNIFORM MEDICAL HISTORY FORM/POSTSECONDARY INSTITUTIONS**

Sec. 17.5. The State Board of Community Colleges and the Board of Governors of The University of North Carolina shall adopt a uniform student medical history form for use by all institutions in the North Carolina Community College System and by all of the constituent institutions of The University of North Carolina. This form shall be used for all new students enrolling after July 1, 1997, who are required to submit health forms.

The State Board of Community Colleges and the Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Committee by December 15, 1996, on their progress in implementing the provisions of this section.

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

**DEPARTMENT OF COMMUNITY COLLEGES/BUDGET REALIGNMENT**

Sec. 17.6. (a) The Department of Community Colleges may realign its budget in accordance with the departmental reorganization plan adopted by the State Board of Community Colleges, which is in place June 1, 1996.

(b) The Department of Community Colleges shall prepare a response to the State Auditor's Performance Audit Report of April 1996, on the concern raised about the creation of the new Division of System Affairs and on what steps it has taken to address the issue raised with regard to this Division. The Department shall present its response to the Senate and House Appropriations Subcommittees on Education prior to February 15, 1997.

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

**CLARIFICATION OF FUND USE**

Sec. 17.7. (a) G.S. 115D-5 is amended by adding a new subsection to read:

"(j) The State Board of Community Colleges shall use its Board Reserve Fund for feasibility studies, pilot projects, start-up of new programs, and innovative ideas. The State Board shall report to the Joint Legislative Education Oversight Committee on expenditures from the State Board Reserve Fund on January 15 and June 15 each year."

(b) Of the funds appropriated for the 1996-97 fiscal year to the Department of Community Colleges, two hundred thousand dollars (\$200,000) shall be used for start-up costs at the newest Hosiery Technology Center program created in 1995-96 and two hundred thousand dollars (\$200,000) shall be used for start-up costs for new community college programs serving the recently constructed Pasquotank Correctional Institution.

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

**INFORMATION HIGHWAY SITES/COMMUNITY ACCESS**

Sec. 17.8. It is the policy of the State to make all North Carolina Information Highway sites available to all public agencies for public use. The Education Cabinet shall adopt guidelines for ensuring public access to the university, community colleges, and public school information highway sites, and shall report these guidelines to the Joint Legislative Education Oversight Committee by January 2, 1997.

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

**FUNDS TO REWARD EXCELLENCE IN COMMUNITY COLLEGE TEACHING**

Sec. 17.9. Effective September 1, 1996, the State Board of Community Colleges shall develop policies for the distribution of an average one-half percent (1/2%) salary increase for teaching faculty members to be given to those who have demonstrated excellence in teaching.

## **PART 18. PUBLIC SCHOOLS**

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

### **EXCEPTIONAL CHILDREN FUNDS**

Sec. 18.1. The funds appropriated for exceptional children in this act shall be allocated as follows:

- (1) Each local school administrative unit shall receive for academically gifted children the sum of \$686.38 per child for four percent (4.0%) of the 1995-96 actual average daily membership in the local school administrative unit, regardless of the number of children identified as academically gifted in the local school administrative unit. The total number of children for which funds shall be allocated pursuant to this subdivision is 47,038 for the 1996-97 school year.
- (2) Each local school administrative unit shall receive for exceptional children other than academically gifted children the sum of \$2,059.14 per child for the lesser of (i) all children who are identified as exceptional children other than academically gifted children or (ii) twelve and five-tenths percent (12.5%) of the 1995-96 actual average daily membership in the local school administrative unit. The maximum number of children for which funds shall be allocated pursuant to this subdivision is 137,449 for the 1996-97 school year.

The dollar amounts allocated under this subsection for exceptional children shall also increase in accordance with legislative salary increments for personnel who serve exceptional children.

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

### **SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES/SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

Sec. 18.2. (a) Funds for supplemental funding. – The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement; therefore, of the funds appropriated to Aid to Local School Administrative Units, the sum of forty-six million four hundred eighty-three thousand eight hundred nine dollars (\$46,483,809) for the 1996-97 fiscal year shall be used for supplemental funds for schools. These funds shall be allocated and administered as provided in Section 17.1 of Chapter 507 of the 1995 Session Laws.

(b) Funds for small school systems. – The State Board of Education shall allocate and administer funds appropriated for small school system supplemental funding as provided in Section 17.2 of Chapter 507 of the 1995 Session Laws.

(c) Reports. – The State Board of Education shall report to the Appropriations Committees of the Senate and the House of Representatives prior to

May 1, 1996, on whether counties supplanted local funds with the funds received pursuant to this section.

Requested by: Representatives Grady, Preston, Senators Winner, Plexico  
**FUNDS TO REDUCE CLASS SIZE IN GRADE 2**

Sec. 18.3. The funds appropriated in this act to reduce class size in second grade shall be allocated by the State Board of Education to local school administrative units on the basis of one teacher for every 23 students in second grade. Local school administrative units shall use these funds (i) to reduce class size in second grade to 23 or fewer students or (ii) to hire reading teachers within kindergarten through third grade or otherwise reduce the student-teacher ratio within kindergarten through third grade.

For the purpose of calculating the maximum allowable class size for second grade, the ratio of teachers to students shall be 1 to 26.

Requested by: Representatives Grady, Preston, Senators Perdue, Plexico, Winner  
**SUBSTITUTE PAY FOR TEACHER ASSISTANTS**

Sec. 18.4. G.S. 115C-12(8) reads as rewritten:

"(8) Power to Make Provisions for Sick Leave and for Substitute Teachers.  
– The Board shall provide for 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 sick 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, teacher,~~ 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."

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

**EXEMPTIONS FROM THE COMPUTER SKILLS TEST**

Sec. 18.5. The State Board of Education may exempt a school from the implementation of the computer skills test if the school does not have adequate computer resources to instruct students in computer skills or to administer the test.

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

**MINIMUM VACATION LEAVE FOR BUS DRIVERS**

Sec. 18.6. Notwithstanding any other provision of law, all school bus drivers, who have been employed for at least one academic year and who are not entitled to more than one day of paid vacation leave, are entitled to one day of paid vacation leave in each subsequent school year.

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

#### **SCHOOL PAY DATE FLEXIBILITY PILOT PROGRAM**

Sec. 18.8. The State Board of Education may establish a pilot program to grant no more than four local boards of education additional flexibility in setting the pay dates for their 10-month employees. Notwithstanding the provisions of G.S. 115C-302(a) and G.S. 115C-316(a), local school administrative units participating in the pilot may pay 10-month employees for a full month of employment when days employed are less than a full month at the beginning or the end of the teachers' contract. No local school administrative unit shall be required to participate in the pilot. A local board participating in the pilot shall bear all of the cost of recouping funds prepaid for work never done and the cost of these funds that cannot be recouped.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee on the pilot program prior to September 1, 1998.

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

#### **FUNDS FOR NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS**

Sec. 18.9. Section 17.11 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 17.11. The National Board for Professional Teaching Standards (NBPTS) was established in 1987 as an independent, nonprofit organization to establish high standards for teachers' knowledge and performance and for development and operation of a national voluntary system to assess and certify teachers who meet those standards. In order to apply for the NBPTS certification process, teachers must have three years or more of teaching experience, be currently teaching, have graduated from an accredited college or university, and hold a valid State teaching license. Upon successful completion of a year-long process of developing a portfolio of student work and videotapes of teaching/learning activities for NBPTS review and then participating in NBPTS assessment center simulation exercises, including performance-based activities and a content knowledge examination, teachers may become NBPTS-certified.

Of the funds appropriated to the Department of Public Instruction in this act, the sum of:

- (1) Two hundred thirty thousand seven hundred seventy-six dollars (\$230,776) for the 1995-96 fiscal year and nine hundred thirty-six thousand five hundred seven dollars (\$936,507) for the 1996-97 fiscal year shall be used to pay for the National Board for Professional Teaching Standards (NBPTS) participation fee and for up to three days

of approved paid leave for teachers participating in the NBPTS program during the 1995-96 school year and the 1996-97 fiscal year for State-paid teachers who (i) have completed three years of teaching in North Carolina schools operated by local boards of education, the Department of Human Resources, the Department of Correction, or The University of North Carolina, or affiliated with The University of North Carolina, prior to application for NBPTS certification, and (ii) who have not previously received State funds for participating in any certification area in the NBPTS program. Teachers participating in the program shall take paid leave only with the approval of their supervisors.

A teacher for whom the State pays the participation fee (i) who does not complete the process or (ii) who completes the process but does not teach in a North Carolina public school for at least one year after completing the process, shall repay the certification fee to the State. Repayment is not required if the process is not completed or the teacher fails to teach for one year due to the death or disability of the teacher or other extenuating circumstances as may be recognized by the State Board.

- (2) Two hundred forty-five thousand five hundred eighty-two dollars (\$245,582) for the 1995-96 fiscal year and two hundred forty-three thousand eighty-seven dollars (\$243,087) for the 1996-97 fiscal year shall be used for an annual bonus of four percent (4%) of the teacher's State-paid salary for the 10-month school year for State-paid teachers who (i) completed three years of teaching in North Carolina schools operated by local boards of education, the Department of Human Resources, the Department of Correction, or The University of North Carolina prior to application for NBPTS certification and (ii) received NBPTS certification. The bonus for each fiscal year shall be paid at the end of each full school year that the teacher teaches full time in a North Carolina school operated by local boards of education, the Department of Human Resources, the Department of Correction, or The University of North Carolina. Teachers shall continue this bonus only as long as they retain NBPTS certification."

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

**ADDITIONAL EDUCATIONAL AND CAREER OPPORTUNITIES FOR TEACHER ASSISTANTS**

Sec. 18.10. G.S. 115C-468 reads as rewritten:

**"§ 115C-468. Establishment of fund.**

(a) There is established a revolving fund known as the 'Scholarship Loan Fund for Prospective Teachers'.



(b) Criteria for awarding scholarship loans from the fund shall include measures of academic performance including grade point averages, scores on standardized tests, class rank, and recommendations of guidance counselors and principals. To the extent practical, an equal number of scholarships shall be awarded in each of the State's Congressional Districts.

(c) The Superintendent of Public Instruction may earmark up to twenty percent (20%) of the funds available for scholarship loans each year for awards to applicants who have been employed for at least one year as teacher assistants and who are currently employed as teacher assistants. Preference for these scholarship loans from funds earmarked for teacher assistants shall be given first to applicants who worked as teacher assistants for at least five years and whose positions as teacher assistants were abolished and then to applicants who already hold a baccalaureate degree or who have already been formally admitted to an approved teacher education program in North Carolina. The criteria for awarding scholarship loans to applicants who worked as teacher assistants for at least five years and whose positions as teacher assistants were abolished shall include whether the teacher assistant has been admitted to an approved teacher education program in North Carolina.

The Superintendent of Public Instruction may further earmark a portion of these funds each year for two-year awards to applicants who have been employed for at least one year as teacher assistants to attend community colleges to get other skills of use in public schools or to get an early childhood associate degree. The provisions of this Article shall apply to these scholarship loans except that a recipient of one of these scholarship loans may receive credit upon the amount due by reason of the loan as provided in G.S. 115C-471(5) or by working in a nonteaching position in the North Carolina public schools or by working in a licensed day care center in North Carolina."

Requested by: Representatives Preston, Grady, Senators Winner, Plexico  
**PROFESSIONAL TEACHING STANDARDS COMMISSION**

Sec. 18.12. (a) G.S. 115C-295.1 reads as rewritten:

**"§ 115C-295.1. North Carolina Professional Teaching Standards Commission.**

(a) There is created the North Carolina Professional Teaching Standards Commission (the 'Commission'). The Commission shall be located administratively ~~within the Department of Public Instruction under the State Board of Education~~ but shall exercise its powers and duties independently of the ~~Department of Public Instruction. The Department of Public Instruction shall provide staff, offices, office equipment, and meeting space to the Commission.~~ State Board of Education.

(b) The purpose of the Commission is to establish high standards for North Carolina teachers and the teaching profession.

(c) ~~The Beginning September 1, 1996, the Commission shall consist of the following 18 members:~~

- ~~(1) The State Superintendent of Public Instruction who shall serve as chair of the Commission.~~
- ~~(2) A representative of the North Carolina Association of Educators appointed by the Governor.~~

- ~~(3) A representative of the North Carolina Federation of Teachers appointed by the Governor.~~
- ~~(4) Three teachers, at least one of whom teaches in elementary school and one of whom teaches special education, appointed by the Governor.~~
- ~~(5) Two teachers, at least one of whom teaches in middle or junior high school, appointed by the President Pro Tempore of the Senate.~~
- ~~(6) Two teachers, at least one of whom teaches in high school, appointed by the Speaker of the House of Representatives.~~
- ~~(7) One school administrator, either a principal or a superintendent, appointed by the Governor.~~
- ~~(8) Two representatives of teacher education institutions, one of whom shall be a representative of a University of North Carolina institution and one of whom shall be a representative of a private teacher education institution, appointed by the Governor.~~
- ~~(9) One State Board member appointed by the chair of the State Board of Education.~~
- ~~(10) Two at large members appointed by the Governor.~~
- ~~(11) Two at large members, one of these members shall be appointed by the President Pro Tempore of the Senate, and one of these members shall be appointed by the Speaker of the House of Representatives.~~

16 members:

- (1) The Governor shall appoint four teachers from a list of names, including the State Teacher of the Year, submitted by the State Board of Education; one principal; one superintendent; and two representatives of schools of education, one of which is in a constituent institution of The University of North Carolina and one of which is in a private college or university.
- (2) The President Pro Tempore of the Senate shall appoint three teachers who have different areas of expertise or who teach at different grade levels; and one at-large member.
- (3) The Speaker of the House of Representatives shall appoint three teachers who have different areas of expertise or who teach at different grade levels; and one at-large member.

In making appointments, the appointing authorities are encouraged to select qualified citizens who are committed to improving the teaching profession and student achievement and who represent the racial, geographic, and gender diversity of the State. Before their appointment to this Commission, with the exception of the at-large members, the members must have been actively engaged in the profession of teaching, in the education of students in teacher education programs, or in the practice of public school administration for at least three years, at least two of which occurred in this State. The members shall serve for two-year terms. Initial terms shall begin September 1, 1994. Vacancies in the membership shall be filled by the original appointing authority using the same criteria as provided in this subsection.

(d) The Commission shall elect a ~~vice chair~~ chair, a vice-chair, and a secretary-treasurer from among its membership. In the absence of the chair, the vice-chair shall preside over the Commission's meetings. All members are voting members, and a majority of the Commission constitutes a quorum. The Commission shall adopt rules to govern its proceedings.

(e) Meetings of the Commission shall be held upon the call of the chair or the vice-chair with the approval of the chair.

(f) Members of the Commission ~~who are State or public school employees shall receive travel expenses as set forth in G.S. 138-6. All other Commission members shall receive per diem and travel expenses as set forth in G.S. 138-5.~~ shall receive compensation for their services and reimbursement for expenses incurred in the performance of their duties required by this Article, at the rate prescribed in G.S. 90B-5.

(g) The Commission may employ, subject to Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix compensation within the limits of funds available to the Commission."

(b) Article 20 of Chapter 115C of the General Statutes is amended by adding the following new sections to read:

**"§ 115C-295.2. Powers and duties of the Commission.**

(a) The North Carolina Teaching Standards Commission shall:

- (1) Develop and recommend to the State Board of Education professional standards or revisions to professional standards for North Carolina teachers.
- (2) Review the areas of teacher certification and recommend to the State Board of Education those areas that should be consolidated, redesigned, eliminated, or enhanced.
- (3) Consider current methods to assess teachers and teaching candidates, including the National Teacher Exam, the assessments of the National Board for Professional Teaching Standards, and alternative methods of assessment and recommend to the State Board of Education the implementation of rigorous and appropriate assessments for initial and continuing certification that are valid and reliable measures of professional practice.
- (4) Evaluate, develop, and recommend to the State Board a procedure for the assessment and recommendation of candidates for initial and continuing teacher certification.

For purposes of this subsection, the areas of teacher certification include initial certification, continuing certification, and certification renewal, and do not include teacher education programs.

(b) The Commission shall submit its recommendations under subsection (a) of this section to the State Board. The State Board shall adopt or reject the recommendations. The State Board shall not make any substantive changes to any recommendation that it adopts. If the State Board rejects the recommendation, it shall state with specificity its reasons for rejection; the Commission then may amend that recommendation and resubmit it to the State Board. The Board shall adopt or reject the

amended recommendation. If the State Board fails to adopt the Commission's original and amended recommendation concerning the implementation of assessments for certification and the procedure for the assessment and recommendation of candidates for teacher certification, the State Board may develop and adopt its own plan.

(c) The Commission shall submit an annual report by December 1 of each year to the Joint Legislative Education Oversight Committee and the State Board of Education of its activities during the preceding year, together with any recommendations and findings regarding improvement of the teaching profession. The State Board shall submit a report by April 15, 1998, to the Joint Legislative Education Oversight Committee on the current status of assessments for certification and any changes to the procedures for assessment and recommendation of candidates for teacher certification.

**"§ 115C-295.3. Professional Practices Board.**

The State Board of Education shall establish a Professional Practices Board composed of teachers, school administrators, and representatives of the general public. The Professional Practices Board shall:

- (1) Develop a code of ethics for the teaching profession and develop procedures to investigate violations of the code.
- (2) Investigate complaints concerning violations of the code of ethics.
- (3) Make recommendations to the State Board of Education concerning the revocation and suspension of teacher certificates as the result of an ethics violation.

The Professional Practices Board shall recommend the code of ethics and the investigation procedures that it develops to the State Board of Education for its approval. The State Board of Education is the final authority in all decisions under this section, except as provided in the procedures concerning the due process rights of any person subject to an investigation under this section. The State Board of Education shall adopt rules necessary to implement this section."

Requested by: Representatives Holmes, Creech, Esposito, Senators Winner, Plexico  
**ALLOCATION OF FUNDS FOR SCHOOL TECHNOLOGY**

Sec. 18.13. Funds appropriated in this act to the State School Technology Fund shall be allocated to local school administrative units on the basis of average daily membership.

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

**TEACHER VACATION LEAVE FOR ADOPTIVE PARENTS**

Sec. 18.13A. G.S. 115C-302(f) reads as rewritten:

"(f) A teacher may use annual leave, personal leave, or leave without pay to care for a newborn child or for a child placed with the teacher for adoption or foster care. The leave may be for consecutive workdays during the first 12 months after the date of birth or placement of the child, unless the the teacher and local board of education agree otherwise.

~~The total of all such leave time shall be no more than 12 weeks."~~

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

### **COMPONENTS OF THE TESTING PROGRAM**

Sec. 18.14. G.S. 115C-174.11(b) reads as rewritten:

"(b) Competency Testing Program.

- (1) The State Board of Education shall adopt tests or other measurement devices which may be used to assure that graduates of the public high schools and graduates of nonpublic schools supervised by the State Board of Education pursuant to the provisions of Part 1 of Article 39 of this Chapter possess the skills and knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship.
- (2) The tests shall be administered annually to all tenth grade students in the public schools. Students who fail to attain the required minimum standard for graduation in the tenth grade shall be given remedial instruction and additional opportunities to take the test up to and including the last month of the twelfth grade. Students who fail to pass parts of the test shall be retested on only those parts they fail. Students in the tenth grade who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.
- (3) The State Board of Education may develop and validate alternate means and standards for demonstrating minimum competence. These standards, which must be more difficult than the tests adopted pursuant to subdivision (1) of this subsection, may be passed by students in lieu of the testing requirement of subdivision (2) of this subsection.
- (4) ~~Funds appropriated for the purpose of remediation support for students who fail the high school competency test shall be distributed in accordance with rules promulgated by the State Board of Education. The State Board of Education shall allocate remediation funds to institutions administered by the Department of Human Resources on the same basis as funds allocated to other local education agencies."~~

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

### **GLOBAL CURRICULUM PROGRAM**

Sec. 18.15. The funds appropriated in this act for the Global Curriculum Program shall be used to improve the knowledge and understanding of middle and high school students in the areas of international and cultural studies, by identifying and training master teachers and providing orientations and materials. The State Board of Education may enter into contracts to implement the Program.

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

### **REWARDS FOR TEACHER EXCELLENCE**

Sec. 18.16. The State Board of Education shall study ways to reward teachers and other school personnel by linking some portion of future salary increases to the performance of students and to other factors that the board determines are important for improving North Carolina schools. These other factors shall include methods for rewarding outstanding teachers to include skills and competency based pay, responsibility pay, expansion of school-performance awards under the ABC Program. This study should examine the operation of such programs in other states and local school districts, and the impact of these programs on improving student performance.

In the course of the study, the State Board shall take into account the differences in schools, school resources, and student populations, that different teachers and other school personnel encounter. The State Board shall report on the study to the Joint Legislative Education Oversight Committee prior to January 15, 1997.

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

### **SCHOOL FACILITIES GUIDELINES**

Sec. 18.17. (a) G.S. 115C-81(b) reads as rewritten:

"(b) The Basic Education Program shall include course requirements and descriptions similar in format to materials previously contained in the standard course of study and it shall provide:

- (1) A core curriculum for all students that takes into account the special needs of children and includes appropriate modifications for the learning disabled, the academically gifted, and the students with discipline and emotional problems;
- (2) A set of competencies, by grade level, for each curriculum area;
- (3) A list of textbooks for use in providing the curriculum;
- (4) Standards for student performance and promotion based on the mastery of competencies, including standards for graduation, that take into account children with special needs and, in particular, include appropriate modifications;
- (5) A program of remedial education;
- (6) Required support programs;
- (7) A definition of the instructional day;
- (8) Class size recommendations and requirements;
- (9) Prescribed staffing allotment ratios;
- (10) Material and equipment allotment ratios;
- (11) Facilities standards;—guidelines that reflect educational program appropriateness, long-term cost efficiency, and safety considerations; and
- (12) Any other information the Board considers appropriate and necessary.

The State Board shall not adopt or enforce any rule that requires Algebra I as a graduation standard or as a requirement for a high school diploma for any student whose individualized education program (i) identifies the student as learning disabled in the area of mathematics and (ii) states that this learning disability will prevent the student from mastering Algebra I."

(b) G.S. 115C-489.3(c) is repealed.

(c) G.S. 115C-521(c) reads as rewritten:

"(c) The building of all new school buildings and the repairing of all old school buildings shall be under the control and direction of, and by contract with, the board of education for which the building and repairing is done. If a board of education is considering building a new school building to replace an existing school building, the board shall not invest any construction money in the new building unless it submits to the State Superintendent and the State Superintendent submits to the North Carolina Historical Commission an analysis that compares the costs and feasibility of building the new building and of renovating the existing building and that clearly indicates the desirability of building the new building. ~~Boards of education shall also not invest any money in any new building that is not built in accordance with plans approved by the State Superintendent to structural and functional soundness, safety and sanitation, nor~~ No board of education shall invest any money in any new building until it has (i) developed plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted these plans to the State Board for its review and comments, and (iii) reviewed the plans based upon a consideration of the comments it receives from the State Board. ~~No local board of education shall contract for more money than is made available for its erection.~~ No local board of education shall contract for more money than is made available for the erection of a new building. However, this subsection shall not be construed so as to prevent boards of education from investing any money in buildings that are being constructed pursuant to a continuing contract of construction as provided for in G.S. 115C-441(c1). All contracts for buildings shall be in writing and all buildings shall be inspected, received, and approved by the local superintendent and the architect before full payment is made ~~therefor.~~ Provided, that this subsection shall not therefor. Nothing in this subsection shall prohibit boards of education from repairing and altering buildings with the help of janitors and other regular employees of the board.

In the design and construction of new school buildings and in the renovation of existing school buildings that are required to be designed by an architect or engineer under G.S. 133-1.1, the local board of education shall participate in the planning and review process of the Energy Guidelines for School Design and Construction that are developed and maintained by the Department of Public Instruction and shall adopt local energy-use goals for building design and operation that take into account local conditions in an effort to reduce the impact of operation costs on local and State budgets. In the design and construction of new school facilities and in the repair and renovation of existing school facilities, the local board of education shall consider the placement and design of windows to use the climate of North Carolina for both light and ventilation in case of power shortages. A local board shall also consider the installation of solar energy systems in the school facilities whenever practicable.

In the case of any school buildings erected, repaired, or equipped with any money loaned or granted by the State to any local school administrative unit, the State Board of Education, under any rules as it may deem advisable, may retain any amount not to exceed fifteen percent (15%) of the loan or grant, until the completed buildings, erected or repaired, in whole or in part, from the loan or grant funds, shall have been approved by a designated agent of the State Board of Education. Upon approval by the State Board of Education, the State Treasurer may pay the balance of the loan or grant to the treasurer of the local school administrative unit for which the loan or grant was made."

(d) G.S. 115C-521 is amended by adding a new subsection to read:

"(e) The State Board of Education shall establish within the Department of Public Instruction a central clearinghouse for access by local boards of education that may want to use a prototype design in the construction of school facilities. The State Board shall compile necessary publications and a computer database to distribute information on prototype designs to local school administrative units. All architects and engineers registered in North Carolina may submit plans for inclusion in the computer database and these plans may be accessed by any person. The original architect of record or engineer of record shall retain ownership and liability for a prototype design. The State Board may adopt rules it considers necessary to implement this subsection."

(e) School facilities guidelines and standards adopted by the State Board of Education before the effective date of this section shall remain in effect as guidelines only.

(f) This section is effective upon ratification.

Sec. 18.18. The School Facilities Task Force.

(a) There is created the School Facilities Task Force under the State Board of Education. The Task Force shall consist of the following members appointed by the State Board:

- (1) One member of the State Board.
- (2) One architect.
- (3) One representative from a school of architecture within a constituent institution of The University of North Carolina.
- (4) Two local school administrative unit employees with expertise in school facilities.
- (5) One representative of the North Carolina Association of County Commissioners.
- (6) One representative of the North Carolina School Boards Association.
- (7) One engineer.
- (8) Any other members the State Board considers necessary.

All members shall be voting members. The Task Force shall select a member of the Task Force to serve as its chair.

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

The Department of Public Instruction shall, with the approval of the State Board of Education, provide staff, office equipment, supplies, and meeting space to the Task Force.



- (b) The Task Force shall:
  - (1) Review the State Board's facilities guidelines for the construction, acquisition, renovation, and replacement of facilities, furniture, equipment, apparatus, and spaces for public schools to ensure they reflect both educational program appropriateness and long-term cost-efficiency.
  - (2) Make recommendations to the State Board as to (i) which guidelines should be maintained, revised, or eliminated, and (ii) any new guidelines that it considers appropriate.
  - (3) Develop and recommend to the State Board a procedure for the Board to follow when facilities plans are submitted by local school administrative units for the Board's review and comments.
  - (4) Develop and recommend to the State Board a proposal in accordance with G.S. 115C-521(e) for the establishment of a central clearinghouse for prototype designs.
  - (5) Submit its recommendations under this subsection to the State Board no later than December 1, 1996.
- (c) Based upon a consideration of the recommendations of the Task Force, the State Board shall adopt (i) revised facilities guidelines to assist local school administrative units in the construction, acquisition, renovation, and replacement of facilities, furniture, equipment, apparatus, and spaces for public schools, (ii) the procedure for local school administrative units to follow when they submit school facilities plans for the State Board's review and comments, and (iii) a plan to establish within the Department of Public Instruction a central clearinghouse for prototype designs. The State Board shall submit a report by April 15, 1997, to the General Assembly that includes the revised facilities guidelines, the facilities review procedure, and the plan to establish a central clearinghouse for prototype designs. Upon submission of this report to the General Assembly, the Task Force shall terminate.

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

**FUNDS TO IMPLEMENT THE ABC'S OF PUBLIC EDUCATION PROGRAM**

Sec. 18.19. (a) Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to twenty-four million five hundred thousand dollars (\$24,500,000) for the 1996-97 fiscal year to provide incentive funding for schools with higher than projected levels of improvement in student performance, in accordance with the ABC's of Public Education Program. The State Board of Education may allocate up to twenty-one million dollars (\$21,000,000) of these funds on a per-certified personnel basis for each eligible school and up to three million five hundred thousand dollars (\$3,500,000) on a per-teacher assistant basis for each eligible school.

It is the intent of the General Assembly to fully fund this program for the 1997-98 and subsequent fiscal years.

(b) Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to one million dollars (\$1,000,000) for assistance teams to low-performing schools.

Requested by: Representatives Grady, Preston, Senators Plyler, Perdue, Odom

**CERTIFIED PUBLIC SCHOOL PERSONNEL COMPENSATION STUDY**

Sec. 18.20. (a) The Joint Legislative Commission on Governmental Operations shall contract with a qualified employee benefits consulting practice or research organization to conduct a comparative analysis of certified public school personnel compensation in North Carolina school systems. As part of the analysis, teachers base pay, the statewide salary schedule, incentives (i.e., local supplements, benefits, etc., if any), and benefits packages in other states, including southeastern states in the Southern Regional Education Board region, shall be compared with North Carolina's certified public school personnel salary schedule and benefits packages.

The scope of this comparative analysis shall be to determine, in those states who are regional neighbors as defined by the Southern Legislative Conference and the Southern Regional Education Board and in other states included in the study, how North Carolina certified public school personnel salaries and benefits rank within states in the region and other states included in the study, and the recurring cost to offer and maintain them at current levels. Median as well as average salary levels shall be determined for each state.

In addition, this comparative analysis shall identify 5 to 10 other states in the country most like North Carolina in terms of public school demographics (both students and certified personnel), public school funding policy and governing structure, entry, certification, and career requirements for teaching personnel, and other factors or conditions that most affect teachers salary and benefits, and compare and rank those salaries and benefits packages of these states to North Carolina certified public school personnel compensation packages.

Applying survey research methods considered to be reliable and valid statistically, the contractor shall determine the relative "economic value" of these benefits to the employees.

Finally, the contractor shall produce a "regional compensation survey model" as a product of this study of certified public school personnel that could then be made available for other studies of State employees in the executive and judicial branches of North Carolina State government. As part of the contractors work, training in conducting these other studies would be provided to legislative staff.

(b) In order to determine which organizations may be most qualified to conduct such an analysis, the Commission may appoint a subcommittee that shall be responsible for issuing a Request for Qualifications (RFQ). All firms responding to the RFQ shall be evaluated in accordance with procedures established by the subcommittee. Up to five firms may be invited to submit separate technical and cost proposals in response to the standard Request for Proposals (RFP).

A contract shall be awarded no later than October 15, 1996. The study shall begin no later than November 1, 1996. A progress report shall be issued to the

subcommittee for review and approval no later than December 31, 1996, and a final report no later than April 1, 1997.

The Legislative Services Office shall provide such coordinating staff to the Joint Legislative Commission on Governmental Operations and its subcommittee as necessary.

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

### **NORTH CAROLINA STANDARDS BOARD FOR PUBLIC SCHOOL ADMINISTRATORS**

Sec. 18.21. (a) G.S. 115C-290.5 reads as rewritten:

#### **"§ 115C-290.5. Powers and duties of the Board; development of the North Carolina Public School Administrator Exam.**

(a) The Standards Board shall administer this Article. In fulfilling this duty, the Standards Board shall:

- (1) ~~Develop~~In accordance with subsection (c) of this section, develop and implement a North Carolina Public School Administrator Exam, based on the professional standards established by the Standards Board.
- (2) Establish and collect an application fee not to exceed fifty dollars (\$50.00), and an exam fee not to exceed one hundred fifty dollars (\$150.00). Fees collected under this Article shall be credited to the General Fund as nontax revenue.
- (3) Review the educational achievements of an applicant to take the exam to determine whether the achievements meet the requirements set by G.S. 115C-290.7.
- (4) Notify the State Board of Education of the names and addresses of the persons who passed the exam and are thereby recommended to be certified as public school administrators by the State Board of Education.
- (5) Maintain accounts and records in accordance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.
- (6) Adopt rules in accordance with Chapter 150B of the General Statutes to implement this Article.
- (7) Submit an annual report by December 1 of each year to the Joint Legislative Education Oversight Committee of its activities during the preceding year, together with any recommendations and findings regarding improvement of the profession of public school administration.

(b) The Board may adopt a seal and affix it to any documents issued by the Board.

(c) The Standards Board shall submit its proposed exam to the State Board. The State Board shall adopt or reject the proposal. The State Board shall not make any substantive changes to any exam that it adopts. If the State Board rejects the proposal, it shall state with specificity its reasons for rejection; the Standards Board then may

prepare another proposed exam and submit it to the State Board. If the State Board rejects the proposed exam on its second submission, the State Board may develop and adopt an exam by December 1, 1997. The General Assembly urges the State Board to utilize the Standards Board's proposed exam to the maximum extent that it is consistent with the State Board's policies if the State Board develops and adopts an exam. After an exam has been adopted, the Standards Board may submit suggested changes to the State Board for its approval."

(b) G.S. 115C-290.7(a) reads as rewritten:

"(a) The Standards Board shall recommend for certification by the State Board an individual who submits a complete application to the Standards Board and satisfies all of the following requirements:

- (1) Pays the application fee established by the Standards Board.
- (2) Pays the exam fee established by the Standards Board.
- (3) Has a bachelors degree from an accredited college or accredited university and (i) has a graduate degree from a public school administration program that meets the public school administrator program approval standards set by the State Board of Education- Education, or (ii) has a masters degree from an accredited college or accredited university and has completed by December 31, 1999, a public school administration program that meets the public school administration approval standards set by the State Board of Education.
- (4) Passes the exam."

(c) G.S. 115C-290.8 reads as rewritten:

**"§ 115C-290.8. Exemptions from requirements.**

The requirements of this Article do not apply to a person who, at any time during the five years preceding January 1, 1998, (i) completed an administrative internship as part of an approved graduate program in school administration and obtained an active State administrator/supervisor certificate, or (ii) was engaged in public-school administration at either a public school in North Carolina or a school in North Carolina operated by the United States government. while in possession of an active State administrator/supervisor certificate. A person who is exempt from the requirements of this Article but applies to the Standards Board under this Article shall be subject to the Article."

(d) Subsections (b) and (c) of this section become effective January 1, 1998. The remainder of this section is effective upon ratification.

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

**SCHOOL LAW REVISION COMMISSION**

Sec. 18.23. (a) The cochairs of the Joint Legislative Education Oversight Committee shall appoint a subcommittee to revise the public school laws.

The subcommittee shall consist of equal numbers of members appointed by the Senate chair and the House chair. Either chair may appoint to the subcommittee members, including public members, who are not also members of the Committee.

Members of the subcommittee who are not members of the Committee may participate fully in all subcommittee business, including all deliberations and votes; however, these members are not members of the Committee for any other purpose.

- (b) The subcommittee shall:
  - (1) Conduct a comprehensive review of the public school laws;
  - (2) Identify laws that are outdated, vague, unnecessary, or otherwise in need of revision; and
  - (3) Revise the public laws so they are consistent with the North Carolina Constitution and with the goals of the General Assembly and the State Board of Education in order to improve student performance, increase local flexibility and control, and promote economy and efficiency.

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

### **EDUCATION OF GIFTED STUDENTS**

Sec. 18.24. (a) G.S. 115C-81(b)(1) reads as rewritten:

"(1) A core curriculum for all students that takes into account the special needs of children and includes appropriate modifications for the learning disabled, the academically ~~gifted~~, or intellectually gifted students, and the students with discipline and emotional problems;"

(b) G.S. 115C-109 reads as rewritten:

#### **"§ 115C-109. Definition of children with special needs.**

The term 'children with special needs' includes, without limitation, all children from age five through age 20 who because of permanent or temporary mental, physical or emotional handicaps need special education, are unable to have all their needs met in a regular class without special education or related services, or are unable to be adequately educated in the public schools. It includes those who are mentally retarded, epileptic, learning disabled, cerebral palsied, seriously emotionally disturbed, orthopedically impaired, autistic, multiply handicapped, pregnant, hearing-impaired, speech-impaired, blind or visually impaired, and other health impaired, ~~and academically gifted-impaired.~~"

(c) G.S. 115C-110(d) reads as rewritten:

"(d) The Board shall adopt rules or regulations covering:

- (1) The qualifications of and standards for certification of teachers, teacher assistants, speech clinicians, school psychologists, and others involved in the education and training of children with special needs;
- (2) Minimum standards for the individualized educational program for all children with special needs other than for ~~the academically gifted and the pregnant children~~, and for ~~the group educational program for the academically gifted children and the educational program for the pregnant children~~, who receive special education and related services; and
- (3) Such other rules or regulations as may be necessary or appropriate for carrying out the purposes of this Article. Representatives from the

Departments of Human Resources and Correction shall be involved in the development of the standards outlined under this subsection."

(d) G.S. 115C-110(k) reads as rewritten:

"(k) The Department shall monitor the effectiveness of individualized education programs in meeting the educational needs of all children with special needs other than ~~academically gifted and pregnant children, and of group educational programs in meeting the educational needs of the academically gifted children,~~ and of educational programs in meeting the educational needs of the pregnant children."

(e) G.S. 115C-113 reads as rewritten:

**"§ 115C-113. Diagnosis and evaluation; individualized education program.**

(a) Before taking any action described in subsection (b), below, each local educational agency shall cause a multi-disciplinary diagnosis and evaluation to be made of the child. The State Board of Education shall establish special, simplified procedures for the diagnosis and evaluation of the pregnant child, which procedures shall focus on the particular needs of the pregnant child and shall exclude those procedures which are not pertinent to the pregnant. The local educational agency shall use the diagnosis and evaluation to determine if the child has special needs, diagnose and evaluate those needs, propose special education programs to meet those needs, and provide or arrange to provide such programs. A multi-disciplinary diagnosis and evaluation is one which includes, without limitation, medical (if necessary), psychological (if necessary) and educational assessments and recommendations; such an evaluation may include any other assessments as the Board may, by rule or regulation, require.

All testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with special needs will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(b) An initial multi-disciplinary diagnosis and evaluation based on rules developed by the Board shall be made before any such child is placed in a special education program, removed from such a program and placed in a regular school program, transferred from one type of special education program to another, removed from a school program for placement in a nonschool program, or otherwise tracked, classified, or treated as a child with special needs.

(c) Referral of any child shall be in writing, signed by the person requesting diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or delivered to one of the following: the child's teacher, the principal of the school to which the child is, has been or will be assigned, or the superintendent of the affected local educational agency or his designee. The local educational agency shall send a written notice to the parent or guardian describing the evaluation procedure to be followed and requesting consent for the evaluation. If the parents or guardian consent, the diagnosis and evaluation may be undertaken; if they do not, the local educational agency may obtain a due process hearing pursuant to G.S. 115C-116 on the failure of the parent or guardian to consent.

The local educational agency shall provide or cause to be provided, as soon as possible after receiving consent for evaluation, a diagnosis and evaluation appropriate to the needs of the child unless the parents or guardian have objected to such evaluation. If at the conclusion of the evaluation, the child is determined to be a child with special needs, the local educational agency shall within 30 calendar days convene an individualized education program committee. The purpose of the meeting shall be to propose the special education and related services for the child. An interpretation of the multi-disciplinary diagnosis and evaluation will be made to the parent or guardian during the meeting. The proposal shall set forth the specific benefits expected from such a program, a method for monitoring the benefits, and a statement regarding conditions which will be considered indicative of the child's readiness for participation in regular classes.

After an initial referral is made, the provision of special education and related services shall be implemented within 90 calendar days to eligible students, unless the parents or guardian refuse to consent to evaluation or placement or the parent or local educational agency requests a due process hearing.

Within 12 months after placement in a special education program, and at least annually thereafter, those people responsible for developing the child's individualized education program, ~~group educational program for the academically gifted,~~ or educational program for the pregnant, shall review the child's progress and, on the basis of previously stated expected benefits, decide whether to continue or discontinue the placement or program. If the review indicates that the placement or program does not benefit the child, the appropriate reassignment or change in the prescribed program shall be recommended to the parents or guardian.

The local educational agency shall keep a complete written record of all diagnostic and evaluation procedures attempted, their results, the conclusions reached, and the proposals made.

(d) The local educational agency shall furnish the results, findings, and proposals, as described in the individualized education program ~~or group educational program~~ based on the diagnosis and evaluation to the parents or guardian in writing in the parents' or guardian's native language or by their dominant mode of communication, prior to the parent or guardian giving consent for initial placement in special education and related services. Prior notice will be given to the parents or guardian by the local educational agency before any change in placement.

A reevaluation must be completed at least every three years to determine the appropriateness of the child's continuing to receive special education and related services: ~~Provided, that a reevaluation for an academically gifted child shall be completed within three years of initial evaluation for a child who has been identified as academically gifted prior to the second semester of the third grade. For a child who is identified as academically gifted during the second semester of the third grade or thereafter, no reevaluation is required.~~ services.

(e) Each local educational agency shall make and keep current a list of all children evaluated and diagnosed pursuant to this section who are found to have special needs and of all children who are receiving home, hospital, institutional or other special

education services, including those being educated within the regular classroom setting or in other special education programs.

(f) Each local educational agency shall prepare individualized educational programs for all children found to be children with special needs other than the ~~academically gifted and pregnant children, and group educational programs prescribed in subsection (g) of this section for the academically gifted children,~~ and educational programs prescribed in subsection (h) of this section for the pregnant children. The individualized educational program shall be developed in conformity with Public Law 94-142 and the implementing regulations issued by the United States Department of Education and shall be implemented in conformity with timeliness set by that Department. The term 'individualized educational program' means a written statement for each such child developed in any meeting by a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of such children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall be based on rules developed by the Board. Each local educational agency shall establish, or revise, whichever is appropriate, the individualized educational program of each child with special needs each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually. In the facilities and programs of the Department of Human Resources, the individualized educational program shall be planned in collaboration with those other individuals responsible for the design of the total treatment or habilitation plan or both; the resulting educational, treatment, and habilitation plans shall be coordinated, integrated, and internally consistent.

~~(g) Each local educational agency shall prepare group educational programs for the academically gifted children. The State Board of Education shall promulgate rules and regulations specifically to address the preparation of these group educational programs, which rules and regulations shall include specific grouping standards and specific program standards, and shall also include standards for ensuring that the individual educational needs of each child within the group are addressed.~~

(h) Each local educational agency shall prepare educational programs for the pregnant children. The State Board of Education shall promulgate rules and regulations specifically to address the preparation of these educational programs, which rules and regulations shall include specific standards for ensuring that the individual educational needs of each child are addressed."

(f) Chapter 115C of the General Statutes is amended by adding a new Article 9B to read:

"ARTICLE 9B.

"Academically or Intellectually Gifted Students.

**"§ 115C-150.5. Academically or intellectually gifted students.**

The General Assembly believes the public schools should challenge all students to aim for academic excellence and that academically or intellectually gifted students perform or show the potential to perform at substantially high levels of accomplishment



when compared with others of their age, experience, or environment. Academically or intellectually gifted students exhibit high performance capability in intellectual areas, specific academic fields, or in both intellectual areas and specific academic fields. Academically or intellectually gifted students require differentiated educational services beyond those ordinarily provided by the regular educational program. Outstanding abilities are present in students from all cultural groups, across all economic strata, and in all areas of human endeavor.

**"§ 115C-150.6. State Board of Education responsibilities.**

In order to implement this Article, the State Board of Education shall:

- (1) Develop and disseminate guidelines for developing local plans under G.S. 115C-150.7(a). These guidelines should address identification procedures, differentiated curriculum, integrated services, staff development, program evaluation methods, and any other information the State Board considers necessary or appropriate.
- (2) Provide ongoing technical assistance to the local school administrative units in the development, implementation, and evaluation of their local plans under G.S. 115C-150.7.

**"§ 115C-150.7. Local plans.**

(a) Each local board of education shall develop a local plan designed to identify and establish a procedure for providing appropriate educational services to each academically or intellectually gifted student. The board shall include parents, the school community, representatives of the community, and others in the development of this plan. The plan may be developed by or in conjunction with other committees.

(b) Each plan shall include the following components:

- (1) Screening, identification, and placement procedures that allow for the identification of specific educational needs and for the assignment of academically or intellectually gifted students to appropriate services.
- (2) A clear statement of the program to be offered that includes different types of services provided in a variety of settings to meet the diversity of identified academically or intellectually gifted students.
- (3) Measurable objectives for the various services that align with core curriculum and a method to evaluate the plan and the services offered. The evaluation shall focus on improved student performance.
- (4) Professional development clearly matched to the goals and objectives of the plan, the needs of the staff providing services to academically or intellectually gifted students, the services offered, and the curricular modifications.
- (5) A plan to involve the school community, parents, and representatives of the local community in the ongoing implementation of the local plan, monitoring of the local plan, and integration of educational services for academically or intellectually gifted students into the total school program. This should include a public information component.
- (6) The name and role description of the person responsible for implementation of the plan.

- (7) A procedure to resolve disagreements between parents or guardians and the local school administrative unit when a child is not identified as an academically or intellectually gifted student or concerning the appropriateness of services offered to the academically or intellectually gifted student.
- (8) Any other information the local board considers necessary or appropriate to implement this Article or to improve the educational performance of academically or intellectually gifted students.

(c) Upon its approval of the plan developed under this section, the local board shall submit the plan to the State Board of Education for its review and comments. The local board shall consider the comments it receives from the State Board before it implements the plan.

(d) A plan shall remain in effect for no more than three years; however, the local board may amend the plan as often as it considers necessary or appropriate. Any changes to a plan shall be submitted to the State Board of Education for its review and comments. The local board shall consider the State Board's comments before it implements the changes.

**"§ 115C-150.8. Review of Disagreements.**

In the event that the procedure developed under G.S. 115C-150.7(b)(7) fails to resolve a disagreement, the parent or guardian may file a petition for a contested case hearing under Article 3 of Chapter 150B of the General Statutes. The scope of review shall be limited to (i) whether the local school administrative unit improperly failed to identify the child as an academically or intellectually gifted student, or (ii) whether the local plan developed under G.S. 115C-150.7 has been implemented appropriately with regard to the child. Following the hearing, the administrative law judge shall make a decision that contains findings of fact and conclusions of law. Notwithstanding the provisions of Chapter 150B of the General Statutes, the decision of the administrative law judge becomes final, is binding on the parties, and is not subject to further review under Article 4 of Chapter 150B of the General Statutes."

(g) Funding allotments in the Public School Fund shall be allocated as follows:

<b>Existing Funding Allotment</b>	<b>New Funding Allotments</b>
Exceptional Children.	(1) Children With Special Needs.
	(2) Academically or Intellectually Gifted Students.

(h) G.S. 115C-105.21A(b) is amended by adding a new subdivision to read:

- "(8) Funds allocated for academically or intellectually gifted students may be used only (i) for academically or intellectually gifted students; (ii) to implement the plan developed under G.S. 115C-150.7; (iii) for children with special needs; or (iv) in accordance with an accepted school improvement plan, for any purpose so long as that school demonstrates it is providing appropriate services to academically or

intellectually gifted students assigned to that school in accordance with the local plan developed under G.S. 115C-150.7."

(i) Effective July 1, 1997, G.S. 115C-105.21A(b)(8) reads as rewritten:

"(8) Funds allocated for academically or intellectually gifted students may be used only (i) for academically or intellectually gifted students; (ii) to implement the plan developed under G.S. 115C-150.7; ~~(iii) for children with special needs; or (iv) or (iii)~~ in accordance with an accepted school improvement plan, for any purpose so long as that school demonstrates it is providing appropriate services to academically or intellectually gifted students assigned to that school in accordance with the local plan developed under G.S. 115C-150.7."

(j) G.S. 115C-105.21A(b)(4) reads as rewritten:

"(4) Funds allocated for ~~exceptional children and funds~~ children with special needs may be transferred only for academically or intellectually gifted students. Funds allocated for driver's education shall not be transferred."

(k) Effective July 1, 1997, G.S. 115C-105.21A(b)(4) reads as rewritten:

"(4) Funds allocated for children with special needs ~~may be transferred only for academically or intellectually gifted students.~~ Funds and funds allocated for driver's education shall not be transferred."

(l) The State Board of Education shall establish deadlines for local school administrative units to implement the local plans developed under G.S. 115C-150.7. All local school administrative units shall begin implementation of their local plans by the beginning of the 1998-99 school year.

(m) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by December 15, 1996, and by December 15, 1998, on the implementation of this section.

Requested by: Representatives Holmes, Creech, Esposito, Senators Winner, Plexico, Little, Conder

### **SCHOOL BOND ACT TECHNICAL CORRECTIONS**

Sec. 18.25. (a) Section 4 of Chapter 631 of the 1995 Session Laws reads as rewritten:

"Sec. 4. Authorization of Bonds and Notes. – Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Public School Building Bonds in the election held as provided in this act, the State Treasurer is authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated 'State of North Carolina Public School Building Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in the aggregate principal amount not exceeding one billion eight hundred million dollars (\$1,800,000,000) for the purposes authorized in this act. The principal amounts of bonds or notes issued in any 12-month period shall not exceed four hundred fifty million dollars (\$450,000,000). In determining whether this limit has

been reached, the issuance of a note or bond to pay an outstanding note or bond is not considered an issuance."

(b) Section 6(d) of Chapter 631 of the 1995 Session Laws reads as rewritten:

"(d) Match. – A county is not required to match bond proceeds allocated under subsection (b) of this section. A county is not required to match the Low-Wealth Allocation of bond proceeds under subsection (c) of this section. A county must match both the ADM Allocation and the Growth Allocation of bond proceeds under subsection (c) of this section. These two allocations must be matched at the rate of matching funds equal to three cents (3¢) times the county's ability to pay rank for every one dollar (\$1.00) of allocated bond proceeds. A county's ability to pay rank is its rank in the ranking of counties from lowest to highest county wealth as a percentage of State average wealth made by the State Board of Education for the 1995-96 fiscal year pursuant to Section 17.1 of Chapter 507 of the 1995 Session Laws. The match requirement may be satisfied by non-State expenditures for public school facilities made on or after January 1, 1992. ~~A non-State expenditure has been made for the purpose of the match if funds, including funds expended for debt service, have been budgeted, earmarked, or committed for the general purpose of public school facilities. If a debt has been authorized or incurred since January 1, 1992, for the general purpose of public school facilities, then the face amount of the debt shall be considered as a non-State expenditure for public school facilities for the purpose of the match. Non-state expenditures are defined as follows:~~

- (1) With respect to debt incurred for public school facilities before January 1, 1992, non-State expenditures include amounts expended on or after January 1, 1992, for debt service for the debt.
- (2) With respect to debt authorized or incurred for public school facilities on or after January 1, 1992, non-State expenditures include only the face amount of the debt.
- (3) With respect to expenditures other than for debt service, non-State expenditures include funds budgeted, earmarked, or committed on or after January 1, 1992, for the purpose of public school facilities.

As counties satisfy the match requirements of this section, they shall document the extent to which they have done so in periodic reports to the State Board of Education. These reports shall include any information and documentation required by the State Board of Education. The State Board of Education shall certify to the State Treasurer from time to time the extent to which the match requirements of this section have been met with respect to each county; this certification shall be binding and conclusive. Bond proceeds shall be distributed for expenditure only as, and to the extent, the matching requirements of this section are satisfied, as certified by the State Board of Education. The State Board of Education shall also require counties to report annually on the impact of funds provided under this act on the property tax rate for that year. These reports shall be public documents and shall be furnished to any citizen upon request."

(c) This section is effective upon ratification.

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

**REPEAL LOCAL SCHOOL PAY DATES**

Sec. 18.26. (a) Section 2 of Chapter 106 of the 1991 Session Laws is repealed.

(b) Chapter 90 of the 1995 Session Laws is repealed.

(c) Section 144 of Chapter 321 of the 1993 Session Laws is repealed.

(d) Chapter 120 of the 1995 Session Laws is repealed.

(e) Chapter 770 of the 1991 Session Laws is repealed.

(f) Section 19.22 of Chapter 769 of the 1993 Session Laws, as amended by Chapter 12 of the 1995 Session Laws, is repealed.

(g) Sections 19.18 and 19.21 of Chapter 769 of the 1993 Session Laws are repealed.

(h) Chapter 399 of the 1989 Session Laws, as amended by Chapter 820 of the 1989 Session Laws, is repealed.

(i) Chapter 995 of the 1991 Session Laws is repealed.

(j) Section 53 of Chapter 561 of the 1993 Session Laws is repealed.

(k) Section 8 of Chapter 246 of the 1991 Session Laws is repealed.

(l) Chapter 835 of the 1991 Session Laws is repealed.

(m) Section 143.1 of Chapter 321 of the 1993 Session Laws, as amended by Section 19.19 of Chapter 769 of the 1993 Session Laws is repealed.

(n) The pay dates for all employees of the Kings Mountain Local School Administrative Unit and the pay date for all employees of the local boards of education of Alleghany County, Brunswick County, Caldwell County, Charlotte-Mecklenburg County, Cherokee County, Dare County, Haywood County, Henderson County, New Hanover County, Pitt County, Scotland County, and Watauga County shall be established in accordance with the provisions of Chapter 115C of the General Statutes.

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

**SCHOOL BUDGETS AND SCHOOL IMPROVEMENT PLANS MADE AVAILABLE**

Sec. 18.27. G.S. 115C-288 is amended by adding the following new subsection to read:

"(h) To Make Available School Budgets and School Improvement Plans. – The principal shall maintain a copy of the school's current budget and school improvement plan, including any amendments to the plan, and shall allow parents of children in the school and other interested persons to review and obtain such documents in accordance with Chapter 132 of the General Statutes."

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

## ALTERNATIVE LEARNING PROGRAM/GUIDELINES, TECHNICAL ASSISTANCE, EVALUATION

Sec. 18.28. (a) G.S. 115C-12 is amended by adding a new subdivision to read:

"(24) Duty to Develop Guidelines for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. – The State Board of Education shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans for alternative learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee, beginning in December 1996, on the results of this evaluation.

(b) The first priority for the use of the expansion budget funds appropriated in this act to the Alternative Schools/At-Risk Student allotment shall be to enable every high school in North Carolina to have a uniformed school resource officer. If a local board of education determines after conferring with parents, teachers, and students at a high school that the school does not need a uniformed school resource officer, the local board may use these funds for other purposes. Local boards of education may use any remaining funds for other programs to ensure school safety, prevent violence, and provide alternative learning programs.

Local boards of education may use funds from the Alternative Schools/At-Risk Student allotment to form partnerships with the Cities In Schools Program or to contract with the Cities In Schools Program for services.

(c) The State Board of Education shall modify the accounting system for State Aid to Local School Administrative Units so that it can account for State funds expended for school resource officers in each local school administrative unit.

(d) Local boards of education are encouraged not to use these State funds in the Alternative Schools/At-Risk Student allotment to supplant local funds.

(e) The State Board of Education may use up to two hundred thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student allotment to implement G.S. 115C-12(24), as enacted by subsection (a) of this section.

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

**PUBLIC SCHOOL TEACHERS/LIABILITY PROTECTION**

Sec. 18.29. Of the funds appropriated to the Department of Public Education for the 1996-97 fiscal year, an amount equal to ten dollars (\$10.00) for each teacher paid from the General Fund shall be allocated by the State Board of Education to each local school administrative unit to provide comprehensive general liability protection, including coverage for errors and omissions, for teachers employed by the local school administrative unit for the 1996-97 school year.

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

**MODEL TEACHER EDUCATION CONSORTIUM**

Sec. 18.30. Of the funds appropriated to the State Board of Education for the 1996-979 fiscal year for State Aid to Local School Administrative Units, the Board may use up to one hundred thousand dollars (\$100,000) for the operation of a Model Teacher Education Consortium.

**PART 19. DEPARTMENT OF TRANSPORTATION**

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**USE OF FUNDS RESULTING FROM THE ELIMINATION OF POSITIONS IN DIVISION OF MOTOR VEHICLES**

Sec. 19. Funds in the amount of one hundred thirty-five thousand three hundred eighty-nine dollars (\$135,389) realized from the elimination of 11 positions in the Division of Motor Vehicles during the 1996-97 fiscal year shall be placed in a reserve and shall be used only to support the implementation of the State Titling and Registration System. Funds remaining in the reserve at the end of the 1996-97 fiscal year shall revert to the Highway Fund.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**DEPARTMENT OF TRANSPORTATION REPORT ON REORGANIZATION OF DIVISION OF MOTOR VEHICLES**

Sec. 19.1. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee by December 15, 1996, concerning how it will implement the recommendations for the restructuring of the Division of Motor Vehicles through the elimination of positions, consolidation of offices and functions, and the transfer of functions within and from the Division, which were contained in the performance audit of the Division of Motor Vehicles presented to the Joint Legislative Commission on Governmental Operations in May 1996. This report

shall discuss both short-term and long-term managerial actions necessary to implement the recommendations and contain detailed budgetary analyses of the short-term and long-term effects of these actions. This report shall also describe how the various proposals fit in a long-range plan for the modernization of the Division of Motor Vehicles and the functions it performs.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**DEPARTMENT OF TRANSPORTATION REPORTS TO THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE**

Sec. 19.2. The Department of Transportation shall make the following reports to the Joint Legislative Transportation Oversight Committee by the dates specified:

- (1) By November 1, 1996, the Department shall report on any changes needed to be made to the vehicle salvage laws to minimize the number of salvage inspections without compromising the integrity of the salvage process. This report shall address how reductions in dedicated salvage inspection positions shall be made under the proposed system.
- (2) By October 1, 1996, the Department shall provide plans for the study of the following issues, including a schedule for completion of the studies:
  - a. How the process by which licenses are modified, revoked, and suspended can be simplified.
  - b. How touch-tone technology and credit cards can be used in the motor vehicle registration process.
  - c. How credit cards can be used to increase customer payment options.
  - d. How collision reports can be entered directly into an automated system database by law enforcement officers.
- (3) By December 1, 1996, the Department shall report how computer software used to register motor carriers under the International Registration Plan can be reconfigured so that it can be used more efficiently by staff and customers.
- (4) By November 1, 1996, the Department shall:
  - a. Develop a formula to determine the number, location, and staffing of drivers license field offices within the State.
  - b. Use this formula to develop a five-year plan for changes in the number and sizes of drivers license field offices that recognizes the need for the development of larger, multi-functional drivers license offices that provide a wider range of services at centralized locations and to provide a plan for the renovation of existing drivers license field offices that will be retained.
- (5) By December 1, 1996, the Department shall report on how it will maintain technical support for the vehicle registration and drivers license data systems for the 1997-99 biennium. This report shall



estimate staffing needs for technical support in each year, address whether and how contract personnel will be used, and determine the feasibility of using more permanent personnel instead of contractors.

Requested by: Representatives Barbee, Bowie, Senator Hoyle

#### **DIVISION OF MOTOR VEHICLES ENFORCEMENT DUTIES**

Sec. 19.3. G.S. 20-4 reads as rewritten:

**"§ 20-4. ~~Clarification of conflicts as to transfer of functions.~~ Enforcement duties of the Division.**

~~In the event that there shall arise any conflict as to the transfer of any functions from the Department of Revenue to the Division of Motor Vehicles, the Governor of the State is hereby authorized to issue an executive order clarifying and making certain the issue thus arising.~~

(a) Primary Duty. – The primary enforcement duty of the Division is the enforcement of the vehicle weight restrictions set forth in G.S. 20-118. In performing this duty, the Division shall make maximum effective use of permanent weigh stations and portable scales.

(b) Secondary Duties. – The secondary enforcement duties of the Division are as follows and are listed in the order of importance:

- (1) Enforcement of the motor carrier safety regulations.
- (2) Enforcement of the emissions inspection program.
- (3) Inspection of salvage vehicles.
- (4) Providing security at rest areas.
- (5) Other duties set out in this Chapter.

(c) Restriction. – The Division shall not undertake an enforcement duty that is not listed in this section unless a law specifically authorizes the Division to do so or the duty is undertaken as a condition of receiving federal funds."

Requested by: Representatives Barbee, Bowie, Senator Hoyle

#### **DEPARTMENT OF TRANSPORTATION–CASH FLOW CONTRACT FUNDING**

Sec. 19.4. (a) G.S. 136-176(d) reads as rewritten:

"(d) A contract may be let for projects funded from the Trust Fund in anticipation of revenues pursuant to the cash-flow provisions of G.S. 143-28.1 only for the ~~biennium~~ two bienniums following the year in which the contract is let."

(b) G.S. 143-28.1 reads as rewritten:

**"§ 143-28.1. Highway Fund appropriation.**

Notwithstanding any other provisions of this Article, the appropriations made from the Highway Fund for highway construction and maintenance are subject to the following provisions.

- (1) Cash Flow Funding for Highway Construction and Maintenance. – Highway maintenance and construction funds shall be budgeted, expended and accounted for on a 'cash flow' basis. Pursuant to this end, highway maintenance and construction contracts shall be planned

and limited so payments due at any time will not exceed the cash available to pay them.

- (2) Appropriations are for Payments and Contract Commitments to be Made in the Appropriation Fiscal Year. – The appropriations provided for by the Appropriations Act for highway maintenance and construction are for maximum payments estimated to be made during the appropriation fiscal year and for maximum contracting authority for future years. Highway maintenance and construction contracts shall be scheduled so that the total contract payments and other expenditures charged to projects in the fiscal year for each highway maintenance and construction appropriation item will not exceed the current appropriations provided by the General Assembly and unspent prior appropriations made by the General Assembly for the particular appropriation item.
- (3) Payments Subject to Availability of Funds – Retainage Fully Funded – 5% Cash Balance Required. – The annual appropriations for highway maintenance and construction provided for by the Appropriations Act shall be expended only to the extent that sufficient funds are available in the Highway Fund. The Department of Transportation shall fully fund retainage from maintenance and construction contracts in the year in which the work is performed, and in addition shall maintain an available cash balance at the end of each month equal to at least five percent (5%) of the unpaid balance of the total maintenance and construction contract obligations. In the event this cash position is not maintained, no further construction and maintenance contract commitments shall be entered into until the cash balance has been regained. For the purposes of awarding contracts involving federal-aid, any amount due from the federal government and the Highway Bond Fund as a result of unreimbursed expenditures may be considered as cash for the purposes of this provision.
- (4) Anticipation of Revenues. – In awarding State highway construction and maintenance contracts requiring payments beyond a biennium, the Director of the Budget may anticipate revenues as authorized and certified by the General Assembly, to continue contract payments for up to seventy-five percent (75%) of the revenues which are estimated for the first fiscal year of the succeeding biennium and which are not required for other budget items. Up to fifty percent (50%) of the revenues not required for other budget items may be anticipated for the second ~~and subsequent fiscal years'~~ year of the succeeding biennium's contract payments. Up to forty percent (40%) of the revenues not required for other budget items may be anticipated for the first year of the second succeeding biennium and up to twenty percent (20%) of the revenues not required for other budget items may be anticipated for the second year of the second succeeding biennium.

- (5) Amounts Obligated – Payments Subject to the Availability of Funds – Termination of Contracts. – Highway maintenance and construction appropriations may be obligated in the amount of allotments made to the Department of Transportation by the Office of State Budget and Management for the estimated payments for maintenance and construction contract work to be performed in the appropriation fiscal year. The allotments shall be multi-year allotments and shall be based on estimated revenues and shall be subject to the maximum contract authority contained in subdivision (2) above. Payment for highway maintenance and construction work performed pursuant to contract in any fiscal year other than the current fiscal year will be subject to appropriations by the General Assembly. Highway maintenance and construction contracts shall contain a schedule of estimated completion progress and any acceleration of this progress shall be subject to the approval of the Department of Transportation provided funds are available. The State reserves the right to terminate or suspend any highway maintenance or construction contract and any highway maintenance or construction contract shall be so terminated or suspended if funds will not be available for payment of the work to be performed during that fiscal year pursuant to the contract. In the event of termination of any contract, the contractor shall be given a written notice of termination at least 60 days before completion of scheduled work for which funds are available. In the event of termination, the contractor shall be paid for the work already performed in accordance with the contract specifications.
- (6) Provision Incorporated in Contracts. – The provisions of subdivision (5) of this section shall be incorporated verbatim in all highway construction and maintenance contracts.
- (7) Existing Contracts Are Not Affected. – The provisions of this section shall not apply to highway construction and maintenance contracts awarded by the Department of Transportation prior to July 15, 1980."

(c) The Department of Transportation shall report quarterly beginning on October 15, 1996, and then on the fifteenth of the month following the end of the fiscal quarter, to the Joint Legislative Transportation Oversight Committee on all projects to be built with funds obligated using the cash flow provisions of G.S. 143-28.1. The report shall contain a list of the projects and the amount obligated in anticipation of revenues for each year of the project.

Requested by: Representatives Barbee, Bowie, Senator Hoyle  
**CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND  
APPROPRIATIONS**

Sec. 19.5. Section 18.9 of Chapter 324 of the 1995 Session Laws reads as rewritten:

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

For Fiscal Year 1997-98	<del>\$1,075.6 Million</del> <u>\$1,089.4 Million</u>
For Fiscal Year 1998-99	<del>\$1,093.1 Million</del> <u>\$1,110.7 Million</u>
For Fiscal Year 1999-00	<u>\$1,146.7 Million</u>
For Fiscal Year 2000-01	<u>\$1,174.3 Million</u>

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

For Fiscal Year 1997-98	<del>\$ 775.8 Million</del> <u>\$ 788.2 Million</u>
For Fiscal Year 1998-99	<del>\$ 799.8 Million</del> <u>\$ 812.7 Million</u>
For Fiscal Year 1999-00	<u>\$839.3 Million</u>
For Fiscal Year 2000-01	<u>\$867.2 Million</u> ".

Requested by: Representatives Barbee, Bowie, Senator Hoyle

### **RADIO ISLAND RAILROAD TRESTLE**

Sec. 19.6. (a) Subsection (b) of Section 18.28 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"(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 Beaufort and Morehead Railroad Company, owner of the trestle, shall be conveyed to the Department of Transportation by the North Carolina Ports Railway Commission for construction of the replacement trestle and related purposes authorized by G.S. 136-44.36. The completed bridge shall be owned by the Department of Transportation and shall be added to the State System for maintenance purposes."

(b) Notwithstanding any other provision of law, the Department of Transportation may award a contract for Project 3100 in the 1996-2002 Transportation Improvement Program on a design-build basis, using any procurement process that the Department of Transportation determines will result in maximum efficiency in constructing this project.

(c) The Department of Transportation shall file a progress report every six months beginning on December 1, 1996, with the Joint Legislative Transportation Oversight Committee on the construction of this project.

Requested by: Senators Hoyle, Little, Gulley, Representatives Bowie, Crawford

### **UNPAVED SECONDARY ROADS ON STATE LANDS**

Sec. 19.7. Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-44.7A. Submission of secondary roads construction programs to State agencies.**

When the Department of Transportation proposes to pave an unpaved secondary road that crosses land controlled by a State agency, the Department of Transportation shall obtain the approval of that State agency before paving that secondary road."

Requested by: Representatives Barbee, Bowie, Senator Hoyle

**GREEN ROADS INITIATIVE**

Sec. 19.8. From funds available to the Department of Transportation, the Department of Correction, and the Division of Forest Resources, Department of Environment, Health, and Natural Resources, approximately 700 acres of land shall be planted with trees during the 1996-97 fiscal year as the start of a "Green Roads Initiative" of reforestation along highways across the State.

The Department of Transportation, in conjunction with the Department of Environment, Health, and Natural Resources, shall identify the locations where the reforestation can be accomplished through the use of seedlings provided by the Division of Forest Resources and prisoners allocated to the Department of Transportation by the Department of Correction.

To the extent possible, the acreage identified for reforestation shall be equally distributed in the 14 transportation engineering divisions.

The goals of the initiative are to plant trees that will provide additional natural habitat for birds and other wildlife, to reduce expensive roadside maintenance by reducing the acreage requiring frequent mowing of grasses, to beautify the State's highways, and to maintain safety for the motoring public.

The Department of Transportation, the Department of Environment, Health, and Natural Resources, and the Department of Correction shall jointly report to the Joint Legislative Transportation Oversight Committee by December 31, 1996, on progress in implementing the Green Roads Initiative.

Requested by: Senators Hoyle, Gulley, Representatives Bowie, Crawford

**DEPARTMENT OF TRANSPORTATION LAND SALES PROCEEDS USED FOR CAPITAL IMPROVEMENTS**

Sec. 19.9. (a) Funds received by the Department of Transportation from the sale of Department-owned land (not right-of-way property) during the 1995-96 fiscal year in the amount of twenty-four thousand three hundred ninety-three dollars (\$24,393) shall be used to supplement appropriations for Department of Transportation capital outlays funded in this act, in the priority order established by this act.

(b) This section is effective June 30, 1996.

Requested by: Senators Hoyle, Gulley, Representatives Bowie, Crawford

**CLARIFICATION OF POLICY RELATED TO MATERIALS THAT MAY BE DISPLAYED AT WELCOME CENTERS**

Sec. 19.10. (a) G.S. 136-18(9) reads as rewritten:

"(9) To employ appropriate means for properly selecting, planting and protecting trees, shrubs, vines, grasses or legumes in the highway right-of-way in the promotion of erosion control, landscaping and general protection of said highways; to acquire by gift or otherwise land for and to construct, operate and maintain roadside parks, picnic areas, picnic tables, scenic overlooks and other appropriate turnouts for the safety and convenience of highway users; and to cooperate with

municipal or county authorities, federal agencies, civic bodies and individuals in the furtherance of those objectives. None of the roadside parks, picnic areas, picnic tables, scenic overlooks or other turnouts, or any part of the highway right-of-way shall be used for commercial purposes except (i) for materials displayed in welcome centers in accordance with G.S. 136-89.56, and (ii) for vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Human Resources, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed. Every other use or attempted use of any of these areas for commercial purposes shall constitute a Class 1 misdemeanor and each day's use shall constitute a separate offense."

(b) G.S. 136-89.56 reads as rewritten:

**"§ 136-89.56. Commercial enterprises.**

No commercial enterprises or activities shall be authorized or conducted by the Department of Transportation, or the governing body of any city or town, within or on the property acquired for or designated as a controlled-access facility, as defined in this Article, except ~~for vending for~~:

- (1) Materials displayed at welcome centers which shall be directly related to travel, accommodations, tourist-related activities, tourist-related services, and attractions. The Department of Transportation shall issue rules regulating the display of these materials. These materials may contain advertisements for real estate; and
- (2) Vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Human Resources, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed. In order to permit the establishment of adequate fuel and other service facilities by private owners or their lessees for the users of a controlled-access facility, the Department of Transportation shall permit access to service or frontage roads within the publicly owned right-of-way of any controlled-access facility established or designated as provided in this Article, at points which, in the opinion of the Department of Transportation, will best serve the public interest. The location of such fuel and other service facilities may be indicated to the users of the controlled-access facilities by appropriate signs, the size, style, and specifications of which shall be determined by the Department of Transportation.

The location of fuel and other service facilities may be indicated to the users of the controlled access facilities by appropriate logos placed on signs owned, controlled, and erected by the Department of Transportation. The owners, operators or lessees of fuel and other service facilities who wish to place a logo identifying their business or service on a sign shall furnish a logo meeting the size, style and specifications determined by the Department of Transportation and shall pay the Department for the costs of initial installation and subsequent maintenance. The fees for logo sign installation and maintenance shall be set by the Board of Transportation based on cost."

Requested by: Representatives McLaughlin, Bowie, Crawford, Senators Hoyle, Gulley  
**VISITOR CENTERS**

Sec. 19.11. (a) The Department of Transportation, with the assistance of the Department of Commerce, shall collect the necessary data to accurately estimate the extent and type of use the public makes of the visitor centers on the State highway system. The Department shall use this data to develop a formula for allocating State resources for the funding of these visitor centers.

(b) The Department shall study and make a recommendation to the General Assembly about requiring a local match for funds appropriated by the State for the operations of local visitor centers.

(c) Until the Department reports to the General Assembly no new visitor centers shall be approved for addition to the State highway system.

(d) The Department shall submit the report required by this section no later than December 31, 1996, to the Joint Legislative Transportation Oversight Committee.

(e) G.S. 20-79.7(c)(2), as amended by Section 18.17 of Chapter 507 of the 1995 Session Laws, 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 annually appropriated from the Special Registration Plate Account the sum of five hundred twenty-five thousand dollars (\$525,000) ~~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);
  - e. on U.S. Highway 29 in Caswell County, (\$75,000);
  - f. on U.S. Highway 70 in Carteret County, (\$75,000); and
  - g. on U.S. Highway 64 in Tyrrell County, (\$75,000)."

Requested by: Representatives Bowie, Crawford, Senators Hoyle, Gulley  
**RAILROAD DIVIDEND USES**

Sec. 19.12. G.S. 136-16.6 reads as rewritten:

"§ 136-16.6. Continuing rail appropriations.

(a) There is annually ~~appropriated~~ credited to the Highway Fund 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 ~~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.

(c) There is annually appropriated to the Department of Transportation for railroad purposes one hundred percent (100%) of the funds credited to the Highway Fund pursuant to subsection (a) of this section."

Requested by: Representatives Bowie, Crawford, Senators Hoyle, Gulley

#### **RAIL TRAVEL ENHANCEMENT FUNDS**

Sec. 19.13.(a) The Department of Transportation may spend up to three million dollars (\$3,000,000) during the 1996-97 fiscal year for rail travel enhancement. Up to one million seven hundred thousand dollars (\$1,700,000) of these funds may come from funds appropriated to the Highway Fund and up to one million three hundred thousand dollars (\$1,300,000) may come from the Highway Fund credit balance remaining as of June 30, 1996. Any dividends received by the State during the 1996-97 fiscal year from its ownership of stock in the North Carolina Railroad Company shall be used to reimburse the Highway Fund for funds spent pursuant to this section.

(b) In future years rail travel enhancement funds shall come from funds appropriated pursuant to G.S. 136-16.6(c) or G.S. 136-44.20(d).

(c) This section becomes effective June 30, 1996.

Requested by: Representatives Bowie, Crawford, Senators Hoyle, Gulley

#### **DRIVERS EDUCATION FUNDING AND STUDY**

Sec. 19.14. (a) From funds appropriated by this act to the Department of Transportation, the Department shall pay for the increased costs for drivers education due to the projected increase in average daily membership in the ninth grade drivers education program.



(b) The Joint Legislative Transportation Oversight Committee shall conduct a comprehensive study of the funding of drivers education by the Department of Transportation from the Highway Fund.

The Committee shall include, as part of the study which may consider other aspects, a consideration of:

- (1) The method of accounting for the expenditure of Highway Fund monies by the Department of Public Instruction and the local school administrative units for drivers education;
- (2) The method of reporting on these expenditures to the Office of State Budget and Management, the Department of Transportation, and to the General Assembly;
- (3) An analysis of which school systems have or have not contracted with nongovernmental entities for providing drivers education; and
- (4) A recommendation for the funding of drivers education from a dedicated funding source that provides for changes in average daily membership in the served student population.

The Joint Legislative Transportation Oversight Committee shall report the results of this study to the 1997 Session of the General Assembly.

## **PART 20. DEPARTMENT OF CORRECTION**

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

### **USE OF FACILITIES CLOSED UNDER GPAC**

Sec. 20.1. In conjunction with the closing of small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located or any private for-profit or nonprofit firm about the possibility of converting that unit to other use. Consistent with existing law, the Department may provide for the lease of any of these units to counties, municipalities, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from medium security to minimum security, where that conversion would be cost-effective.

The Department of Correction shall report quarterly to the Joint Legislative Corrections Oversight Committee on the conversion of these units to other use.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper

### **REIMBURSEMENT TO COUNTIES FOR HOUSING COSTS OF INMATES AWAITING TRANSFER TO STATE PRISON SYSTEM**

Sec. 20.2. (a) G.S. 148-29 reads as rewritten:

**"§ 148-29. Transportation of convicts to prison; reimbursement to counties; sheriff's expense affidavit; State not liable for maintenance expenses until convict received. affidavit.**

The sheriff having in charge any prisoner to be taken to the Central Prison at Raleigh State prison system shall send him the prisoner to the Central Prison custody of the Department of Correction within five days after the adjournment of the court at which he was sentenced, sentencing and the disposal of all pending charges against the prisoner, if no appeal has been taken. Beginning on the sixth day after sentencing and disposal of all pending charges against the prisoner and continuing through the day the prisoner is received by the Division of Prisons, the Department of Correction shall pay the county a standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the prisoner awaiting transfer to the State prison system.

The sheriff shall file with the board of commissioners of his county a copy of his affidavit as to necessary guard, together with a copy of his itemized account of expenses, both certified to by him as true copies of those on file in his office. ~~The State is not liable for the expenses of maintaining convicts until they have been received by the State Department of Correction authorities, nor shall any moneys be paid out of the treasury for support of convicts prior to such reception."~~

(b) The Department of Correction may use funds available for the 1995-96 fiscal year to pay the sum of fourteen dollars and fifty cents (\$14.50) per day as reimbursement to counties for the cost of housing inmates convicted and awaiting transfer to the State prison system, as provided in G.S. 148-29.

(c) Of the funds appropriated to the Department of Correction for the 1996-97 fiscal year, the Department may use up to fourteen million six hundred thousand dollars (\$14,600,000) to raise the per diem reimbursement to counties from fourteen dollars and fifty cents (\$14.50) per day to forty dollars (\$40.00) per day for the cost of housing inmates convicted and awaiting transfer to the State prison system, as provided in G.S. 148-29. Counties shall send invoices to the Department no more than once monthly, and the Department shall make reimbursement within 30 days of receipt of the invoice.

(d) Subsections (a) and (b) of this section become effective January 1, 1996.

Requested by: Representatives Justus, Thompson, Senator Ballance

**COMBINATION OF PAROLE PROBATION FIELD SERVICES AND PAROLE PRE- AND POST-RELEASE SERVICES PROGRAMS FOR BUDGETING PURPOSES**

Sec. 20.3. Notwithstanding any other provision of law, the Department of Correction may combine Parole Probation Field Services and Parole Pre- and Post-Release Services programs for budgeting purposes in order to reflect the actual operation in the field, since officers from each program are responsible for both parole and probation cases.

Requested by: Representatives Justus, Thompson, Senator Ballance

**MODIFICATION OF FUNDING FORMULA FROM THE NORTH CAROLINA STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP ACT**

Sec. 20.4. Notwithstanding the funding formula set forth in G.S. 143B-273.15, grants made through the North Carolina State-County Criminal Justice Partnership Act for the 1996-97 fiscal year shall be distributed to the counties as specified in G.S. 143B-273.15(2) only, and not as discretionary funds. Appropriations not claimed or expended by counties during the 1996-97 fiscal year shall be distributed pursuant to G.S. 143B-273.15(1).

Requested by: Representatives Justus, Thompson, Senator Ballance

**DART AFTERCARE FUNDS SHALL NOT REVERT**

Sec. 20.5. (a) Funds appropriated in this act to the Department of Correction for the 1995-96 fiscal year for a Drug Alcohol Recovery Treatment (DART) aftercare program shall not revert at the end of the fiscal year but shall remain available to the Department during the 1996-97 fiscal year and be used to contract for up to three pilot programs statewide to provide aftercare services, including counseling and job referral services, for DART DWI offenders and other offenders who have completed a DART program in the Division of Prisons.

The Department of Correction shall report on the pilot programs 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. The report shall include information on the number of clients served, the quality of services, the cost-effectiveness of the services, and the benefits of the programs to offenders.

(b) This section becomes effective June 30, 1996.

Requested by: Representatives Justus, Thompson, Senator Ballance

**DEPARTMENT OF CORRECTION/DEPARTMENT OF HUMAN RESOURCES  
JOINT PLAN/RESERVE FOR SUBSTANCE ABUSE TREATMENT PILOT  
PROGRAM FOR PAROLEES AND PROBATIONERS SHALL NOT REVERT**

Sec. 20.6. (a) The balance of the five hundred eighty-three thousand dollars (\$583,000) appropriated in Chapter 24 of the Session Laws of the 1994 Extra Session to the Department of Correction for the 1994-95 fiscal year and carried forward to the 1995-96 fiscal year by Section 19.8 of Chapter 507 of the 1995 Session Laws for an intensive out-patient substance abuse treatment pilot program for parolees and probationers with serious substance abuse histories shall not revert at the end of the fiscal year but shall remain available to the Department during the 1996-97 fiscal year to be used for the operation and evaluation of the Department of Correction/Department of Human Resources joint substance abuse program, the Drug Alcohol Recovery Treatment (DART) aftercare pilot program, and other prison-based or community corrections substance abuse programs in the Department of Correction, as determined by the Secretary of Correction.

The Department of Correction shall report quarterly to the Joint Legislative Corrections Oversight Committee on the use of these funds and any benefits realized. The Department of Human Resources shall participate in these reports as they relate to the joint project.

- (b) This section becomes effective June 30, 1996.

Requested by: Representatives Holmes, Creech, Esposito, Senators Ballance, Odom  
**SALARY CONTINUATION BENEFITS FOR ALL DEPARTMENT OF CORRECTION EMPLOYEES INJURED BY DELIBERATE ACT OR WHILE PERFORMING SUPERVISORY DUTIES**

Sec. 20.7. (a) G.S. 143-166.13(b) reads as rewritten:

"(b) The following persons are entitled to benefits under this Article regardless of whether they are subject to the Criminal Justice Training and Standards Act:

- (1) Driver License Examiners injured by accident arising out of and in the course of giving a road test, Division of Motor Vehicles, Department of ~~Transportation~~ Transportation;
- (2) Employees of the Department of Correction injured by a direct and deliberate act of an offender supervised by the Department or while performing supervisory duties over offenders which place the employees at risk of such injury."

(b) This section applies to injuries occurring on or after the effective date of this act.

Requested by: Senator Ballance, Representatives Justus, Thompson  
**REPORT ON WOMEN AT RISK**

Sec. 20.8. The Women at Risk Program shall report by December 1, 1996, and by May 1, 1997, to the Joint Legislative Commission on Governmental Operations, the Chairs of the House and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper

**FEDERAL MATCHING FUNDS**

Sec. 20.9. Section 27.10A of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 27.10A. Appropriations made ~~in this act for the 1995-97 biennium~~ to the Office of State Construction of the Department of Administration for construction of new prison beds, ~~excluding the sum of seven million five hundred thousand dollars (\$7,500,000) to be used for the design and preliminary site work,~~ are to match federal funds available for prison construction in the 1995 or 1996 federal fiscal year or subsequent federal fiscal years. ~~If the federal match is not made available by January 1, 1996, these State funds shall be made available to the Office of State Construction of the Department of Administration for construction of new prison beds, segregation units, and support buildings and systems as specified in this act.~~ construction.

Appropriations not needed or used to match federal funds may be made available for construction of new prison beds, segregation units, support buildings and systems, and other needed facilities.

The Office of State Construction shall report to the Chairs of the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, 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 availability of federal prison construction matching funds."

Requested by: Representatives Justus, Thompson, Senator Ballance

#### **USE OF PRISON MATCH FUNDS**

Sec. 20.10. Section 27.10A1 of Chapter 507 of the 1995 Session Laws is repealed. Any funds appropriated in Chapter 507 of the 1995 Session Laws for construction of new prison beds that are not needed to construct prisons for the 1995-97 fiscal biennium shall be placed in a reserve for appropriation by the 1997 General Assembly.

Requested by: Senators Ballance, Rand, Cooper, Representatives Justus, Thompson, Kiser

#### **ALTERNATIVES TO OUT-OF-STATE HOUSING**

Sec. 20.11. The Department of Correction shall investigate methods of housing inmates within the State rather than in out-of-state facilities, including the use of modular units and small units scheduled to be closed as a result of the recommendations made by the Government Performance Audit Committee. The Department shall report its findings and recommendations quarterly to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Correction Oversight Committee.

Requested by: Senators Ballance, Rand, Cooper, Representatives Justus, Thompson, Kiser

#### **HARRIET'S HOUSE FUNDS**

Sec. 20.12. (a) Section 19.7 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 19.7. Of the funds appropriated to the Department of Correction, the sum of two hundred thousand dollars (\$200,000) for the 1995-96 fiscal year and the sum of two hundred thousand dollars (\$200,000) for the 1996-97 fiscal year shall be used to support the programs of Harriet's House, a transitional home for female ex-offenders and their children. The funds may be used for program operating costs, the purchase of equipment, and the rental of real property. Harriet's House shall report quarterly to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program including information on the number of clients served and the number of clients who successfully complete the Harriet's House program."

(b) The balance of the two hundred thousand dollars (\$200,000) appropriated in Chapter 507 of the 1995 Session Laws to the Department of Correction for the 1995-96 fiscal year to support the programs at Harriet's House shall not revert at the end of the fiscal year but shall remain available to the Department during the 1996-97 fiscal year to be used for program operating costs, the purchase of equipment, and the rental of real property.

(c) This section becomes effective June 30, 1996.

Requested by: Senators Ballance, Cooper, Rand, Representatives Justus, Thompson, Kiser

**CREATE A NEW FELONY OFFENSE OF ASSAULT INFLICTING SERIOUS BODILY INJURY AS RECOMMENDED BY THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION, TO INCREASE THE PUNISHMENT FOR SALE OF HANDGUNS TO MINORS TO A CLASS H FELONY, AND TO INCREASE THE PUNISHMENT FOR SALE OF CONTROLLED SUBSTANCES TO PERSONS UNDER AGE SIXTEEN OR PREGNANT FEMALES TO A CLASS D FELONY**

Sec. 20.13. (a) Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-32.4. Assault inflicting serious bodily injury.**

Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts serious bodily injury is guilty of a Class F felony. 'Serious bodily injury' is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization."

(b) G.S. 14-315(a1) reads as rewritten:

"(a1) Sale of Handguns. – If a person sells, offers for sale, gives, or in any way transfers to a minor any handgun as defined in G.S. 14-269.7, the person is guilty of a ~~Class I~~ Class H felony and, in addition, shall forfeit the proceeds of any sale made in violation of this section. This section does not apply in any of the following circumstances:

- (1) The handgun is lent to a minor for temporary use if the minor's possession of the handgun is lawful under G.S. 14-269.7 and G.S. 14-316 and is not otherwise unlawful.
- (2) The handgun is transferred to an adult custodian pursuant to Chapter 33A of the General Statutes, and the minor does not take possession of the handgun except that the adult custodian may allow the minor temporary possession of the handgun in circumstances in which the minor's possession of the handgun is lawful under G.S. 14-269.7 and G.S. 14-316 and is not otherwise unlawful.
- (3) The handgun is a devise or legacy and is distributed to a parent or guardian under G.S. 28A-22-7, and the minor does not take possession

of the handgun except that the parent or guardian may allow the minor temporary possession of the handgun in circumstances in which the minor's possession of the handgun is lawful under G.S. 14-269.7 and G.S. 14-316 and is not otherwise unlawful."

(c) G.S. 90-95(e)(5) reads as rewritten:

"(5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person under 16 years of age or a pregnant female shall be punished as a ~~Class E~~ Class D felon. Mistake of age is not a defense to a prosecution under this section. It shall not be a defense that the defendant did not know that the recipient was pregnant;"

(d) This section becomes effective January 1, 1997, and applies to offenses committed on or after that date.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Odom, Rand, Cooper

**EXTEND THE REGULAR PERIOD OF POST-RELEASE SUPERVISION FROM SIX TO NINE MONTHS/EXTEND THE PERIOD OF POST-RELEASE SUPERVISION TO FIVE YEARS FOR SEX OFFENDERS/PROVIDE FOR SPECIAL CONDITIONS OF POST-RELEASE SUPERVISION FOR SEX OFFENDERS AND PERSONS CONVICTED OF OFFENSES INVOLVING PHYSICAL, MENTAL, OR SEXUAL ABUSE OF MINORS/PROVIDE FOR MANDATORY CONDITIONS OF PROBATION FOR SEX OFFENDERS AND PERSONS CONVICTED OF OFFENSES INVOLVING PHYSICAL, MENTAL, OR SEXUAL ABUSE OF CHILDREN**

Sec. 20.14. (a) G.S. 15A-1368.2(c) reads as rewritten:

"(c) A supervisee's period of post-release supervision shall be for a period of ~~six months~~ nine months, unless the offense is an offense for which registration is required pursuant to Article 27A of Chapter 14 of the General Statutes. For offenses subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the period of post-release supervision is five years. The conditions of post-release supervision are as authorized in G.S. 15A-1368.5."

(b) G.S. 15A-1368.4 is amended by adding a new subsection to read:

"(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the required condition set forth in subsection (b) of this section, for a supervisee who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may result in revocation of post-release supervision, are:

- (1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).
- (2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the Commission.

- (3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- (4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.
- (5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless a court of competent jurisdiction expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the child's best interest to allow the supervisee to reside in the same household with a minor child."

(c) G.S. 15A-1343 is amended by adding a new subsection to read:

"(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

- (1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).
- (2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- (3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- (4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.
- (5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the minor child's best interest to allow the probationer to reside in the same household with a minor child.
- (6) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

Defendants subject to the provisions of this subsection shall not be placed on unsupervised probation."

(d) This section becomes effective December 1, 1996.

Requested by: Senators Ballance, Cooper, Rand, Representatives Decker, Justus, Thompson, Kiser

**CLASS F FELONY OFFENSE TO ASSAULT A LAW ENFORCEMENT OFFICER AND INFLICT SERIOUS BODILY INJURY/CREATE A NEW CRIMINAL OFFENSE OF ASSAULTING FIREFIGHTER**

Sec. 20.14B. (a) Article 8 of Chapter 14 of the General Statutes is amended by adding a new section to read:



**"§ 14-34.7. Assault on a law enforcement officer.**

Unless covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony if the person assaults a law enforcement officer while the law enforcement officer is discharging or attempting to discharge his or her official duties and inflicts serious bodily injury on the law enforcement officer."

(b) G.S. 143-34.6 reads as rewritten:

**"§ 14-34.6. Assault or affray on a firefighter; an emergency medical technician, ambulance attendant, emergency department nurse, or emergency department physician.**

(a) A person is guilty of a Class A1 misdemeanor if the person commits an assault or an affray on any of the following persons who are discharging or attempting to discharge their official duties:

(1) ~~an~~ An emergency medical technician, technician.

(2) An ambulance attendant, attendant.

(3) An emergency department nurse, or nurse.

(4) An emergency department physician while the technician, attendant, nurse, or physician is discharging or attempting to discharge official duties. physician.

(5) A firefighter.

(b) Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class I felony if the person violates subsection (a) of this section and (i) inflicts serious bodily injury or (ii) uses a deadly weapon other than a firearm.

(c) Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony if the person violates subsection (a) of this section and uses a firearm."

(c) This section becomes effective December 1, 1996, and applies to offenses committed on or after that date.

Requested by: Senators Ballance, Rand, Cooper, Representatives Justus, Thompson, Kiser

**ELIMINATE WAIVER OF PRELIMINARY HEARINGS IN PAROLE AND POST-RELEASE SUPERVISION REVOCATION PROCEEDINGS**

Sec. 20.15. (a) G.S. 15A-1376 reads as rewritten:

"(b) When and Where Preliminary Hearing on Parole Violation Required. – Unless the hearing required by subsection (e) is first held ~~or the parolee waives the hearing~~ or a continuance is requested by the parolee, a preliminary hearing on parole violation must be held reasonably near the place of the alleged violation or arrest and within seven working days of the arrest of a parolee to determine whether there is probable cause to believe that he violated a condition of parole. Otherwise, the parolee must be released seven working days after his arrest to continue on parole pending a hearing. If the parolee is not within the State, his preliminary hearing is as prescribed by G.S. 148-65.1A."

(b) G.S. 15A-1368.6 reads as rewritten:

"(b) When and Where Preliminary Hearing on Post-Release Supervision Violation Required. – Unless the hearing required by subsection (e) of this section is first held ~~or the supervisee waives the hearing~~ or a continuance is requested by the supervisee, a preliminary hearing on supervision violation shall be held reasonably near the place of the alleged violation or arrest and within seven working days of the arrest of a supervisee to determine whether there is probable cause to believe that the supervisee violated a condition of post-release supervision. Otherwise, the supervisee shall be released seven working days after arrest to continue on supervision pending a hearing. If the supervisee is not within the State, the preliminary hearing is as prescribed by G.S. 148-65.1A."

(c) This section is effective upon ratification.

Requested by: Senators Ballance, Cooper, Rand, Representatives Justus, Thompson, Kiser

#### **FUNDS TO HOUSE PRISONERS OUT OF STATE**

Sec. 20.16. In addition to appropriations needed to fund the existing 1,867 contracted beds in out-of-state facilities, the Department of Correction may use up to ten million dollars (\$10,000,000) of the funds appropriated to the Department for the 1996-97 fiscal year to contract to house up to 500 prisoners out of state.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper

#### **AUDIT OF DIVISION OF ADULT PROBATION AND PAROLE**

Sec. 20.17. The Joint Legislative Corrections Oversight Committee shall develop a plan for conducting a performance audit of the Division of Adult Probation and Parole of the Department of Correction. The plan shall include recommendations on the appropriate entity to conduct the audit, an outline of the issues and areas to be studied, an estimate of the funding necessary to conduct the audit, and the appropriate date for issuance of the final audit report. The plan shall be submitted to the General Assembly upon the convening of the 1997 Regular Session.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Cooper, Rand

#### **ADDITIONAL PRIVATE PRISON BEDS**

Sec. 20.18. G.S. 148-37(g) reads as rewritten:

"(g) The Secretary of Correction may contract with private for-profit or nonprofit firms for the provision and operation of ~~two~~ four or more confinement facilities totaling up to ~~1,000~~ 2,000 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. This ~~1,000-bed~~ 2,000-bed limitation shall not apply to the 500 beds in private substance abuse treatment centers authorized by the General Assembly prior to July 1, 1995. Whenever the Department of Correction determines that new prison facilities are required in addition to existing and planned facilities, the Department may

contract for any remaining beds authorized by this section before constructing State-operated facilities.

~~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. Confinement facilities provided under the authority of this subsection shall not be used for the purpose of consolidating existing State confinement facilities. years. The Secretary of Correction shall enter contracts under this subsection only if funds are appropriated for this purpose by the General Assembly. Contracts entered under the authority of this subsection may be subject to any requirements for the location of the confinement facilities set forth by the General Assembly in appropriating those funds.~~

Once the Department has made a determination to contract for additional private prison beds, it shall issue a request for proposals within 30 days of the decision. The request for proposals shall require bids to be submitted within two months, and the Department shall award contracts at the earliest practicable date after the submission of bids. The Secretary of Correction, in consultation with the Chairs of the Joint Legislative Corrections Oversight Committee and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety, shall make recommendations to the State Purchasing Officer on the final award decision. The State Purchasing Officer shall make the final award decision, and the contract shall then be subject to the approval of the Council of State after consultation with the Joint Legislative Commission on Governmental Operations.

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. Contracts made under the authority of this subsection shall state that plans and specifications for private confinement facilities shall be furnished to and reviewed by the Office of State Construction. The Office of State Construction shall inspect and review each project during construction to ensure that the project is suitable for habitation and to determine whether the project would be suitable for future acquisition 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."

Requested by: Representative Thompson, Senator Perdue

**PRIVATE PRISON SITES**

Sec. 20.19. The two 500-bed private confinement facilities awarded to United States Corrections Corporation pursuant to the provisions of G.S. 148-37(g) and State purchasing and contract procedures shall be located at the Pamlico and Avery/Mitchell sites. Construction shall begin by December 31, 1996, at both of these sites.

Requested by: Senators Plyler, Perdue, Odom, Ballance, Rand, Cooper

**CORRECTIONAL FACILITIES**

Sec. 20.20. Of the funds authorized in this act for correctional facilities, the sum of two million three hundred fifty thousand dollars (\$2,350,000) shall be used for planning and design of facilities as follows:

<u>Facility</u>	<u>Location</u>	<u>Number of Beds</u>	<u>Custody</u>
Central Prison Diagnostic Center	Wake	196	Close
Warren Correctional Institution	Warren	168	Med./Close
Single Cell Facility	Metro Area	520	Close
208 Bed Dorm and Food Service Bldg. - NCCIW	Wake	-	-
Building to Centralize Personnel	Wake	-	-
Single Cell Facility	Scotland	712	Close

**PART 21. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

Requested by: Representatives Justus, Thompson, Senators Ballance, Parnell

**EXTEND DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY STUDY COMMISSION**

Sec. 21.1. (a) Section 20.4(d) of Chapter 324 of the 1995 Session Laws reads as rewritten:

"(d) The Study Commission shall make an interim report to the 1996 Regular Session of the 1995 General Assembly by May 1, 1996, and shall submit a final written report of its findings and recommendations to the General Assembly by May 1, 1996. 1997 General Assembly. 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."

(b) This section becomes effective April 30, 1996.

Requested by: Senators Ballance, Rand, Cooper, Representatives Justus, Thompson, Kiser

**STUDY LAW ENFORCEMENT OFFICER COMPENSATION AND SALARY CONTINUATION FOR RESIDENTIAL FACILITY EMPLOYEES**

Sec. 21.2. (a) The Office of State Personnel shall study:

- (1) Employee classifications, salary schedules, pay equity, and pay inequities for all sworn law enforcement personnel certified by the North Carolina Criminal Justice Education and Training Standards Commission in every State law enforcement agency. The study shall consider appropriate factors related to the compensation of law enforcement personnel, including job specifications and qualifications required by the Office of State Personnel, the compensation of personnel in accordance with educational levels and years of experience, and the equity of compensation between all State law enforcement agencies.
- (2) The feasibility and desirability of providing salary continuation pursuant to Article 12B of Chapter 143 of the General Statutes for employees of State-operated residential facilities who have been injured by acts of persons housed at the facilities or who have been injured while performing supervisory duties over persons housed at the facilities.
- (3) 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.

(b) The Office of State Personnel shall report to the Criminal Law Study Commission on its findings and recommendations related to the studies mandated by this section no later than December 15, 1996.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper

**REPORT ON STATE HIGHWAY PATROL POLICY AND PROCEDURES FOR STOPPING MOTORISTS**

Sec. 21.3 (a) The Division of the State Highway Patrol, Department of Crime Control and Public Safety, shall report to the Crime Control and Public Safety Study Commission, the Chairs of the House and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the promotional system adopted by the State Highway Patrol on May 15, 1996. The Department shall report on the criteria and qualifications used to rank troopers and supervisors in the system and on the progress of the training process of the system by January 1, 1997. By July 1, 1997, the Department shall report on the implementation of the promotional system, including the number of troopers and supervisors eligible for promotion, the number of troopers and supervisors promoted, and the criteria used to rank each trooper and supervisor promoted under the system.

(b) The Division of the State Highway Patrol, Department of Crime Control and Public Safety, shall report to the Crime Control and Public Safety Study Commission, the Chairs of the House and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the policy, procedures, and guidelines used by the Division in determining which motorists to stop and question, and which vehicles to search, in relation to any suspected illegal activity by November 1, 1996. The Department shall include in its report a review and explanation of the training of the Special Emphasis Team troopers on drug interdiction, including methods, indicators, and profiles used to detect drug traffickers.

Requested by: Senators Ballance, Rand, Cooper, Representatives Justus, Thompson, Kiser

**MAINTAIN BUTNER PUBLIC SAFETY FEES AS GENERAL AVAILABILITY**

Sec. 21.4. Effective June 21, 1996, G.S. 122C-411.1 is repealed.

**PART 22. JUDICIAL DEPARTMENT**

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper

**ADDITIONAL ASSISTANT DISTRICT ATTORNEYS**

Sec. 22. (a) G.S. 7A-60(a1) reads as rewritten:

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

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	<del>8</del> <u>9</u>
2	Beaufort, Hyde, Martin, Tyrrell, Washington	4 <u>5</u>
3A	Pitt	<del>7</del> <u>8</u>
3B	Carteret, Craven, Pamlico	<del>6</del> <u>8</u>
4	Duplin, Jones, Onslow, Sampson	<del>10</del> <u>12</u>
5	New Hanover, Pender	<del>9</del> <u>11</u>
6A	Halifax	<del>3</del> <u>4</u>
6B	Bertie, Hertford, Northampton	<del>3</del> <u>4</u>
7	Edgecombe, Nash, Wilson	<del>10</del> <u>12</u>
8	Greene, Lenoir, Wayne	<del>8</del> <u>10</u>
9	Franklin, Granville, Vance, Warren	<del>8</del> <u>9</u>
9A	Person, Caswell	<del>2</del> <u>3</u>
10	Wake	<del>20</del> <u>23</u>
11	Harnett, Johnston, Lee	<del>10</del> <u>11</u>
12	Cumberland	<del>12</del> <u>14</u>
13	Bladen, Brunswick, Columbus	<del>6</del> <u>8</u>
14	Durham	<del>9</del> <u>10</u>
15A	Alamance	<del>6</del> <u>7</u>
15B	Orange, Chatham	<del>5</del> <u>6</u>
16A	Scotland, Hoke	<del>3</del> <u>4</u>
16B	Robeson	<del>7</del> <u>8</u>
17A	Rockingham	<del>4</del> <u>5</u>
17B	Stokes, Surry	<del>4</del> <u>5</u>
18	Guilford	<del>18</del> <u>22</u>
19A	Cabarrus	<del>4</del> <u>5</u>
19B	Montgomery, Randolph	5
19C	Rowan	<del>4</del> <u>5</u>
20	Anson, Moore, Richmond, Stanly, Union	12
21	Forsyth	<del>12</del> <u>13</u>
22	Alexander, Davidson, Davie, Iredell	<del>11</del> <u>13</u>

23	Alleghany, Ashe, Wilkes, Yadkin	4 <u>5</u>
24	Avery, Madison, Mitchell, Watauga, Yancey	3 <u>4</u>
25	Burke, Caldwell, Catawba	<del>11</del> <u>12</u>
26	Mecklenburg	24 <u>29</u>
27A	Gaston	8 <u>10</u>
27B	Cleveland, Lincoln	5 <u>6</u>
28	Buncombe	8 <u>9</u>
29	Henderson, McDowell, Polk, Rutherford, Transylvania	8 <u>10</u>
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	6 <u>7</u>

(b) This section becomes effective January 1, 1997.

Requested by: Representatives Justus, Thompson, Senator Ballance  
**ASSISTANT PUBLIC DEFENDERS**

Sec. 22.1. From funds appropriated to the Indigent Persons' Attorney Fee Fund for the 1996-97 fiscal year, the Administrative Office of the Courts may use up to three hundred sixty-five thousand three hundred seventy-six dollars (\$365,376) for salaries, benefits, and related expenses to establish up to 11 new assistant public defenders.

Requested by: Representatives Justus, Thompson, Senator Ballance  
**RESERVE FOR DRUG TREATMENT COURT PROGRAM**

Sec. 22.2. (a) Of the funds appropriated to the Judicial Department in the certified budget for the 1995-96 fiscal year to the Reserve for Court/Drug Treatment Program, established by Section 41 of Chapter 24 of the Session Laws of the 1994 Extra Session, as amended by Section 21.6 of Chapter 507 of the 1995 Session Laws, up to the sum of one hundred seventy-five thousand dollars (\$175,000) of any balance remaining in the reserve shall not revert, but may be used during the 1996-97 fiscal year for nonrecurring program items.

(b) This section becomes effective June 30, 1996.

Requested by: Representatives Justus, Thompson, Senator Ballance  
**ANNUAL REPORT ON RECIDIVISM**

Sec. 22.3. The Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission, and the Department of Correction shall jointly prepare an annual report on recidivism among criminal offenders. The findings of the report shall be based upon methodology similar to that employed in the May 1, 1996, Recidivism Study that was presented 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. This methodology shall include tracking of all offenders assigned to community corrections programs or released from prison by fiscal year, beginning with the 1993-94 fiscal year for the first year's report, and then identifying those offenders rearrested within two years or more after assignment to a program or release from prison. Community correction programs to be included in the report are the Treatment Alternatives to Street Crime (TASC), the Community Penalties Program, Community Service, all supervised probation and parole programs, and all community correction programs supervised or funded by the Department of Correction.

As part of this joint project, the Department of Correction shall provide the Sentencing and Policy Advisory Commission with a computerized list of offenders released from prison and offenders entering supervised probation during the specified time period. The list shall include specific offender-identifying information and clearly identify offenders entering community corrections programs supervised or funded by the Department of Correction. The Sentencing and Policy Advisory Commission shall be responsible for matching offenders to Division of Criminal Information (DCI) criminal records and for the production and printing of the final report.

Data collection and report preparation for the first year shall be funded from the sum of four thousand dollars (\$4,000) appropriated to the Judicial Department for the 1996-97 fiscal year for that purpose, and grant funds available to the Department of Correction for the 1996-97 fiscal year, up to the sum of twenty-five thousand dollars (\$25,000). The report shall be due by April 1 of each year.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper

**AUTHORIZE ADDITIONAL MAGISTRATES**

Sec. 22.4. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.-Max.		Additional Seats of Court
Camden	1	2	
Chowan	2	3	
Currituck	1	3	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	3	
Martin	5	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	

Washington	3	4	
Pitt	10	12	Farmville
			Ayden
Craven	7	10	Havelock
Pamlico	2	3	
Carteret	5	8	
Sampson	6	8	
Duplin	9	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke
			Rapids,
			Scotland Neck
Northampton	5	<del>6</del> <u>7</u>	
Bertie	4	<del>5</del> <u>6</u>	
Hertford	5	6	
Nash	7	10	Rocky Mount
Edgecombe	4	6	Rocky Mount
Wilson	4	6	
Wayne	5	11	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	<del>5</del> <u>6</u>	
Warren	3	4	
Franklin	3	6	
Person	3	4	
Caswell	2	5	
Wake	12	20	Apex,
			Wendell,
			Fuquay-
			Varina,
			Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson,
			Clayton,
			Selma
Lee	4	6	
Cumberland	10	17	
Bladen	4	6	
Brunswick	4	7	
Columbus	6	8	Tabor City

Durham	8	12	
Alamance	7	10	Burlington
Orange	4	11	Chapel Hill
Chatham	3	8	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	26	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2	4	
Randolph	5	<u>8</u> <sup>10</sup>	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	6	
Anson	4	5	
Richmond	5	6	Hamlet
Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville
Alexander	2	3	
Davidson	7	10	Thomasville
Davie	2	3	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	4	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	

Catawba	6	10	Hickory
Mecklenburg	15	26	
Gaston	11	20	
Cleveland	5	8	
Lincoln	4	<del>6-7</del>	
Buncombe	6	15	
Henderson	4	<del>6-7</del>	
McDowell	3	5	
Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	4	
Macon	3	4	
Swain	2	3."	

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

**FOUR NEW SPECIAL SUPERIOR COURT JUDGES/MAKE CURRENT SPECIAL SUPERIOR COURT JUDGE TERMS CONSISTENT**

Sec. 22.6. (a) G.S. 7A-45.1 reads as rewritten:

**"§ 7A-45.1. Special judges.**

(a) Effective November 1, 1993, the Governor may appoint two special superior court judges to serve terms expiring ~~December 31, 1998.~~ September 30, 2000. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to ~~four-year~~ five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.

(a1) Effective October 1, 1995, the Governor may appoint two special superior court judges to serve terms expiring September 30, 2000. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.

(a2) Effective December 15, 1996, the Governor may appoint four special superior court judges to serve terms expiring December 14, 2001. Successors to the special superior court judges appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district.

(b) A special judge is subject to removal from office for the same causes and in the same manner as a regular judge of the superior court, and a vacancy occurring in the office of special judge is filled by the Governor by appointment for the unexpired term.

(c) A special judge, in any court in which he is duly appointed to hold, has the same power and authority in all matters that a regular judge holding the same court would have. A special judge, duly assigned to hold the court of a particular county, has during the session of court in that county, in open court and in chambers, the same power and authority of a regular judge in all matters arising in the district or set of districts as defined in G.S. 7A-41.1(a) in which that county is located, that could properly be heard or determined by a regular judge holding the same session of court.

(d) A special judge is authorized to settle cases on appeal and to make all proper orders in regard thereto after the time for which he was commissioned has expired."

(b) Section 24.7 of Chapter 769 of the 1993 Session Laws reads as rewritten:

"Sec. 24.7. Notwithstanding G.S. 7A-45, G.S. 7A-45.1, Section 7 of Chapter 509 of the 1987 Session Laws, or any other provision of law, if any special superior court judge who is holding office on the effective date of this act first took office as an appointed or elected regular or special superior court judge in the calendar year 1986, the term of that judge is extended through ~~December 31, 1998.~~ September 30, 2000."

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper

### **ADDITIONAL DISTRICT COURT JUDGES**

Sec. 22.7. (a) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	4	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	3	Martin Beaufort Tyrrell Hyde Washington
3A	4	Pitt
3B	4	Craven

		Pamlico
		Carteret
4	6	Sampson
		Duplin
		Jones
		Onslow
5	6	New Hanover
		Pender
6A	2	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	6	Nash
		Edgecombe
		Wilson
8	6	Wayne
		Greene
		Lenoir
9	4	Granville
		(part of Vance
		see subsection (b))
		Franklin
9A	2	Person
		Caswell
9B	1	Warren
		(part of Vance
		see subsection (b))
10	12	Wake
11	6	Harnett
		Johnston
		Lee
12	<del>7</del> 8	Cumberland
13	4	Bladen
		Brunswick
		Columbus
14	5	Durham
15A	3	Alamance
15B	3	Orange
		Chatham
16A	<del>2</del> 3	Scotland
		Hoke
16B	5	Robeson
17A	2	Rockingham
17B	3	Stokes

		Surry
18	11	Guilford
19A	3	Cabarrus
19B	3	Montgomery
		Randolph
19C	3	Rowan
20	7	Stanly
		Union
		Anson
		Richmond
		Moore
21	7	Forsyth
22	7	Alexander
		Davidson
		Davie
		Iredell
23	<u>34</u>	Alleghany
		Ashe
		Wilkes
		Yadkin
24	3	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	7	Burke
		Caldwell
		Catawba
26	14	Mecklenburg
27A	5	Gaston
27B	4	Cleveland
		Lincoln
28	5	Buncombe
29	5	Henderson
		McDowell
		Polk
		Rutherford
		Transylvania
30	4	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon

Swain."

(b) The Governor shall appoint additional district court judges for District Court Districts 12, 16A, and 23 as authorized by subsection (a) of this section. Those judges' successors shall be elected in the 2000 general election for a four-year term commencing on the first Monday in December 2000.

(c) Subsection (a) of this section becomes effective December 15, 1996, as to any district court district where no county is subject to section 5 of the Voting Rights Act of 1965. As to any district court district where any county is subject to section 5 of the Voting Rights Act of 1965, subsection (a) of this section becomes effective December 15, 1996, or 15 days after the date upon which that subsection is approved under Section 5 of the Voting Rights Act of 1965, whichever is later.

Requested by: Senator Conder, Representative Morgan

#### **DISTRICT COURT JUDGES**

Sec. 22.8. (a) Section 2(b) of Chapter 589 of the 1995 Session Laws reads as rewritten:

"(b) ~~Each~~ The district court judgeship held on June 12, 1996, in District Court District 20 by a resident of Moore County (~~Michael Earle Beale and Jayrene Russell Maness~~) is allocated to District Court District 19B. The district court judgeship held on June 12, 1996, in District Court District 20 by a resident of Moore County (Michael Earle Beale) is allocated to District Court District 20. The term of each of these judges expires December 7, 1998. A successor to each judge shall be elected in the 1998 general election."

(b) Section 2(d) of Chapter 589 of the 1995 Session Laws reads as rewritten:

"(d) The effect of subsections (a) through (c) of this section is also to add an additional district court judgeship in District Court District ~~20~~ 19B effective January 1, 1997. The Governor shall appoint a person to fill the vacancy for the remainder of the term expiring the first Monday in December of ~~2000~~ 1998."

Requested by: Senators Ballance, Rand, Cooper, Representatives Justus, Thompson, Kiser

#### **MECKLENBURG DRUG COURT FUNDING**

Sec. 22.9. It is the intent of the General Assembly that the Mecklenburg Drug Court program be funded as a recurring item within the continuation budget.

Requested by: Representatives Holmes, Creech, Esposito, Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper

#### **FUNDING FOR SUPERIOR COURT REPORTERS**

Sec. 22.10. It is the intent of the General Assembly that funding for superior court reporters remain a part of the continuation budget.

Requested by: Senators Ballance, Odom, Rand, Cooper, Representatives Justus, Thompson, Kiser



## **DISTRICT COURT REPORTER OPTION**

Sec. 22.11. G.S. 7A-198 is amended by adding a new subsection to read:

"(g) A party to a civil trial in district court may request a private agreement from the opposing party or parties to share equally in the cost of a court reporter to be selected from a list provided by the Administrative Office of the Courts. If the opposing party does not consent to share this cost, the requesting party may nevertheless pay to have a court reporter present to record the trial and, in the event that the opposing party appeals the case, that party shall reimburse the party providing the court reporter in full for the costs incurred for the court reporter's services and transcripts.

In the event that the recording device in a civil trial conducted without a court reporter fails for any reason to provide a reasonably accurate record of the trial for purposes of appeal, then the trial judge shall grant a motion for a new trial made by a losing party whose request pursuant to this section to share the cost of a court reporter was not consented to by the opposing party."

Requested by: Senators Ballance, Rand, Cooper, Representatives Thompson, Justus, Kiser

## **INDIGENT DEFENSE FUNDS**

Sec. 22.12. (a) Of the funds appropriated to the Judicial Department for the 1995-96 fiscal year, the sum of one million dollars (\$1,000,000) shall not revert at the end of the fiscal year but shall remain available for expenditure to cover up to one million dollars (\$1,000,000) of the cost of services provided for indigent defense during the 1995-96 fiscal year.

(b) This section becomes effective June 30, 1996.

Requested by: Senators Rand, Ballance, Cooper, Representatives Justus, Thompson, Kiser

## **INCREASE FEES IN CRIMINAL CASES IN THE GENERAL COURT OF JUSTICE**

Sec. 22.13. (a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

- (1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.
- (2) For the use of the courtroom and related judicial facilities, the sum of six dollars (\$6.00) in the district court, including cases before a

magistrate, and the sum of twenty-four dollars (\$24.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

- (3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of seven dollars and twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents (\$1.25) being administered in accordance with the provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall be administered as is provided in Article 12F of Chapter 143 of the General Statutes.
- (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-five cents (75¢), to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.
- (4) For support of the General Court of Justice, the sum of ~~forty-one dollars (\$41.00)~~ forty-six dollars (\$46.00) in the district court, including cases before a magistrate, and the sum of ~~forty-eight dollars (\$48.00)~~ fifty-three dollars (\$53.00) in the superior court, to be remitted to the State Treasurer.
- (5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be

remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.

- (6) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2, the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee."

(b) Subsection (a) of this section becomes effective September 1, 1996, and applies to fees assessed or paid on or after that date.

Requested by: Representatives Justus, Thompson, Grady, Kiser, Senators Ballance, Rand, Cooper

#### **CLERK OF SUPERIOR COURT COMPENSATION STUDY**

Sec. 22.14. The Administrative Office of the Courts shall study the position classification and pay plan of the Office of the Clerk of Superior Court. The study shall provide recommendations on the appropriate qualifications and compensation of deputy and assistant clerks for the proper functioning of the Office of the Clerk of Superior Court, and shall include a review of current job classes and any potential new classes. The Administrative Office of the Courts shall report the results of this study and its recommendations 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 March 1, 1997.

#### **PART 23. DEPARTMENT OF JUSTICE**

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper

#### **AUTHORIZATION OF FICTITIOUS LICENSES AND REGISTRATION PLATES ON PUBLICLY OWNED MOTOR VEHICLES**

Sec. 23. (a) G.S. 20-39(h) reads as rewritten:

"(h) The Commissioner, notwithstanding any other provision of this Chapter, may lawfully and to the extent necessary, provide local, State or federal law-enforcement officers on special undercover assignments with motor vehicle drivers licenses and motor vehicle registration plates under assumed names using false or fictitious addresses. Such registration plates shall only be used on publicly owned or leased vehicles. Requests for these licenses and registration plates shall be made to the Commissioner by the head of the local, State or federal law-enforcement agency and be accompanied by approval in writing from the Director of the State Bureau of Investigation upon a specific finding by the Director that the request is justified and necessary. The Director shall keep a record of all such licenses, registration plates,

assumed names, false or fictitious addresses, and law-enforcement officers using the licenses or registration plates, and shall request the immediate return of any license or registration plate that is no longer necessary. Licenses and registration plates provided under this subsection shall expire six months after initial issuance or subsequent validation after the request for extension has been approved in writing by the Director of the State Bureau of Investigation. The head of the local, State or federal law-enforcement agency shall be responsible for the use of the licenses and registration plates and shall return them immediately to the Commissioner for cancellation upon either (i) their expiration, (ii) request of the Director of the State Bureau of Investigation, or (iii) request of the Commissioner. Failure to return a license or registration plates issued pursuant to this subsection shall be punished as a Class 2 misdemeanor. At no time shall the number of valid licenses and registration plates issued under this act exceed ~~fifty~~, one hundred, and those issued shall be strictly monitored by the Director. All of the private registration plates issued to special agents of the State Bureau of Investigation under the Department of Justice and to alcohol law enforcement agents under the Department of Crime Control and Public Safety, pursuant to G.S. 14-250, may be fictitious plates and shall not be counted in the total number of fictitious plates authorized by this subsection."

(b) The Joint Legislative Commission on Governmental Operations shall study the statutory authorization of the use of private, confidential, and fictitious license plates on State-owned motor vehicles and the administration and enforcement of the applicable statutes. The Commission shall report the results of its study to the 1997 General Assembly.

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

Requested by: Senators Ballance, Rand, Cooper, Representatives Justus, Thompson, Kiser

## **FINGERPRINT, PHOTOGRAPH, AND RETAIN JURISDICTION OF DELINQUENT JUVENILES**

Sec. 23.2. (a) Article 48 of Chapter 7A of the General Statutes is amended by adding a new section to read:

### **"§ 7A-603. Fingerprinting and photographing delinquent juveniles.**

(a) A juvenile shall be fingerprinted and photographed by a law enforcement officer or agency upon adjudication of the juvenile as a delinquent pursuant to G.S. 7A-637 if the juvenile was 10 years of age or older at the time the juvenile allegedly committed an offense that would be a Class A, B, C, D, or E felony if committed by an adult. Upon adjudication, the court shall order the juvenile be fingerprinted and photographed in a proper format for transfer to the State Bureau of Investigation.

(b) Fingerprints obtained pursuant to this section shall be transferred to the State Bureau of Investigation in a format approved by the State Bureau of Investigation and placed in the Automated Fingerprint Identification System (AFIS) to be used for all investigative and comparison purposes. Photographs shall be placed in a format approved by the State Bureau of Investigation and may be used for all investigative or comparison purposes.

(c) Fingerprints and photographs taken pursuant to this section are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to G.S. 7A-675, shall be maintained separately from any juvenile record, shall be withheld from public inspection or examination, and shall not be eligible for expunction pursuant to G.S. 7A-676."

(b) G.S. 15A-502(c) reads as rewritten:

"(c) This section does not authorize the taking of photographs or fingerprints of a juvenile alleged to be delinquent except under G.S. 7A-596 through ~~7A-601~~ 7A-601 and 7A-603."

(c) G.S. 7A-523 reads as rewritten:

**"§ 7A-523. Jurisdiction.**

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be delinquent, undisciplined, abused, neglected, or dependent. This jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect. For purposes of determining jurisdiction, with the exception of (c) below, the age of the juvenile either at the time of the alleged offense or when the conditions causing the juvenile to be abused, neglected, or dependent arose, governs. There is no minimum age for juveniles alleged to be abused, dependent or neglected. For juveniles alleged to be delinquent or undisciplined, the minimum age is six years of age.

The court also has exclusive original jurisdiction of the following proceedings:

- (1) Proceedings under the Interstate Compact on Juveniles and the Interstate Parole and Probation Hearing Procedures for Juveniles;
- (2) Proceedings to determine whether a juvenile who is on conditional release and under the aftercare supervision of the court counselor has violated the terms of ~~his~~ the juvenile's conditional release established by the Division of Youth Services;
- (3) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when ~~his~~ the juvenile's parent, guardian, legal custodian, or other person standing in loco parentis refuses to consent for treatment to be rendered;
- (4) Proceedings to determine whether a juvenile should be emancipated;
- (5) Proceedings to terminate parental rights;
- (6) Proceedings to review the placement of a juvenile in foster care pursuant to an agreement between the juvenile's parents or guardian and a county department of social services;
- (7) Proceedings in which a person is alleged to have obstructed or interfered with an investigation required by G.S. 7A-544.
- (8) Proceedings involving consent for an abortion on an unemancipated minor pursuant to Article 1A, Part 2 of Chapter 90 of the General Statutes.

(b) The court shall have jurisdiction over the parent of a juvenile who has been adjudicated delinquent, undisciplined, abused, neglected or dependent, as provided by

G.S. 7A-564, provided the parent has been properly served with notice pursuant to G.S. 7A-564.

(c) When the court has not obtained jurisdiction over a juvenile before the juvenile reaches the age of eighteen, for a felony and any related misdemeanors the juvenile allegedly committed on or after the juvenile's thirteenth birthday and prior to the juvenile's sixteenth birthday, the court has jurisdiction for the sole purpose of conducting proceedings pursuant to Article 49 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition."

(d) G.S. 7A-524 reads as rewritten:

**"§7A-524. Retention of jurisdiction.**

When the court obtains jurisdiction over a juvenile, jurisdiction shall continue until terminated by order of the court or until ~~he~~the juvenile reaches ~~his eighteenth birthday~~the age of eighteen. When delinquency proceedings cannot be concluded before the juvenile reaches the age of eighteen, the court retains jurisdiction for the sole purpose of conducting proceedings pursuant to Article 49 of this Chapter and either transferring the case to superior court for trial as an adult or dismissing the petition. Any juvenile who is under the jurisdiction of the court and commits a criminal offense after ~~his~~the juvenile's sixteenth birthday is subject to prosecution as an adult. Any juvenile who is transferred to and sentenced by the superior court for a felony offense shall be prosecuted as an adult for all other crimes alleged to have been committed by ~~him~~the juvenile while ~~he~~the juvenile is under the active supervision of the superior court. Nothing herein shall be construed to divest the court of jurisdiction in abuse, neglect, or dependency proceedings."

(e) G.S. 7A-655 reads as rewritten:

**"§7A-655. Conditional release and final discharge.**

The Division of Youth Services shall release a juvenile either by conditional release or by final discharge. The decision as to which type of release is appropriate shall be made by the Director based on the needs of the juvenile and the best interests of the State under rules and regulations governing release which shall be promulgated by the Division of Youth Services, according to the following guidelines:

- (1) Conditional release is appropriate for a juvenile needing supervision after leaving the institution. As part of the prerelease planning process, the terms of conditional release shall be set out in writing and a copy given to the juvenile, ~~his~~the juvenile's parent, the committing court, and the court counselor who will provide aftercare supervision. The time that a juvenile spends on conditional release shall be credited toward ~~his~~the juvenile's maximum period of commitment to the Division of Youth Services.
- (2) Final discharge is appropriate when the juvenile does not require supervision, has completed a maximum commitment for ~~his~~the juvenile's offense, or is 18 years of age.
- (3) Notwithstanding G.S. 7A-675, before the Division of Youth Services considers for release a juvenile who is serving a commitment for a Class A or B1 felony, the Division shall notify, at least 30 days in

advance of considering the release, by first class mail at the last known address:

- a. The juvenile;
- b. The juvenile's parent, guardian, or custodian;
- c. The district attorney of the district where the juvenile was adjudicated;
- d. The head law enforcement agency that took the juvenile into custody; and
- e. The victim, and any of the victim's immediate family members who have requested in writing to be notified

The notification shall include only the juvenile's name, offense, date of commitment, and date of consideration for release."

(f) Subsections (a) and (b) of this section become effective October 1, 1996, and apply to offenses committed on or after that date. Subsection (d) of this section is effective upon ratification and applies to all cases pending on that date. Subsection (e) of this section becomes effective October 1, 1996, and applies to juveniles considered for release on or after that date. The remainder of this section is effective upon ratification.

Requested by: Senators Ballance, Rand, Cooper, Representatives Justus, Thompson, Kiser

**ESTABLISH CRIMINAL JUSTICE INFORMATION NETWORK GOVERNING BOARD**

Sec. 23.3. (a) Chapter 143 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 69.

"Criminal Justice Information Network Governing Board.

**"§ 143-660. Definitions.**

As used in this Article:

- (1) 'Board' means the Criminal Justice Information Network Governing Board established by G.S. 143-661.
- (2) 'Local government user' means a unit of local government of this State having authorized access to the Network.
- (3) 'Network' means the Criminal Justice Information Network established by the Board pursuant to this Article.
- (4) 'Network user' or 'user' means any person having authorized access to the Network.
- (5) 'State agency' means any State department, agency, institution, board, commission, or other unit of State government.

**"§ 143-661. Criminal Justice Information Network Governing Board – creation; purpose; membership; conflicts of interest.**

(a) The Criminal Justice Information Network Governing Board is established within the Department of Justice, State Bureau of Investigation, to operate the State's

Criminal Justice Information Network, the purpose of which shall be to provide the governmental and technical information systems infrastructure necessary for accomplishing State and local governmental public safety and justice functions in the most effective manner by appropriately and efficiently sharing criminal justice information among law enforcement, judicial, and corrections agencies. The Board is established within the Department of Justice, State Bureau of Investigation, for organizational and budgetary purposes only and the Board shall exercise all of its statutory powers in this Article independent of control by the Department of Justice.

(b) The Board shall consist of 15 members, appointed as follows:

- (1) Three members appointed by the Governor, including one member who is a director or employee of a State correction agency for a term to begin September 1, 1996 and to expire on June 30, 1997, one member who is an employee of the North Carolina Department of Crime Control and Public Safety for a term beginning September 1, 1996 and to expire on June 30, 1997, and one member selected from the North Carolina Association of Chiefs of Police for a term to begin September 1, 1996 and to expire on June 30, 1999.
- (2) Six members appointed by the General Assembly in accordance with G.S. 120-121, as follows:
  - a. Three members recommended by the President Pro Tempore of the Senate, including two members of the general public for terms to begin on September 1, 1996 and to expire on June 30, 1997, and one member selected from the North Carolina League of Municipalities who is a member of, or an employee working directly for, the governing board of a North Carolina municipality for a term to begin on September 1, 1996 and to expire on June 30, 1999; and
  - b. Three members recommended by the Speaker of the House of Representatives, including two members of the general public for terms to begin on September 1, 1996 and to expire on June 30, 1999, and one member selected from the North Carolina Association of County Commissioners who is a member of, or an employee working directly for, the governing board of a North Carolina county for a term to begin on September 1, 1996 and to expire on June 30, 1997.
- (3) Two members appointed by the Attorney General, including one member who is an employee of the Attorney General for a term to begin on September 1, 1996 and to expire on June 30, 1997, and one member from the North Carolina Sheriffs' Association for a term to begin on September 1, 1996 and to expire on June 30, 1999.
- (4) Two members appointed by the Chief Justice of the North Carolina Supreme Court, including the Director or an employee of the Administrative Office of the Courts for a term to begin on September 1, 1996 and to expire on June 30, 1997, and one member who is either



a clerk of the superior court or a district attorney, or employee of a district attorney, for a term to begin on September 1, 1996 and to expire on June 30, 1999.

(5) One member appointed by the Chair of the Information Resource Management Commission, who is the Chair or a member of that Commission, for a term to begin on September 1, 1996 and to expire on June 30, 1999.

(6) One member appointed by the President of the North Carolina Chapter of the Association of Public Communications Officials International, who is an active member of the Association, for a term to begin on September 1, 1996 and to expire on June 30, 1999.

The respective appointing authorities are encouraged to appoint persons having a background in and familiarity with criminal information systems and networks generally and with the criminal information needs and capacities of the constituency from which the member is appointed.

As the initial terms expire, subsequent members of the Board shall be appointed to serve four-year terms. At the end of a term, a member shall continue to serve on the Board until a successor is appointed. A member who is appointed after a term is begun serves only for the remainder of the term and until a successor is appointed. Any vacancy in the membership of the Board shall be filled by the same appointing authority that made the appointment, except that vacancies among members appointed by the General Assembly shall be filled in accordance with G.S. 120-122.

(c) Members of the Board shall not be employed by or serve on the board of directors or other corporate governing body of any information systems, computer hardware, computer software, or telecommunications vendor of goods and services to the State or to any unit of local government in the State. No member of the Board shall vote on an action affecting solely the member's own State agency or local governmental unit or specific judicial office.

**"§ 143-662. Compensation and expenses of Board members; travel reimbursements.**

Members of the Board shall serve without compensation but may receive travel and subsistence as follows:

(1) Board members who are officials or employees of a State agency or unit of local government, in accordance with G.S. 138-6.

(2) All other Board members, at the rate established in G.S. 138-5.

**"§ 143-663. Powers and duties.**

(a) The Board shall have the following powers and duties:

(1) To establish and operate the Network as an integrated system of State and local government components for effectively and efficiently storing, communicating, and using criminal justice information at the State and local levels throughout North Carolina's law enforcement, judicial, and corrections agencies, with the components of the Network to include electronic devices, programs, data, and governance and to set the Network's policies and procedures.

- (2) To develop and adopt uniform standards and cost-effective information technology, after thorough evaluation of the capacity of information technology to meet the present and future needs of the State and, in consultation with the Information Resource Management Commission, to develop and adopt standards for entering, storing, and transmitting information in criminal justice databases and for achieving maximum compatibility among user technologies.
- (3) To identify the funds needed to establish and maintain the Network, identify public and private sources of funding, and secure funding to:
  - a. Create the Network and facilitate the sharing of information among users of the Network; and
  - b. Make grants to local government users to enable them to acquire or improve elements of the Network that lie within the responsibility of their agencies or State agencies; provided that the elements developed with the funds must be available for use by the State or by local governments without cost and the applicable State agencies join in the request for funding.
- (4) To provide assistance to local governments for the financial and systems planning for Network-related automation and to coordinate and assist the Network users of this State in soliciting bids for information technology hardware, software, and services in order to assure compliance with the Board's technical standards, to gain the most advantageous contracts for the Network users of this State, and to assure financial accountability where State funds are used.
- (5) To provide a liaison among local government users and to advocate on behalf of the Network and its users in connection with legislation affecting the Network.
- (6) To facilitate the sharing of knowledge about information technologies among users of the Network.
- (7) To take any other appropriate actions to foster the development of the Network.

(b) All grants or other uses of funds appropriated or granted to the Board shall be conditioned on compliance with the Board's technical and other standards.

**"§ 143-664. Election of officers; meetings; staff, etc.**

(a) The Governor shall call the first meeting of the Board. At the first meeting, the Board shall elect a chair and a vice-chair, each to serve a one-year term, with subsequent officers to be elected for one-year terms. The Board shall hold at least two regular meetings each year, as provided by policies and procedures adopted by the Board. The Board may hold additional meetings upon the call of the chair or any three Board members. A majority of the Board membership constitutes a quorum.

(b) Pending permanent staffing, the Department shall provide the Board with professional and clerical staff and any additional support the Board needs to fulfill its mandate. The Board may meet in an area provided by the Department of Justice and the Board's staff shall use space provided by the Department."

(b) G.S. 143B-426.21(a) is amended by adding a new subdivision to read:  
"(9) The Chair of the Criminal Justice Information Network Governing Board."

(c) The Criminal Justice Information Network Governing Board shall report by April 1, 1997, 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 organization, operations, and expenditures of the Board, including the Board's progress in developing data-sharing standards, the progress in the coordination and cooperation of State and local agencies in establishing standards, the Board's recommendations on permanent staffing needs, and the estimated time of completion of the standards. The Board shall also provide a long-term strategic plan and cost analysis for statewide implementation of the Criminal Justice Information Network as well as a report on the State and local law enforcement agencies' implementation of the mobile data network system, including the amount of funds spent on the system as of the date of the report and the long-term costs of implementing the system statewide.

(d) Of the funds appropriated in this act to the reserve for the Criminal Justice Information Network Governing Board, the sum of three hundred thousand dollars (\$300,000) shall be used to fund the development of data standards for the Network and the sum of one hundred thousand dollars (\$100,000) shall be used to support the operation of the Board, including staff salaries, benefits, and related expenses. Funds appropriated to the reserve for the Criminal Justice Information Network Governing Board shall not revert.

Requested by: Representatives Justus, Thompson, Kiser, Senators Ballance, Rand, Cooper, Plexico

#### **REPAIRS AND RENOVATIONS OF THE WESTERN JUSTICE ACADEMY**

Sec. 23.4. (a) The Department of Justice, in consultation with the Office of State Construction of the Department of Administration, shall contract for and supervise all aspects of administration, technical assistance, design, construction, or demolition of facilities in order to implement the repairs and renovations of the Western Justice Academy under the provisions of this section without being subject to the following statutes and rules implementing those statutes: G.S. 143-135.26, 143-131, 143-132, 113A-1 through 113A-10, 113A-50 through 113A-66, and 133-1.1(g). The Department of Justice shall let contracts for all repairs and renovations of the Academy as soon as possible, but not later than December 1, 1996.

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

(b) The Department of Justice shall provide quarterly reports 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, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on the

repairs and renovations to the Western Justice Academy. The report shall include information on which contractors have been selected, what contracts have been entered into, and the projected and actual cost of the project.

(c) Of the funds allocated in this act to the Office of State Budget and Management from the Repairs and Renovations Fund, up to six million dollars (\$6,000,000) may be used by the Department of Justice to implement this section.

## **PART 24. DEPARTMENT OF HUMAN RESOURCES**

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

### **MEDICAID**

Sec. 24. Section 23.14 of Chapter 324, 1995 Session Laws, reads as rewritten:

"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~~ qualified providers 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:

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

\*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;~~ 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;~~ 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; 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.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

(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.

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

(r) If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Human Resources, may use funds that are identified to support the cost of development and acquisition of equipment and software

through contractual means to improve and enhance information systems that provide management information and claims processing.

(s) The Division of Medical Assistance, Department of Human Resources, may administer Medicaid estate recovery mandated by the Omnibus Budget Reconciliation Act of 1993, (OBRA 1993), 42 U.S.C. § 1396p(b), and G.S. 108-70.5 using temporary rules pending approval of final rules promulgated pursuant to Chapter 150B of the General Statutes.

(t) The Department of Human Resources may adopt temporary rules according to the procedures established in G.S. 150B-21.1 when it finds that such rules are necessary to maximize receipt of federal funds, to reduce Medicaid expenditures, and to reduce fraud and abuse."

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

### **NONMEDICAID REIMBURSEMENT CHANGES**

Sec. 24.1. Section 23.16 of Chapter 324 of the 1995 Session Laws, as amended by Section 23.5 of Chapter 507, 1995 Session Laws, reads as rewritten:

"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. Hospitals that provide psychiatric inpatient care for Thomas S. class members or adults with mental retardation and mental illness may be paid an additional incentive payment not to exceed fifteen percent (15%) of their regular daily per diem reimbursement.

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~~-Atypical Antipsychotic Medication 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. Additionally, those adults enrolled in the ~~Clozaril~~-Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of ~~Clozaril~~-atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the ~~Clozaril~~-Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

<u>Income</u> (% of poverty)	<u>State Participation</u>	<u>Client Participation</u>
0-100%	100%	0%
101-120%	95%	5%
121-140%	85%	15%
141-160%	75%	25%
161-180%	65%	35%
<del>191-180%</del>	<del>65%</del>	<del>35%</del>
<u>181-200%</u>	<u>55%</u>	<u>45%</u>
201-220%	45%	55%
221-240%	35%	65%
241-260%	25%	75%
261-280%	15%	85%
281-300%	5%	95%
301%-over	0%	100%.

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, Nye, Russell, Senators Martin of Guilford, Lucas

**MEDICAID SUBROGATION CHANGE/LRC STUDY**

Sec. 24.2. (a) G.S. 108A-57 reads as rewritten:

**"§ 108A-57. Subrogation rights; withholding of information a misdemeanor.**

(a) Notwithstanding any other provisions of the law, to the extent of payments under this Part, the State, or the county providing medical assistance benefits, shall be subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of ~~such~~ this assistance, or of ~~his~~ the beneficiary's personal representative, his heirs, or the administrator or executor of ~~his~~ the estate, against any person. ~~It shall be the responsibility of the~~ The county attorney ~~attorney~~, or an attorney retained by the county ~~and/or~~ or the State ~~or both~~, or an attorney retained by the beneficiary of the assistance if ~~such~~ this attorney has actual notice of payments made under this Part ~~to~~ shall enforce this section, ~~and said attorney shall be compensated for his services in accordance with the attorneys' fee arrangements approved by the Department; provided, however, that any attorney retained by the beneficiary of the assistance shall be compensated for his services in accordance with the following schedule and in the following order of priority from any amount obtained on behalf of the beneficiary by settlement with, judgment against, or otherwise from a third party by reason of such injury or death:~~ section. Any attorney retained by the beneficiary of the assistance shall, out of the proceeds obtained on behalf of the beneficiary by settlement with, judgment against, or otherwise from a third party by reason of injury or death, distribute to the Department the amount of assistance paid by the Department on behalf of or to the beneficiary, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, but the amount paid to the Department shall not exceed one-third of the gross amount obtained or recovered.

- ~~(1) First to the payment of any court costs taxed by the judgment;~~
- ~~(2) Second to the payment of the fee of the attorney representing the beneficiary making the settlement or obtaining the judgment, but this fee shall not exceed one third of the amount obtained or recovered to which the right of subrogation applies;~~
- ~~(3) Third to the payment of the amount of assistance received by the beneficiary as prorated with other claims against the amount obtained or received from the third party to which the right of subrogation applies, but the amount shall not exceed one third of the amount obtained or recovered to which the right of subrogation applies; and~~
- ~~(4) Fourth to the payment of any amount remaining to the beneficiary or his personal representative.~~

The United States and the State of North Carolina shall be entitled to shares in each net recovery under this section. Their shares shall be promptly paid under this section and their proportionate parts of such sum shall be determined in accordance with the matching formulas in use during the period for which assistance was paid to the recipient.

(b) ~~It shall be~~ is a Class 1 misdemeanor for any person seeking or having obtained assistance under this Part for himself or another to willfully fail to disclose to the county department of social services or its attorney the identity of any person or organization against whom the recipient of assistance has a right of recovery, contractual or otherwise."

(b) The Legislative Research Commission may study issues relating to the Medicaid subrogation statute, G.S. 108A-57, including State compliance with federal law as it relates to recovery of Medicaid expenditures, the appropriate amount of attorneys' fees and costs, if any, the State should pay for recovery of Medicaid expenditures, and the appropriate amount, if any, that should be guaranteed to the client for whom the underlying action is brought.

(c) The Legislative Research Commission may report the results of its study, along with any legislative proposals and costs analyses, to the 1997 General Assembly.

(d) This section becomes effective as of the effective date of this act and applies to claims filed on or after August 15, 1995.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford  
**THOMAS S.**

Sec. 24.4. Section 23.21 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"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.

(b1) Thomas S. funds may be expended to support services for Thomas S. Class members in adult care homes when the service needs of individual Class members in these homes cannot be met via the established maximum adult care home rate.

(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;~~
- (3a) The number of individuals identified as prospective Class members;
- (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: Representatives Holmes, Creech, Esposito, Senator Martin of Guilford  
**THOMAS S. FUNDS**

Sec. 24.4A. If Thomas S. funds are not sufficient, then notwithstanding G.S. 143-16.3 and G.S. 143-23, the Director of the Budget may use funds available to the Department in an amount not to exceed twelve million eight hundred thousand dollars (\$12,800,000).

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

**EXTENSION OF TASK FORCE TO DETERMINE A MINIMUM REIMBURSEMENT RATE FOR ADULT DEVELOPMENTAL ACTIVITY PROGRAMS (ADAP)**

Sec. 24.5. Section 1 of Chapter 481 of the 1995 Session Laws reads as rewritten:

"Section 1. The Secretary of the Department of Human Resources shall establish in the Office of the Secretary a special task force to determine a minimum reimbursement rate for Adult Developmental Activity Programs (ADAP). In addition, this task force shall review the current funding stream to ensure that it is the most effective way possible to provide day services to adults with developmental disabilities, including which division within the Department is most appropriate for this program. The task force shall report to the ~~Mental Health Study Commission~~ Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services the results of its study in time for these results to be included in the Commission's report to the ~~1995 General Assembly, Regular Session 1996.~~ 1997 General Assembly. The task force shall terminate after the presentation of its report to the Commission.

At a minimum, the task force shall consist of:

- (1) Two representatives from community rehabilitation programs;
- (2) A representative from the Department of Human Resources;
- (3) A representative from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
- (4) A representative from the Division of Vocational Rehabilitation; and
- (5) A representative from the Association for Retarded Citizens.

This task force shall be funded by funds available to the Department."

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

**CONSOLIDATION OF JOHN UMSTEAD HOSPITAL AND THE ADATC-BUTNER OPERATING FUND**

Sec. 24.6. As the administrative and programmatic functions of John Umstead Hospital and the ADATC-Butner (Alcohol and Drug Abuse Treatment Center at Butner) have been consolidated in an effort to streamline administrative costs, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services may consolidate the operating budget of these two institutions.

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

**IMPROVEMENT OF OPERATING EFFICIENCIES IN COLLOCATED INSTITUTIONS**

Sec. 24.7. The Department of Human Resources' colocated institutions shall create operating efficiencies in support functions through increased service coordination across facilities. The Department shall ensure that annual savings in salary and supplies of at least one hundred thousand dollars (\$100,000) are achieved in the 1996-97 fiscal year and in every fiscal year thereafter. These institutions' managers shall be included

in the process and in the determination of the methods for achieving the required savings.

Requested by: Representatives Gardner, Hayes, Alexander, Nye, Russell, Senators Martin of Guilford, Lucas, Winner

**LEGISLATIVE STUDY COMMISSION ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

Sec. 24.8. (a) Chapter 120 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 23.

"The Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services.

**"§ 120-204. Commission created; purpose.**

There is established in the General Assembly a Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services. This commission shall study systemwide issues affecting the development, administration, and delivery of mental health, developmental disabilities, and substance abuse services, including issues relating to the governance, accountability, and quality of services delivered.

**"§ 120-205. Commission membership; meetings; terms; vacancies.**

(a) This commission shall be composed of 21 members appointed as follows:

- (1) Seven members of the House of Representatives at the time of their appointment, appointed by the Speaker of the House of Representatives. Of these members, one shall be a Chair of the House Appropriations Subcommittee on Human Resources;
- (2) Seven members of the Senate at the time of their appointment, appointed by the President Pro Tempore of the Senate. Of these members, one shall be the Chair of the Senate Human Resources Appropriations Committee;
- (3) Three members who are representatives of Coalition 2001, appointed by the Governor. Of these members, one shall be a representative from mental health, one from developmental disabilities, and one from substance abuse services;
- (4) Two members of the public, appointed by the Speaker of the House of Representatives. Of these members, one shall be a county commissioner at the time of appointment, selected from a list of four candidates nominated by the North Carolina Association of County Commissioners. If the Association has failed to submit nominations by September 1, 1996, the Speaker of the House of Representatives may appoint any county commissioner; and
- (5) Two members of the public, appointed by the President Pro Tempore of the Senate. Of these members, one shall be a county commissioner at the time of appointment, selected from a list of four candidates



nominated by the North Carolina Association of County Commissioners. If the Association has failed to submit nominations by September 1, 1996, the President Pro Tempore of the Senate may appoint any county commissioner.

(b) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each select a legislative member from their appointments to serve as cochair of the commission. Meetings shall be called at the will of the cochairs.

(c) All members shall serve at the will of their appointing officer. Unless removed or unless resigning, members shall serve for two-year terms. Members may be reappointed. Vacancies in membership shall be filled by the appropriate appointing officer.

**"§ 120-206. Powers; per diem, subsistence, and travel allowances.**

(a) The commission may contract for consulting services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the commission. The professional staff shall include the appropriate staff from the Fiscal Research, Research, and Legislative Drafting Divisions of the Legislative Services Office of the General Assembly. Clerical staff shall be furnished to the commission through the offices of the House of Representatives and Senate Supervisors of Clerks. The expenses of 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 official duties, may exercise all 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 departments of the State to provide any information and any data within their possession or ascertainable from their records, and the power to subpoena witnesses.

(b) Members of the commission shall receive per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are 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 of local government agencies, at the rate established in G.S. 138-6; and
- (3) All other commission members, at the rate established in G.S. 138-5.

**"§ 120-207. Reporting.**

The commission shall report the results of its study, together with any legislative proposals and costs analyses, to every regular session of the General Assembly within a week of its convening."

(b) Part XIII, Sections 13.1 through 13.4 of Chapter 542 of the 1995 Session Laws, is repealed.

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

**AREA MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND  
SUBSTANCE ABUSE SERVICES PROGRAMS  
REDUCTIONS/SPECIFICATIONS**

Sec. 24.9. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall ensure that reductions in its State appropriations for the 1996-97 fiscal year that are allocated to area mental health, developmental disabilities, and substance abuse programs are applied by the area authorities only to those services and programs in which additional increased federal TITLE IVA-Emergency Assistance and Medicaid revenues are anticipated.

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

**CAROLINA ALTERNATIVES EXPANSION LIMITS**

Sec. 24.10. The Department of Human Resources shall move forward with planning, readiness assessments, and other necessary activities to be able to expand the Carolina Alternatives Child and Adult Waiver Pilot Program. Prior to actual implementation of additional covered populations, during fiscal year 1996-97, the Department shall:

- (1) Receive approval from the Health Care Financing Administration;
- (2) Make a determination that each area authority that is going to participate in the pilot has the capacity to implement the waiver;
- (3) Obtain certification from the Office of State Budget and Management that expansion of Carolina Alternatives is budget neutral, excluding the payment of claims related to the transition from fee-for-service to Medicaid managed care, and authorization from the Office of State Budget and Management to proceed with the pilot;
- (4) Evaluate capitation rates to determine if they are adequate to provide appropriate services;
- (5) Develop five-year cost estimates for Carolina Alternatives;
- (6) Prepare a summary of the number, nature, and resolution of complaints concerning Carolina Alternatives received by the local area authorities during 1996; and
- (7) Submit a report to the 1997 General Assembly and the Fiscal Research Division on subdivisions (3) through (6) of this section.

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

**CLINICAL SOCIAL WORKER EXEMPTION**

Sec. 24.11. Section 8 of Chapter 732 of the 1991 Session Laws reads as rewritten:

"Sec. 8. This act becomes effective January 1, 1992. G.S. 90B-10(b)(3)a. is repealed effective January 1, ~~1997-1999~~. The term of the additional Board position for clinical social worker created by this act shall commence upon the expiration of the term of the public member whose term expires first."

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford  
**FOSTER CARE REPORTING REPEALED**

Sec. 24.12. Section 23.22 of Chapter 324 of the 1995 Session Laws is repealed.

Requested by: Representatives Holmes, Creech, Esposito, Gardner, Hayes, Senator Martin of Guilford

**CHILD SUPPORT RESERVE SHALL NOT REVERT**

Sec. 24.13. (a) Any funds appropriated to the Reserve for Child Support Legislation for the 1995-96 fiscal year but not expended as of June 30, 1996, shall not revert but shall remain available for the 1996-97 fiscal year to implement the provisions contained in Chapter 538 of the 1995 Session Laws.

(b) This section is effective June 30, 1996.

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

**AFDC EMERGENCY ASSISTANCE RULES CLARIFIED**

Sec. 24.14. The Social Services Commission shall ensure that Aid to Families With Dependent Children Emergency Assistance (AFDC-EA) cash is provided only to those with verifiable emergencies by:

- (1) Ensuring that the applicant produce documented verification of the emergency for which AFDC-EA cash is requested; except that where it is unreasonable or not feasible to obtain written verification, such verification can be achieved through telephonic or other reliable means of communication; and
- (2) Ensuring that the verified emergency is one that would threaten the health, safety, or well-being of the child or children in the care or custody of the applicant.

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

**REVIEW OF AUTOMATED COLLECTION AND TRACKING SYSTEM**

Sec. 24.15. The Information Resource Management Commission shall conduct a quarterly review of the Automated Collection and Tracking System (ACTS) project being developed by the Department of Human Resources. The review shall include an analysis of the problems encountered and progress achieved, identify critical issues to be resolved, and estimate the final cost and date of completion. The review shall be submitted through the Office of the State Controller to the chairs of the House and Senate Appropriations committees, the chairs of the House and Senate Human Resources Appropriations subcommittees, and to the Director of the Fiscal Research Division of the Legislative Services Office of the General Assembly no later than the last day of each quarter.

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

**CLARIFICATION OF AUTHORIZED ADDITIONAL USE OF HIV FOSTER CARE AND ADOPTIVE FAMILY FUNDS**

Sec. 24.16. Section 23.9 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 23.9. In addition to providing board payments to foster and adoptive families of HIV-infected children as prescribed in Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated in Chapter 324 of the 1995 Session Laws for this purpose shall be used as follows:

- (1) To provide medical training in avoiding HIV transmission in the home; and
- (2) To transfer funds to the Department of Environment, Health, and Natural Resources to create three social work positions within the Department of Environment, Health, and Natural Resources, for the eastern part of North Carolina to enable the case-managing of families with HIV-infected children so that the children and the parents get access to medical care and so that child protective services issues are addressed rapidly and effectively. The three positions shall be medically based and located:
  - a. One in the northeast, covering Northampton, Hertford, Halifax, Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck, Bertie, Wilson, Edgecombe, and Nash Counties;
  - b. One in the central east, covering Martin, Pitt, Washington, Tyrrell, Dare, Hyde, Beaufort, Jones, Greene, Craven, and Pamlico Counties; and
  - c. One in the southeast, covering New Hanover, Robeson, Brunswick, Carteret, Onslow, Lenoir, Pender, Duplin, Bladen, and Columbus Counties."

Requested by: Representatives Gardner, Hayes, Senators Martin of Guilford, Hartsell  
**EXTEND CABARRUS COUNTY AFDC AND FOOD STAMP WORKFARE PILOT PROGRAM**

Sec. 24.16A. Chapter 368 of the 1995 Session Laws reads as rewritten:

"Section 1. Notwithstanding any law to the contrary, the Department of Human Resources shall designate Cabarrus County as a pilot county for the purpose of conducting a demonstration Workfare Program for certain Aid to Families with Dependent Children (AFDC) and Food Stamp recipients. Immediately upon the ratification of this act, the Department shall seek all federal waivers necessary to allow this demonstration program. To the extent that this act or the program established pursuant to it conflicts with any State law, the program supersedes that law.

Sec. 2. (a) The Cabarrus County demonstration Workfare Program for certain AFDC and Food Stamp recipients shall:

- (1) Provide job opportunities to all able-bodied AFDC and Food Stamp recipients who:
  - a. Are not eligible for the JOBS program;
  - b. Are between the ages of 18 and 64;
  - c. Are not caring for a child under one year of age;
  - d. Are working less than 30 hours per week; and
  - e. Are not full-time high school students or the equivalent;
- (2) Create job opportunities in the public, the private, nonprofit, and the private, for-profit sector, primarily in the human services areas by allowing Cabarrus County to use grant diversions, consisting of the AFDC benefits and the cash value of Food Stamps that would be paid to otherwise eligible recipients to match employer funds, to subsidize the employment of these recipients. Human service area jobs will meet such socially necessary needs as day care work, nursing home aide work, and in-home aide work;
- (3) Allow wages paid to these recipients, which contain grant-diverted funds, to be exempt from income for purposes of determining eligibility for assistance;
- (4) Structure payment of wages to these recipients such that they will be considered income, in order to make recipients eligible for the federal earned income tax credit;
- (5) Create work experience opportunities in the private sector more realistically to reflect the world of work;
- (6) Require these recipients to participate in the development of an opportunity contract, outlining the responsibilities of the recipient and agency, as well as the incentives for compliance and the sanctions for noncompliance;
- (7) Require all these recipients who participate in the program to pursue and accept employment, full or part time, subsidized or unsubsidized, as a condition for continued eligibility for AFDC and Food Stamp assistance;
- (8) Require job search training of all participants;
- (9) Require monitored job search of all participants until employment is found or until other work activities of up to 40 hours per week are in place;
- (10) Provide child care by allowing Cabarrus County to use grant diversions, consisting of the Family Support Act child day care subsidies that would be paid to otherwise eligible recipients, and transportation as required;
- (11) Create a positive work incentive by providing wage incentives to participants who are in compliance with the program, equal to the first thirty dollars (\$30.00) and one-third of the remainder of monthly gross income for a period of up to two years;

- (12) Provide enhanced Food Stamp benefits after participants are employed and are in program compliance by using the thirty dollar (\$30.00) and one-third of the remainder wage incentive as an income exemption;
  - (13) Provide time-limited sanctions, or withholding of benefits for the adult members of the household of all AFDC and Food Stamp benefits for noncompliance, beginning with the first sanction period equal to the time necessary to come into compliance, second sanction period – four months, third and subsequent sanctions – eight months; and
  - (14) Provide automatic Medicaid coverage for children and pregnant adults of sanctioned families by transferring the children administratively to the Medicaid for Indigent Children (MIC) Program and by transferring the pregnant adults administratively to the Medicaid for Pregnant Women (MPW) Program.
- (b) An adjunct program to the demonstration program prescribed in subsection (a) of this section shall:
- (1) Require AFDC recipients who are mandated JOBS participants to pursue and accept employment, full or part time, subsidized or unsubsidized, as part of their job plan. The maximum number of hours delegated to job activities, including employment, shall be 40 hours per week. AFDC recipients who are JOBS eligible and who are caring for children under five years of age shall, in this program, not be limited to 20 hours per week;
  - (2) Require AFDC recipients who are potential JOBS participants to engage in job search until either employment is found or they become JOBS eligible; and
  - (3) Ensure that sanctions for noncompliance and provision of Medicaid coverage shall be as provided in subdivisions (13) and (14) of subsection (a) of this section.

Sec. 3. This act shall be funded by Cabarrus County using the grant diversions and administrative transfers prescribed in Section 2 of this act, together with federal and State administrative funding allocated to Cabarrus County for the public assistance and JOBS programs.

Sec. 4. The Department of Human Resources shall evaluate the Cabarrus County Demonstration Project and report to the General Assembly on or before ~~March 1, 1997.~~ May 1, 1998.

Sec. 5. This act becomes effective July 1, 1995 and shall expire on ~~July 1, 1997.~~ January 1, 1999."

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

**MEDICAL DATA PROCESSING FUNDS**

Sec. 24.16B. The sum of one hundred fifty thousand dollars (\$150,000) for the 1996-97 fiscal year is transferred from the Insurance Regulatory Fund established pursuant to G.S. 58-6-25 to the Division of Facility Services, Department of Human Resources, to certify statewide data processors pursuant to Article 11A of Chapter 131E

of the General Statutes, to purchase data from statewide data processors, and to process and analyze the data.

Requested by: Representatives Gardner, Hayes, Senator Martin of Guilford  
**RURAL COMMUNITY AND MIGRANT HEALTH CENTERS'  
PARTICIPATION IN STATE CONTRACT PURCHASING**

Sec. 24.17. G.S. 143-49(6) reads as rewritten:

"(6) To make available to nonprofit corporations operating charitable hospitals, to local nonprofit community sheltered workshops or centers that meet standards established by the Division of Vocational Rehabilitation of the Department of Human Resources, to private nonprofit agencies licensed or approved by the Department of Human Resources as child placing ~~agencies or agencies,~~ residential child-care facilities, private nonprofit rural, community, and migrant health centers designated by the Office of Rural Health and Resource Development, and to counties, cities, towns, governmental entities and other subdivisions of the State and public agencies thereof in the expenditure of public funds, the services of the Department of Administration in the purchase of materials, supplies and equipment under such rules, regulations and procedures as the Secretary of Administration may adopt. In adopting rules and regulations any or all provisions of this Article may be made applicable to such purchases and contracts made through the Department of Administration, and in addition the rules and regulations shall contain a requirement that payment for all such purchases be made in accordance with the terms of the contract. Prior to adopting rules and regulations under this subdivision, the Secretary of Administration may consult with the Advisory Budget Commission."

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

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

Sec. 24.18. Section 23 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 23. (a) 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, G.S. 143-23,~~ the Director of the Budget may use funds available to the Department, not to exceed fourteen million thirteen thousand three hundred ninety-six dollars ~~(\$14,013,393).~~ (\$14,013,396). The Director of the

Budget shall report to the Joint Legislative Commission on Governmental Operations prior to any such transfer.

(b) Funds appropriated to the Department of Human Resources for the 1996-97 fiscal year have been reduced by fifteen million two hundred fifty-two thousand two hundred ninety-two dollars (\$15,252,292) in anticipation of the receipt of federal funds from the Title IV A - Emergency Assistance Program. If these federal funds are not received or if only a portion of these funds are received, notwithstanding G.S. 143-23, the Director of the Budget may use funds available to the Department, not to exceed fifteen million two hundred fifty-two thousand two hundred ninety-two dollars (\$15,252,292). The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations prior to any such transfer.

(c) Funds appropriated for the biennium for the Social Services Block Grant were reduced for local departments of social services for the 1995-96 fiscal year and for the 1996-97 fiscal year in anticipation of the receipt of federal funds from the Title IV A - Emergency Assistance Program. If these reductions are not made up with federal funds received in the 1996-97 fiscal year or if only a portion of these funds are received, notwithstanding G.S. 143-23, the Director of the Budget may use funds available, not to exceed twelve million one hundred fifty thousand dollars (\$12,150,000) to make up the reductions for local departments of social services. 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 RESOURCE STUDIES EXTENDED**

Sec. 24.19. Section 23.6B of Chapter 324 of the 1995 Session Laws reads as rewritten:

"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;~~ General Assembly by December 1, 1996:

- (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, Nye, Russell, Senators Martin of Guilford, Lucas

**PLAN FOR REORGANIZATION OF THE DEPARTMENT OF HUMAN RESOURCES**

Sec. 24.20. (a) The General Assembly intends to reorganize the Department of Human Resources, in consultation with the Office of State Budget and Management



and the Department of Human Resources, to provide an alternative and improved approach to the organization and delivery of human services in North Carolina.

(b) There is established the Independent Study Commission on the Reorganization of the Department of Human Resources.

(c) The Commission shall be composed of 16 members, 15 voting and one nonvoting, as follows:

(1) Five members of the House of Representatives at the time of their appointment, two appointed by the Speaker of the House of Representatives, one other a chair of the House Appropriations Subcommittee on Human Resources, one other a member of the House Appropriations Subcommittee on Human Resources, and one other the House of Representatives chair or other member of the Subcommittee on Human Resources of the Joint Legislative Commission on Governmental Operations;

(2) Five members of the Senate at the time of their appointment, two appointed by the President Pro Tempore of the Senate, one other the chair of the Senate Appropriations Subcommittee on Human Resources, one other a member of the Senate Appropriations Subcommittee on Human Resources, and one other the Senate chair or other member of the Subcommittee on Human Resources of the Joint Legislative Commission on Governmental Operations;

(3) Five public members appointed by the Governor, including one who shall be a county commissioner at the time of appointment, selected from a list of four candidates nominated by the North Carolina Association of County Commissioners; and

(4) The Secretary of the Department of Human Resources or a designee, who shall be a nonvoting member.

(d) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each select a legislative member from their respective chambers to serve as cochair of the Commission.

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

(f) Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1 or Chapter 138 of the General Statutes, as appropriate.

(g) The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional and clerical staff to staff the Commission. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission or committee, upon the direction of the Legislative Services Commission. The expenses relating to professional and clerical

employees supplied through the Legislative Services Commission shall be borne by the Legislative Services Commission.

Notwithstanding any Legislative Services Office policy to the contrary, the Commission may meet during the 1997 Session of the General Assembly, and legislative staff may serve the Commission during this session.

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

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

(j) The Commission shall contract with an independent management consulting firm to develop a reorganization plan, including an implementation component. Because time is of the essence, if the Commission is not appointed by August 15, 1996, the Division of Fiscal Research may begin the contracting process, including the development of Requests for Proposals. The Division shall consult with the Office of State Budget and Management and the Department of Human Resources in this process.

(k) The contract shall provide that the plan shall be designed to meet the following goals:

- (1) The achievement of family-centered services;
- (2) The identification of gaps in services across special needs groups;
- (3) The improvement of access to and the reduction of fragmentation of services and programs;
- (4) The enhancement of accountability;
- (5) The provision of leadership at the State level for local government; and
- (6) The definition of and delineation between State and local roles and responsibilities.

(l) The contract shall provide that the plan propose an organizational structure designed around the following guiding principles:

- (1) The facilitation of a holistic approach to the delivery of services and programs;
- (2) The provision of a core set of programs and services common to all special needs groups;
- (3) The effective delivery of programs and services, including:
  - a. Coordinated planning;
  - b. Evaluation of results;
  - c. Independent regulatory and licensing functions;
  - d. Centralized administrative support; and
- (4) The inclusion of consideration of funding sources in decision making regarding programs and services.

(m) The Commission shall provide any additional contract specifications and directions it considers necessary.

(n) The independent management consultant that is awarded the contract shall report to the Commission as the Commission considers appropriate and shall

submit a final report to the Commission by March 1, 1997. While conducting its work, the independent management consultant shall devise a means of obtaining confidential input from managerial and nonmanagerial human services personnel, such as through the establishment of a confidential, temporary hotline.

(o) The Commission shall report its findings and recommendations, including any legislative proposals, to the General Assembly by April 1, 1997, at which time the Commission shall terminate.

(p) Of the funds appropriated to the Department of Human Resources, the sum of five hundred thousand dollars (\$500,000) is transferred to the General Assembly to implement this section, including to fund the contract required.

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

**DHR REPORT ON PLANS FOR IMPLEMENTING DYS COMPREHENSIVE STUDY RECOMMENDATIONS**

Sec. 24.21. The Department of Human Resources shall report to the Joint Legislative Commission on Governmental Operations by October 1, 1996, on its plans for implementing the recommendations of the Comprehensive Study of the Division of Youth Services.

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

**STUDY COURT-ORDERED COUNTY PAYMENT OF JUVENILE TREATMENT**

Sec. 24.21A. (a) The Division of Youth Services, Department of Human Resources, and the Administrative Office of the Courts shall study county payment of the cost of medical, surgical, psychiatric, psychological, or other treatment of juveniles ordered pursuant to G.S. 7A-647 when the parents are not able to pay the cost of treatment. The study shall provide recommendations on the feasibility and desirability of allowing the counties to present evidence of their financial status in each case and of requiring the State to pay the cost of treatment of juveniles in counties that are not able to pay the cost of treatment.

(b) The Division of Youth Services and the Administrative Office of the Courts shall report the results of this study and its recommendations to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on the Department of Human Resources and on Justice and Public Safety by December 1, 1996.

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

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

Sec. 27.19. Section 23.6 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"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 for the 1995-96 fiscal year and two hundred fifty thousand dollars (\$250,000) for the 1996-97 fiscal year~~ to administer the Program."

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

**OFFICE OF ECONOMIC OPPORTUNITY, SUPPORT OUR STUDENTS PROGRAMS' LOCATION**

Sec. 24.23. The Department of Human Resources shall ensure that the Office of Economic Opportunity remains in the Office of the Secretary and that the Support Our Students Program remains in the Division of Youth Services.

Requested by: Representatives Russell, Pate, Pulley, Sherrill, Gardner, Nye, Senators Martin of Guilford, Lucas

**DHR POSITION ELIMINATION SPECIFICATIONS**

Sec. 24.24. (a) The Department of Human Resources shall ensure that the elimination of positions, other than those that are mental health institutionally based, in the 1996-97 fiscal year, targeted by the Department, as referenced in the Current Operations Appropriations Act of 1996, or in the Conference Report incorporated into the Act, be effected as follows:

- (1) All vacant positions targeted for elimination shall be eliminated effective July 1, 1996; and
- (2) All filled positions targeted for elimination shall be eliminated effective November 1, 1996, except for filled positions targeted for elimination in the Office of the Controller, which positions shall be eliminated on or before December 31, 1996.

The Department of Human Resources shall not eliminate any position prescribed by this subsection that it targeted but that was not referenced as eliminated in the Current Operations Appropriations Act of 1996 or in the Conference Report incorporated into the Act. In order to comply with State Personnel Commission policy and in order to protect filled positions, the Department may substitute vacant positions or filled positions other than mental health institutionally based filled critical positions whose incumbents volunteer for discontinued service allowance for filled positions targeted for elimination.

(b) The Department of Human Resources shall further ensure that the elimination of the 130.5 mental health institutionally based positions be effected according to the following priority:

- (1) First, from vacant, noncritical positions, which positions shall be eliminated effective July 1, 1996;
- (2) Then, from vacant, critical positions, which positions shall be eliminated effective July 1, 1996; and
- (3) Then, from filled, noncritical positions, which positions shall be eliminated effective November 1, 1996.

The Department shall not eliminate any mental health institutionally based filled critical positions. For purposes of this section, a critical position is one that provides or is engaged in direct contact with clients on an ongoing basis and a noncritical position is any other position.

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

**FOOD STAMP ELECTRONIC BENEFITS TRANSFER FUNDS SPECIFICATION**

Sec. 24.25. Funds appropriated to the Controller's Office, Department of Human Resources, for the Food Stamp Electronic Benefits Transfer Program (EBT) shall remain in the Controller's Office and shall not be transferred to any other office or division within the Department.

The Controller's Office, Department of Human Resources, may proceed with statewide implementation of the Food Stamp EBT Program.

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

**IN-HOME AIDE FUNDS**

Sec. 24.26. Section 23.11D of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 23.11D. Of the funds appropriated to the Division of Aging, Department of Human Resources, in this act, the sum of five hundred thousand dollars (\$500,000) for the 1995-96 fiscal year and the sum of ~~five hundred thousand dollars (\$500,000)~~ five million five hundred thousand dollars (\$5,500,000) for the 1996-97 fiscal year shall be allocated via the Home and Community Care Block Grant ~~and used to fund in-home aide services and caregiver support services.~~ for home and community care services for older persons who are not eligible for Medicaid and who are on the waiting list for these services. These funds shall be used only for direct services. Service recipients shall pay for services based on their income in accordance with G.S. 143B-181.1(a)(10)."

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

**ADULT CARE HOME REIMBURSEMENT RATE/ADULT CARE HOME ALLOCATION OF NONFEDERAL COST OF MEDICAID PAYMENTS**

Sec. 24.26A. (a) Section 23.10 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 23.10. (a) Effective July 1, 1995, the maximum monthly rate for residents in adult care home facilities shall be nine hundred seventy-five dollars (\$975.00) per month for ambulatory residents and one thousand seventeen dollars (\$1,017) per month for semiambulatory residents.

(b) Effective August 1, 1995, the maximum monthly rate for residents in adult care home facilities shall be eight hundred forty-four dollars (\$844.00) per month per resident.

(c) Effective August 1, 1995, the Department of Human Resources may use the remaining funds available from the State/County Special Assistance appropriation to provide:

- (1) Needed Medicaid-covered services, specifically one hour of personal care services per day to all Medicaid-eligible residents and a maximum of 50 additional hours per month of personal care services for residents who require heavy care;
- (2) Funds to the area mental health authorities to provide wraparound services for adult home care residents with mental health conditions;
- (3) Funds for the implementation of the provisions of G.S. 131D-4.1 and G.S. 131D-4.2, including funds for necessary additional staff.

(d) The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible.

(e) Effective August 1, 1995, the State shall pay fifty percent (50%) and the county shall pay fifty percent (50%) of the nonfederal costs of Medicaid services paid to adult care home facilities. As Medicaid personal care requirements increase, the county matching share shall be capped until it equals fifteen percent (15%) of the nonfederal Medicaid personal care requirements.

(f) To maximize Medicaid funding, the Department of Human Resources may take the temporary measures necessary to implement Medicaid funding during the period from August 1, 1995, through September 30, 1995. This authorization includes authorization to continue payment of State/County Assistance at the July 1995 rates until the Health Care Financing Administration approval of Medicaid personal care services with future recoupment from providers of an amount equal to the difference between the July 1995 rates and the August 1995 rates.

(g) Effective July 1, 1996, the maximum monthly rate for residents in adult care home facilities shall be eight hundred seventy-four dollars (\$874.00) per month per resident."

(b) The Aging Study Commission shall study the issue of adult care home reimbursement rates, including the issue of staff incentive grants, and the issue of mandatory staff/resident ratios and shall report the results of this study, together with any recommendations, in its report to the 1997 General Assembly.

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

### **FIRE PROTECTION REVOLVING LOAN FUND**

Sec. 24.26B. (a) Chapter 122A of the General Statutes is amended by adding a new section to read:

#### **"§ 122A-5.13. Adult Care Home, Group Home, and Nursing Home Fire Protection Fund authorized; authority.**

(a) The North Carolina Housing Finance Agency shall establish an Adult Care Home, Group Home, and Nursing Home Fire Protection Fund (hereinafter 'Fire Protection Fund') to assist owners of adult care homes, group homes for developmentally disabled adults, and nursing homes with the purchase and installation of fire protection systems in existing and new adult care homes, group homes for developmentally disabled adults, and nursing homes. The Fire Protection Fund shall be a revolving fund.

(b) The Agency, in consultation with the Department of Human Resources, shall adopt rules for the management and use of the Fire Protection Fund. These rules at a minimum shall provide for the following:

- (1) Financial incentives for owners of facilities who utilize Fire Protection Fund monies to install sprinkler systems instead of smoke detection equipment.
- (2) Maximum loan amounts of one dollar and seventy-five cents (\$1.75) per square foot for advanced smoke detectors and digital communication equipment, three dollars and seventy-five cents (\$3.75) per square foot for residential sprinkler systems, and six dollars (\$6.00) per square foot for institutional sprinkler systems.
- (3) Interest rates from three percent (3%) to six percent (6%) for a period not to exceed 20 years for sprinkler systems and 10 years for smoke detection systems.
- (4) Documentary verification that owners of facilities obtain fire protection systems at a reasonable cost.
- (5) Acceleration of a loan when statutory fire protection requirements are not met by the facility for which the loan was made.
- (6) Loan approval priority criteria that considers the frailty level of residents at a facility.
- (7) Loan origination and servicing fees."

(b) Proceeds from the Fire Protection Fund created in this act may be used to provide staff support to the North Carolina Housing Finance Agency for loan processing and to the Department of Human Resources for review and approval of fire protection plans and inspection of fire protection systems.

(c) The North Carolina Housing Finance Agency shall, by October 1, 1996, adopt temporary rules to implement this section.

(d) Of the funds appropriated to the Department of Human Resources in this act, the sum of one million dollars (\$1,000,000) shall be transferred to the North Carolina Housing Finance Agency to fund the Fire Protection Fund.

Requested by: Representatives Gardner, Nye, Russell, Shubert, Senators Martin of Guilford, Lucas

### **CHILD DAY CARE SUBSIDIES**

Sec. 24.26C. (a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

(b) Parents who receive child care subsidy to work, look for work, attend work-related training or education activities, or meet the special developmental needs of their child, shall share in the cost of child care. No fees shall be charged to the client when child day care services are provided to the individuals in the following circumstances:

- (1) When children are receiving day care services in conjunction with protective services as described in 10 NCAC 35E.0106, up to a maximum of 12 months from the time protective services are initiated;
- (2) When day care services are provided as a support to a child receiving Child Welfare Services as described in the North Carolina Division of Social Services Family Services Manual, Volume 1, Chapter II; or
- (3) When a child with no income is living with someone other than the child's biological or adoptive parent or is living with someone who does not have court-ordered financial responsibility.

(c) The amount of the fees charged to the client shall be in accordance with the fee determination process and established schedules adopted by the Social Services Commission and published by the Division of Child Development. Fees shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	9%
4-5	8%
6 or more	7%

Local departments of social services shall apply this new fee schedule to recipients at the next eligibility review on or after the effective date of this section.

(d) The monthly schedule of payments for the purchase of child day care services for low-income children from providers who have fifty percent (50%) or more children receiving child care subsidized with State or federal funds include:

- (1) Provision of payment rates for child care that are tied to the provider's regulatory status as follows:
  - a. Registered homes and "A" licensed centers receive the market rate or the rate they charge their full fee-paying parents, whichever is lower;
  - b. "AA" licensed centers receive one hundred ten percent (110%) of the market rate or the rate they charge their full fee-paying parents, whichever is lower; and



- c. Unregistered providers receive fifty percent (50%) of the market rate or the rate they charge their full fee-paying parents, whichever is lower.
- (2) Provision of payment rates for child care providers in counties who do not have at least 75 children in each age group for center-based and home-based care as follows:
  - a. Payment rates shall be set at the statewide market rate for registered homes and "A" licensed centers.
  - b. If it can be demonstrated that the application of the statewide market rate to a county with fewer than 75 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.
- (e) Payment rates described in subdivision (1) of subsection (d) of this section shall be applied to all licensed child care centers, including Head Start, that have fifty percent (50%) or more of enrolled children receiving child care subsidies, and to registered family child care homes and unregulated providers that enroll subsidized children.
- (f) The Department may seek the necessary waivers to extend the Family Support Act Transitional Child Care to two-year coverage in order to maximize federal funds.
- (g) This section becomes effective September 1, 1996.

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

**ALLOCATION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE EXPANSION FUNDS**

Sec. 24.27. Of the funds appropriated in this act to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Human Resources, for expansion of mental health, developmental disabilities, and substance abuse programs and services, other than crisis services, those funds needed by area authorities for "catch-up" purposes shall be allocated pursuant to the Incentive Method adopted by the Mental Health Study Commission and presented in the Commission's Report to the 1996 General Assembly. The Department, in conjunction with all stakeholders, and in consultation with the Legislative Study Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services, shall work together to develop a needs-based approach for the allocation of future expansion funds. The Department shall report on the recommended approach to the 1997 General Assembly by March 1, 1997.

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

**CONSIDERATION OF PRIVATIZATION OF RICHMOND COUNTY BOUNDOVER DETENTION FACILITY**

Sec. 24.28. The Department of Human Resources may solicit bids to determine whether privatization of the operation of the Richmond County Boundover Unit, designed to serve a small but special population of juveniles being held for trial in superior court as adults, would result in savings to the State. If the Department considers that it is in the best interest of the State to do so, the Department may proceed with the privatization.

If the Department does proceed with the privatization, the Department shall request that the contractor give priority employment opportunity to the State employees in the current filled 15 positions scheduled to be reassigned to Richmond from the Pitt Detention Center.

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

### **EARLY CHILDHOOD INITIATIVES**

Sec. 24.29. (a) Notwithstanding any provision of Part 10B of Article 3 of Chapter 143B of the General Statutes or any other provision of law or policy, including Part 27A of Chapter 324 of the 1995 Session Laws, the Department of Human Resources and the North Carolina Partnership for Children, Inc., jointly shall ensure that all of the recommendations contained in the State of North Carolina Smart Start Performance Audit, prepared pursuant to Section 27A(1)b. of Chapter 324 of the 1995 Session Laws, are implemented by July 1, 1997, together with any specific modification to any recommendations made in this subsection or elsewhere in this section. The Partnership shall report quarterly to the Joint Legislative Commission on Governmental Operations on its progress towards full implementation. The Department shall report to the Commission by February 1, 1997, on any changes that must be made to Part 10B of Article 3 of Chapter 143B of the General Statutes or to any other statutes or rules to make the implementation of the Smart Start Performance Audit recommendations a permanent part of the law.

The Early Childhood Education and Development Initiatives Program shall not be continued or expanded after the 1996-97 fiscal year until the 1997 General Assembly determines, after consideration of the reports submitted to the Joint Legislative Commission on Governmental Operations prescribed by this section, that the Program, both at the State and local levels, is operating as efficiently as possible and is producing the results for which it was established.

The following recommendations of the Smart Start Performance Audit are modified as follows:

- (1) The recommended administrative start-up cost allowance allowed for local partnerships shall apply only in the first year each partnership provides direct services;
- (2) The recommended determination as to whether local partnerships' contractors that receive \$25,000 or more have complied with financial audit requirements shall be made by the Partnership rather than the State Auditor; and

- (3) The recommendation that the Director of the Division of Child Development be an ex officio member of the Partnership shall not be implemented.

The following shall be studied by the Department and by the Partnership and presented, together with any recommended changes, to the Joint Legislative Commission on Governmental Operations by February 1, 1997:

- (1) Regionalization of the local partnerships, specifically, development of a plan to regionalize the local partnerships, including incentives for regionalization of existing local partnerships as well as for newly applying partnerships;
  - (2) The administrative cost formulas referenced in the Smart Start Performance Audit;
  - (3) The definition of in-kind contributions and the matching requirements referenced in the Smart Start Performance Audit; and
  - (4) Transportation.
- (b) 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~~ The North Carolina Partnership shall have a Board of Directors consisting of the following 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;
  - g. Seventeen members, of whom four shall be members of the party other than the Governor's party, appointed by the 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.
- (4) The North Carolina Partnership shall develop and implement a comprehensive standard fiscal accountability plan to ensure the fiscal integrity and accountability of State funds appropriated to it and to the local partnerships. The standard fiscal accountability plan shall, at a minimum, include a uniform, standardized system of accounting, internal controls, payroll, fidelity bonding, chart of accounts, and contract management and monitoring. The North Carolina Partnership may contract with outside firms to develop and implement the standard fiscal accountability plan. All local partnerships shall be required to participate in the standard fiscal accountability plan developed and adopted by the North Carolina Partnership pursuant to this subdivision.
- (5) The North Carolina Partnership shall develop and implement a centralized accounting and contract management system which incorporates features of the required standard fiscal accountability plan described in subdivision (4) of subsection (a) of this section. The following local partnerships shall be required to participate in the centralized accountability system developed by the North Carolina Partnership pursuant to this subdivision:
  - a. Local partnerships which have significant deficiencies in their accounting systems, internal controls, and contract management systems, as determined by the North Carolina Partnership based on the annual financial audits of the local partnerships conducted by the Office of the State Auditor; and
  - b. Local partnerships which are in the first two years of operation following their selection. At the end of this two-year period, local partnerships shall continue to participate in the centralized accounting and contract management system. With the approval of the North Carolina Partnership, local partnerships may perform accounting and contract management functions at the local level using the standardized and uniform accounting system, internal controls, and contract management systems developed by the North Carolina Partnership.

Local partnerships which otherwise would not be required to participate in the centralized accounting and contract management system pursuant to this subdivision may voluntarily choose to participate in the system. Participation or nonparticipation shall be for

a minimum of two years, unless, in the event of nonparticipation, the North Carolina Partnership determines that any partnership's annual financial audit reveals serious deficiencies in accounting or contract management.

(6) The North Carolina Partnership shall develop a formula for allocating direct services funds appropriated for this purpose to local partnerships.

(7) The North Carolina Partnership may adjust its allocations on the basis of local partnerships' performance assessments. In determining whether to adjust its allocations to local partnerships, the North Carolina Partnership shall consider whether the local partnerships are meeting the outcome goals and objectives of the North Carolina Partnership and the goals and objectives set forth by the local partnerships in their approved annual program plans.

The North Carolina Partnership may use additional factors to determine whether to adjust the local partnerships' allocations. These additional factors shall be developed with input from the local partnerships and shall be communicated to the local partnerships when the additional factors are selected. These additional factors may include board involvement, family and community outreach, collaboration among public and private service agencies, and family involvement.

On the basis of performance assessments, local partnerships annually shall be rated 'superior', 'satisfactory', or 'needs improvement'. Local partnerships rated 'superior' shall receive, to the extent that funds are available, a ten percent (10%) increase in their annual funding allocation. Local partnerships rated 'satisfactory' shall receive their annual funding allocation. Local partnerships rated 'needs improvement' shall receive ninety percent (90%) of their annual funding allocation.

The North Carolina Partnership may contract with outside firms to conduct the performance assessments of local partnerships.

(8) The North Carolina Partnership shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be chairs of local partnerships' board of directors, and seven shall be staff of local partnerships. Members shall be chosen by the Chair of the North Carolina Partnership from a pool of candidates nominated by their respective boards of directors. The local partnership advisory committee shall serve in an advisory capacity to the North Carolina Partnership and shall establish a schedule of regular meetings. Members shall serve two-year terms and may not serve more than two consecutive terms. Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.

- (9) The North Carolina Partnership shall report (i) quarterly to the Joint Legislative Commission on Governmental Operations and (ii) to the General Assembly and the Governor on the ongoing progress of all the local partnerships' work, including all details of the use to which the allocations were put, and on the continuing plans of the North Carolina Partnership and of the Department, together with legislative proposals, including proposals to implement the program statewide."
- (c) G.S. 143B-168.13(a) reads as rewritten:
- "(a) The Department shall:
- (1) Develop a statewide process, in cooperation with the North Carolina Partnership, to select the local demonstration projects. The first 12 local demonstration projects developed and implemented shall be located in the 12 congressional districts, one to a district. The locations of subsequent selections of local demonstration projects shall represent the various geographic areas of the State.
  - (2) ~~Develop, in cooperation with the North Carolina Partnership, Develop and conduct a statewide needs and resource assessment for each county. Of the funds appropriated to it to implement this Part, the Department may make available funds to each county for one year to an appropriate private nonprofit entity or to the county to perform this assessment every third year, beginning in the 1997-98 fiscal year. This needs assessment shall be conducted in cooperation with the North Carolina Partnership and with the local partnerships. The data and findings of this needs assessment shall form the basis for annual program plans developed by local partnerships and approved by the North Carolina Partnership.~~
  - (3) Provide technical and administrative assistance to local partnerships, particularly during the first year after they are selected under this Part to receive State funds. The Department, at any time, may authorize the North Carolina Partnership or a governmental or public entity to do the contracting for one or more local partnerships. After a local partnership's first year, the Department may allow the partnership to contract for itself.
  - (4) Adopt, in cooperation with the North Carolina Partnership, any rules necessary to implement this Part, ~~including rules to ensure that no State funds or local funds used to supplant these State funds shall be used for personnel sick leave and annual leave benefits not allowed to State employees.~~ Part, including rules to ensure that State leave policy is not applied to the North Carolina Partnership and the local partnerships. In order to allow local partnerships to focus on the development of long-range plans in their initial year of funding, the Department may adopt rules that limit the categories of direct services for young children and their families for which funds are made available during the initial year.

- (5) ~~Report (i) quarterly to the Joint Legislative Commission on Governmental Operations and (ii) to the General Assembly and the Governor by April 1, 1994, and by March 1, 1995, on the ongoing results of all the local demonstration projects' work, including all details of the use to which the allocations were put, and on the continuing plans of the North Carolina Partnership and of the Department, together with legislative proposals, including proposals to implement the program statewide.~~
- (6) Annually update its funding formula using the most recent data available. These amounts shall serve as the basis for determining 'full funding' amounts for each local partnership."
- (d) (1) G.S. 143B-168.14(a) reads as rewritten:
- "(a) In order to receive State funds, the following conditions shall be met:
- (1) Each local demonstration project shall be coordinated by a new local partnership responsible for developing a comprehensive, collaborative, long-range plan of services to children and families in the service-delivery area. The board of directors of each local partnership shall consist of members including representatives of public and private nonprofit health and human service agencies, day care providers, the business community, foundations, county and municipal governments, local education units, and families. The Department, in cooperation with the North Carolina Partnership, may specify in its requests for applications the local agencies that shall be represented on a local board of directors. No existing local, private, nonprofit 501(c)(3) organization, other than one established on or after July 1, 1993, and that meets the guidelines for local partnerships as established under this Part, shall be eligible to apply to serve as the local partnership for the purpose of this Part.
- (2) Each local 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) Each local partnership shall adopt procedures to ensure that all personnel who provide services to young children and their families under this Part know and understand their responsibility to report suspected child abuse, neglect, or dependency, as defined in G.S. 7A-517.
- (4) Each local partnership shall participate in the uniform, standard fiscal accountability plan developed and adopted by the North Carolina Partnership."
- (2) Local partnerships shall be in compliance with this subsection effective July 1, 1997.
- (e) G.S. 143B-168.15 reads as rewritten:

**"§ 143B-168.15. Use of State funds.**

(a) State funds allocated to local projects for services to children and families shall be used to meet assessed needs, expand coverage, and improve the quality of these services. The local plan shall address the assessed needs of all children to the extent feasible. It is the intent of the General Assembly that the needs of both young children below poverty who remain in the home, as well as the needs of young children below poverty who require services beyond those offered in child care settings, be addressed. Therefore, as local partnerships address the assessed needs of all children, they should devote an appropriate amount of their State allocations, considering these needs and other available resources, to meet the needs of children below poverty and their families.

(b) Depending on local, regional, or statewide needs, funds may be used to support activities and services that shall be made available and accessible to providers, children, and families on a voluntary basis. Of the funds allocated to local partnerships that are designated by the Secretary for direct services, seventy-five percent (75%) shall be used for any one or more of the following activities and services:

- (1) Child day care services, including:
  - a. Child day care subsidies to reduce waiting lists;
  - b. Raising the county child day care subsidy rate to the State market rate, if applicable, in return for improvements in the quality of child day care services;
  - c. Raising the income eligibility for child day care subsidies to seventy-five percent (75%) of the State median family income;
  - d. Start-up funding for child day care providers;
  - e. Assistance to enable child day care providers to conform to licensing and building code requirements;
  - f. Child day care resources and referral services;
  - g. Enhancement of the quality of child day care provided;
  - h. Technical assistance for child day care providers;
  - i. Quality grants for child day care centers or family child day care homes;
  - j. Expanded services or enhanced rates for children with special needs;
  - k. Head Start services;
  - l. Development of comprehensive child day care services that include child health and family support;
  - m. Activities to reduce staff turnover;
  - n. Activities to serve children with special needs;
  - o. Transportation services related to providing child day care services;
  - p. Evaluation of plan implementation of child day care services; and
  - q. Needs and resources assessments for child day care services.



- (2) Family- and child-centered services, including early childhood education and child development services, including:
  - a. Enhancement of the quality of family- and child-centered services provided;
  - b. Technical assistance for family- and child-centered services;
  - c. Needs and resource assessments for family- and child-centered services;
  - d. Home-centered services; and
  - e. Evaluation of plan implementation of family- and child-centered services.
- (3) Other appropriate activities and services for child day care providers and for family- and child-centered services, including:
  - a. Staff and organizational development, leadership and administrative development, technology assisted education, and long-range planning; and
  - b. Procedures to ensure that infants and young children receive needed health, immunization, and related services.

(c) Long-term plans for local projects that do not receive their full allocation in the first year, other than those selected in 1993, should consider how to meet the assessed needs of low-income children and families within their neighborhoods or communities. These plans also should reflect a process to meet these needs as additional allocations and other resources are received.

(d) State funds designated ~~by the Secretary~~ for start-up and related activities may be used for capital expenses or to support activities and services for children, families, and providers. State funds designated ~~by the Secretary~~ to support ~~activities and direct~~ services for children, families, and providers shall not be used for major capital expenses unless the ~~Secretary~~ North Carolina Partnership approves this use of State funds based upon a finding that a local partnership has demonstrated that (i) this use is a clear priority need for the local plan, (ii) it is necessary to enable the local partnership to provide services and activities to underserved children and families, and (iii) the local partnership will not otherwise be able to meet this priority need by using State or federal funds available to that ~~county~~ local partnership. The funds approved for capital projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total funds for direct services allocated to a local partnership in those two consecutive fiscal years.

(e) State funds allocated to local partnerships shall not supplant current expenditures by counties on behalf of young children and their families, and maintenance of current efforts on behalf of these children and families shall be sustained. State funds shall not be applied without the Secretary's approval where State or federal funding sources, such as Head Start, are available or could be made available to that county.

(f) Local partnerships may carry over funds from one fiscal year to the next, subject to the following conditions:

- (1) Local partnerships in their first year of receiving direct services funding may, on a one-time basis only, carry over any unspent funds to the subsequent fiscal year.
- (2) Any local partnership may carry over any unspent funds to the subsequent fiscal year, subject to the limitation that funds carried over may not exceed the increase in funding the local partnership received during the current fiscal year over the prior fiscal year.

(g) Not less than thirty percent (30%) of each local partnership's direct services allocation shall be used to expand child day care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child day care services as described in this section."

(f) Section 27A of Chapter 324 of the 1995 Session Laws reads as rewritten:

"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 as prescribed in the Smart Start Performance Audit recommendations 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.
- e. ~~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. ~~Partnerships~~ 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 incorporate all the aspects of the new role prescribed for the Partnership in the Smart Start Performance Audit recommendations and 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~~ 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~~, subsection beginning in April 1997.
  - b. New ~~partnerships~~ 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~~ \$500,000 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.~~ the 1995-96 fiscal year and shall be \$1,700,000 for the 1996-97 fiscal year; and
5. Funding for the Frank Porter Graham Child Development Center's evaluation of the Early Childhood Education and Development Initiatives shall be increased to \$850,000 for the 1996-97 fiscal year.

(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."

(g) Article 12I of Chapter 120 of the General Statutes is repealed.

(h) Section 23.13 of Chapter 324 of the 1995 Session Laws reads as

rewritten:

"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~~ North Carolina Partnership for Children, Inc. 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."

(i) Notwithstanding any policy to the contrary, the Frank Porter Graham Child Development Center may use any method legally available to it to track children who are participating or who have participated in any Early Childhood Education and Development Initiative in order to carry out its ongoing evaluation of the Early Childhood Education and Development Initiatives Program.

(j) In addition to the specific changes set forth in subsections (b) through (i) of this section, the Department of Human Resources and the North Carolina Partnership also shall do the following:

- (1) Plan and prepare for effective Early Childhood Initiatives Program implementation in those counties not yet phased into the overall program.
- (2) Maintain the current State level of administrative support for the Early Childhood Initiatives Program for 1996-97.
- (3) Develop a statewide resource and referral database.
- (4) Continue the evaluation of the Early Childhood Initiatives Program by the Frank Porter Graham Child Development Center.

(k) There is allocated from the funds appropriated to the Department of Human Resources, Division of Child Development, in this act, the sum of ten million one hundred fifty thousand dollars (\$10,150,000) for the 1996-97 fiscal year, to be used as follows:

- (1) Of the 24 partnerships existing as of 1995-96, funds for direct services for the Mecklenburg County and Cumberland County partnerships shall be increased a total of \$1,400,000. The North Carolina Partnership, Inc. shall determine the relative proportion of this increased funding that the Mecklenburg County and Cumberland County partnerships will receive. These funds shall be for expansion of programs, effective January 1, 1997;
- (2) For the new partnerships planned for as of 1995-96, funds shall be \$7,550,000. These funds shall be for expansion of programs, effective January 1, 1997; and
- (3) For the new partnerships planned for as of 1996-97, funds shall be \$1,200,000 for planning purposes.

Requested by: Representatives Gardner, Hayes, Howard, Berry, Nye, Russell, Senators Martin of Guilford, Lucas

**AFDC FRAUD CONTROL PROGRAM/DEBT SETOFF/CLIENT PROTECTION**

Sec. 24.30. (a) The Department of Human Resources, immediately, shall elect the optional Aid to Families with Dependent Children (AFDC) Fraud Control Program pursuant to 45 C.F.R. 235.112. This program is deemed to apply to Work First Cash Assistance, effective July 1, 1996, as well as to AFDC, pursuant to the federal waivers received by the Department of Human Resources on February 5, 1996.

(b) The Department of Human Resources shall award incentive bonuses to each county for each of the county's AFDC fraud and Work First Cash Assistance claims recouped pursuant to the AFDC Fraud Control Program. Each incentive bonus shall equal one-half of the State's distributive share of the total AFDC and Work First Cash Assistance benefit amount that was determined fraudulent and recouped pursuant to the AFDC Fraud Control Program.

(c) The Department of Human Resources, Division of Social Services, shall develop and implement a statewide automated system to track AFDC and Work First Cash Assistance fraud claims and collect such claims by any appropriate method, including debt setoff pursuant to Chapter 105A of the General Statutes.

(d) G.S. 105A-2(1)r. reads as rewritten:

"r. The North Carolina Department of Human Resources when in the performance of its ~~intentional program violation~~ collection duties for intentional program violations and violations due to inadvertent household error under the Food Stamp Program enabled by Chapter 108A, Article 2, Part 5, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Food Stamp Program ~~intentional program violation~~ collection functions. The North Carolina Department of Human Resources when, in the performance of its duties under the Aid to Families with Dependent Children Program or the Aid to Families with Dependent Children – Emergency Assistance Program provided in Part 2 of Article 2 of Chapter 108A or the Work First Cash Assistance Program established pursuant to the federal waivers received by the Department on February 5, 1996, or under the State-County Special Assistance for Adults Program provided in Part 3 of Article 2 of Chapter 108A, it seeks to collect public assistance payments obtained through an intentional false statement, intentional misrepresentation, ~~or~~ intentional failure to disclose a material fact, fact, or inadvertent household error."

(e) The Department of Human Resources shall ensure that persons charged with, or suspected of, AFDC fraud not be subjected to any of the following:

(1) Coercion;

- (2) Discrimination in targeting persons for civil action or criminal prosecution; or
- (3) Civil investigation or civil action without being (i) properly informed as to those matters that might arise out of this investigation or action that might result in criminal prosecution and (ii) in such a case, being properly advised of their right not to incriminate themselves.
- (f) The Department shall fund this section from funds available to it.

Requested by: Senators Martin of Guilford, Lucas, Representatives Gardner, Nye, Russell, Berry, Howard

### **FOOD STAMP FELONY FRAUD**

Sec. 24.31. (a) G.S. 108A-53(a), as amended by Section 19.5(n) of Chapter 507 of the 1995 Session Laws, reads as rewritten:

"(a) Any person, whether provider or recipient or person representing himself as such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which ~~he that person~~ is not entitled in the amount of ~~one thousand dollars (\$1,000)~~ four hundred dollars (\$400.00) or less shall be guilty of a Class 1 misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any food stamps or authorization cards to which he is not entitled in an amount more than ~~one thousand dollars (\$1,000)~~ four hundred dollars (\$400.00) shall be guilty of a Class I felony."

(b) This section becomes effective December 1, 1996, and applies to offenses committed on or after that date.

Requested by: Representative Esposito, Senator Martin of Guilford

### **MEDICAID STUDY EXTENSION**

Sec. 24.32. Section 23.5A(d) of Chapter 507 of the 1995 Session Laws reads as rewritten:

"(d) The task force shall report the results of its study, together with any legislative proposals and cost analyses, to the 1995 General Assembly, Regular Session 1996, within a week of its ~~convening or convening~~, to a special session of the 1995 General Assembly called to deal with federal block grant funding ~~issues~~ issues, or to the 1997 General Assembly within a week of its convening."

## **PART 25. DEPARTMENT OF AGRICULTURE**

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



**RELEASE THE STATE'S REVERSIONARY INTEREST IN THE PROPERTY OF FUQUAY-VARINA AMERICAN LEGION POST 116**

Sec. 25.1. (a) The General Assembly finds:

- (1) On April 28, 1941, the United States deeded to the State Board of Education a parcel of land north of Fuquay-Varina in Wake County, that deed being recorded at Book 868, page 171, Wake County Registry, and that deed had a right of termination by the United States if the property was not used for facilities which further the rehabilitation or education of the rural people of North Carolina;
- (2) On April 1, 1949, as approved by the Council of State, the State of North Carolina deeded to trustees for the use and benefit of Fuquay Springs, North Carolina, Post 116 of the American Legion, the same parcel with the same covenant as to the use of the property, that deed being recorded at Book 1019, page 172, Wake County Registry; and
- (3) The Congress of the United States, in Private Law 428, approved by President Eisenhower on June 21, 1954, directed the Secretary of Agriculture to convey to those trustees by quitclaim deed its remaining interest in the property; and
- (4) By deed dated November 30, 1962, and recorded at Book 1533, page 54, Wake County Registry, the United States conveyed its remaining interest in the property to the North Carolina Rural Development Corporation, an agency of the State of North Carolina under G.S. 137-31.1; and
- (5) American Legion Post 116 of Fuquay-Varina desires to make improvements to the property, but financing such improvements is complicated by the restriction on the property.

(b) The State of North Carolina and the North Carolina Rural Rehabilitation Corporation shall convey to the grantees of the deed recorded at Book 1019, page 172, Wake County Registry, by quitclaim deed, all of the right, title, and interest they have retained in property deeded by the State of North Carolina, that deed being recorded at Book 1019, page 172, Wake County Registry.

Requested by: Representatives Mitchell, Weatherly, Senators Kerr, Martin of Pitt

**REMOVE SUNSET FOR GRAPE GROWERS' EXCISE TAX DISTRIBUTION**

Sec. 25.2. (a) Section 3 of Chapter 836 of the 1987 Session Laws reads as rewritten:

"Sec. 3. This act shall become effective August 1, 1987, and shall terminate June 30, 1997. 1987."

(b) Section 12(b) of Chapter 1036 of the 1987 Session Laws, as amended by Section 176(b) of Chapter 900 of the 1991 Session Laws, is repealed.

(c) This section is effective upon ratification.

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

**TIMBER RECEIPTS FOR CERTAIN CAPITAL PROJECTS**

Sec. 25.3. The sum of one million three hundred seventy-six thousand dollars (\$1,376,000) shall be transferred from the Department of Agriculture's timber sales capital improvement account, established pursuant to G.S. 146-30, to the Department of Agriculture for the 1996-97 fiscal year and shall be used for the following capital improvement projects at research stations and State farms:

- (1) \$387,400 for an addition to the swine facility at the Cherry Farm Unit.
- (2) \$126,700 for a farm equipment shelter at the Cherry Farm Unit.
- (3) \$329,300 for a shop and storage facility at the Upper Coastal Plain Station.
- (4) \$106,900 for a dairy milking parlor at the Caswell Farm Unit.
- (5) \$132,300 for research plot land at the Upper Mountain Station.
- (6) \$150,000 for an irrigation system at the Mountain Station.
- (7) \$143,400 for an office building at the Oxford Station.

Requested by: Representatives Mitchell, Weatherly, Senators Martin of Pitt, Jordan, Kerr

#### **CATTLE AND LIVESTOCK EXPOSITION FUNDS**

Sec. 25.4. Section 40 of Chapter 769 of the 1993 Session Laws, as amended by subsection (b) of Section 24 of Chapter 507 of the 1995 Session Laws, reads as rewritten:

"Sec. 40. Any unencumbered funds that were appropriated to the Department of Agriculture for the 1994-95 fiscal year for planning the construction of the Cattle and Livestock Exposition Center ~~shall be and~~ placed in a reserve in the Department of Agriculture ~~until further allocated by the 1995 General Assembly, Regular Session 1996~~ shall be transferred to the Office of State Budget and Management to be used for land acquisition, planning, and construction of the Cattle and Livestock Exposition Center. The Center will house livestock shows and exhibits, educational programs, and a laboratory for embryo transfer research, semen evaluation, and livestock blood work."

#### **PART 26. DEPARTMENT OF COMMERCE**

Requested by: Representatives Mitchell, Weatherly, Nichols, Baker, Senators Martin of Pitt, Jordan, Kerr

#### **GLOBAL TRANSPARK AUTHORITY/AUDIT BY STATE AUDITOR**

Sec. 26. G.S. 63A-23 reads as rewritten:

##### **"§ 63A-23. Annual and quarterly reports.**

The Authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor, the General Assembly, and the Local Government Commission. Each report shall be accompanied by an audit of its books and accounts. The audit shall be conducted by the State Auditor. ~~The costs of all audits, whether conducted by the State Auditor's staff or contracted with a private auditing firm, audits shall be paid from funds of the Authority.~~

The Authority shall submit quarterly reports to the Joint Legislative Commission on Governmental Operations. The reports shall summarize the Authority's activities during

the quarter and contain any information about the Authority's activities that is requested by the Commission."

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

**WORLD TRADE CENTER FUNDS**

Sec. 26.1. Of the funds appropriated in this act to the Department of Commerce, the sum of two hundred thousand dollars (\$200,000) for the 1996-97 fiscal year shall be allocated to the World Trade Center North Carolina (WTCNC) to support international trade education programs for small and medium-sized businesses. The WTCNC 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.

Requested by: Representatives Mitchell, Weatherly, Senators Martin of Pitt, Ballance, Jordan, Kerr

**FUNDS FOR ECONOMIC DEVELOPMENT**

Sec. 26.2. Of the funds appropriated in this act to the Department of Commerce, the sum of one million five hundred twenty-five thousand dollars (\$1,475,000) for the 1996-97 fiscal year shall be allocated as follows:

- (1) \$275,000 to the Land Loss Prevention Project, Inc., to provide free legal representation to low-income, financially distressed small farmers. The Land Loss Prevention Project, Inc., shall not use these funds to represent farmers who have income and assets that would make them financially ineligible for legal services pursuant to Title 45, Part 1611 of the Code of Federal Regulations. The Land Loss Prevention Project, Inc., shall report to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the use of these funds;
- (2) \$145,000 to the North Carolina Coalition of Farm and Rural Families, Inc., for its Small Farm Economic Development Project. These funds shall be used to foster economic development within the State's rural farm communities by offering marketing and technical assistance to small and limited resource farmers. The North Carolina Coalition of Farm and Rural Families, Inc., shall report to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the use of these funds;
- (3) \$780,000 to the North Carolina Institute for Minority Economic Development, Inc., to foster minority economic development within the State through policy analysis, information and technical assistance, resource expansion and support of community-based demonstration initiatives. The North Carolina Institute for Minority Economic Development, Inc., shall report to the Joint Legislative Commission on

Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the use of these funds; and

- (4) \$275,000 to the North Carolina Minority Support Center (formerly known as the Minority Credit Union Support Center) for technical assistance to community-based minority credit unions. The North Carolina Minority Support Center shall report to the Credit Union Division of the Department of Commerce and to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Department or the Commission, on the use of these funds.

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

Sec. 26.3. Section 25.9 of Chapter 324 of the 1995 Session Laws reads as rewritten:

"Sec. 25.9. (a) MCNC shall report on all of its programs including contractual services for Supercomputer and the Research and Education Network 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 and the Research and Education Network ~~program programs~~ shall identify the ~~users of the Supercomputer,~~ users, 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	<del>\$5,362,523</del> <u>4,966,721</u>
Supercomputer	9,576,319	<del>9,576,319</del> <u>798,275</u>
Telecommunications	4,826,158	<del>4,826,158</del> <u>-0-</u>

(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 four million nine hundred sixty-six thousand seven

hundred twenty-one dollars (\$4,966,721) for the 1996-97 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. Funds transferred in this act from the Department of Commerce to the UNC Board of Governors shall be used for contracting the purchase of supercomputing and research and education networking services to continue the provision of these services at North Carolina universities and colleges.~~

Requested by: Representatives Mitchell, Weatherly, Senators Martin of Pitt, Ballance, Jordan, Kerr

### **ECONOMIC DEVELOPMENT FUNDS**

Sec. 26.4. Section 25.4 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 25.4. (a) Definition. – For purposes of this section, the term 'community development corporation' means a nonprofit corporation:

- (1) Chartered pursuant to Chapter 55A of the General Statutes;
- (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
- (3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;
- (4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
- (5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the target community.

(b) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of ~~three million eight hundred thousand dollars (\$3,800,000) for the 1995-96~~ two million seven hundred thousand dollars (\$2,700,000) for the 1996-97 fiscal year shall be placed in an Economic and Community

Development Program Reserve. Funds shall be allocated from the Reserve by the Rural Economic Development Center, Inc. as follows:

- (1) \$1,350,000 for community development grants to support community development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center shall establish performance-based criteria for determining which community development corporations will receive a grant and the grant amount. Funding will also be allocated to the North Carolina Association of Community Development Corporations, Inc. The Rural Economic Development Center, Inc., shall allocate these grant funds from the Economic and Community Development Program Reserve as follows:
  - a. \$900,000 for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities,
  - b. \$250,000 for direct grants to local community development organizations that have not previously received State funds,
  - c. \$150,000 to the North Carolina Association of Community Development Corporations, Inc. to provide training, technical assistance, resource development, project assistance, and support for local community development corporations statewide, and
  - d. \$50,000 to the Rural Economic Development Center, Inc. to be used to cover expenses in administering this section;
- (2) ~~\$275,000 to the Minority Credit Union Support Center for technical assistance to community-based minority credit unions;~~
- (3) \$250,000 to the Microenterprise Loan Program to support the loan fund and operations of the Program;
- (4) ~~\$100,000~~ \$150,000 allocated as follows:
  - a. \$25,000 to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;
  - b. \$25,000 to Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;
  - c. \$25,000 to Pitt-Greenville Opportunities Industrialization Center, Inc. for its ongoing job training programs; and
  - d. \$25,000 to the Opportunities Industrialization Center of Lenoir, Greene, and Jones ~~Counties~~ Counties; and
  - e. \$50,000 to the Opportunities Industrialization Center of Elizabeth City, Inc.

Funds allocated pursuant to sub-subdivisions a. through d. of this subdivision shall be in addition to funds allocated pursuant to Section 25.12 of Chapter 324 of the 1995 Session Laws. Reporting

requirements of that section shall apply to all funds allocated under this subdivision; and

- (5) ~~\$400,000—\$950,000~~ shall be used for a program to provide supplemental funding for matching requirements for economic development in economically depressed areas. The Center shall use the funds to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for necessary economic development projects and activities in economically depressed areas. The grant recipients shall be selected on the basis of ~~need~~; need. Of the funds allocated under this subdivision, the sum of up to one hundred fifty thousand dollars (\$150,000) shall be used to address potential and actual threats to the public health.
- (6) ~~\$275,000 to the Land Loss Prevention Project, Inc., to provide free legal representation to low income, financially distressed small farmers. The Land Loss Prevention Project, Inc., shall not use these funds to represent farmers who have income and assets that would make them financially ineligible for legal services pursuant to Title 45, Part 1611 of the Code of Federal Regulations. The Land Loss Prevention Project, Inc., shall report to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the use of these funds;~~
- (7) ~~\$245,000 to the North Carolina Coalition of Farm and Rural Families, Inc., for its Small Farm Economic Development Project. These funds shall be used to foster economic development within the State's rural farm communities by offering financial, marketing, and technical assistance to small and limited resource farmers. The North Carolina Coalition of Farm and Rural Families, Inc., shall report to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the use of these funds;~~
- (8) ~~\$780,000 to the North Carolina Institute for Minority Economic Development, Inc., to foster minority economic development within the State through policy analysis, information and technical assistance, resource expansion and support of community based demonstration initiatives. The North Carolina Institute for Minority Economic Development, Inc., shall report to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the use of these funds;~~
- (9) ~~\$100,000 to the Lake Gaston Economic Development Corporation for planning and preliminary development of a conference center and related facilities for the Lake Gaston area; and~~

(10) ~~\$25,000 to the Roanoke-Chowan Community College for its sheltered workshop program.~~

(c) The Rural Economic Development Center, Inc. shall report to the Joint Legislative Commission on Governmental Operations on October 1 and March 1 of each fiscal year, and more frequently as requested by the Commission, on the uses of funds allocated pursuant to subdivisions (1), ~~(2), (3), (4), (5), (9), and (10)~~ (3), (4), and (5) of subsection (b) of this section."

Requested by: Senators Martin of Pitt, Kerr, Jordan, Representatives Mitchell, Weatherly

#### **INDUSTRIAL DEVELOPMENT FUND UTILITY ACCOUNT**

Sec. 26.5. (a) Of the funds appropriated in this act to the Department of Commerce for the 1996-97 fiscal year, the sum of two million dollars (\$2,000,000) shall be deposited to and used for the Utility Account established under G.S. 143B-437A(b1).

(b) In addition to the reporting requirements of G.S. 143B-437A, the Department of Commerce shall report annually to the General Assembly concerning the payments made from the Utility Account and the impact of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the Utility Account including information regarding to whom payments were made, in what amounts, and for what purposes.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

#### **TECHNOLOGICAL DEVELOPMENT AUTHORITY FUNDS/INVESTMENT**

Sec. 26.6. G.S. 96-5 is amended by adding the following new subsection to read:

"(g) Notwithstanding subsection (f) of this section, the State Treasurer may invest not more than a total of twenty-five million dollars (\$25,000,000) of funds in the Employment Security Commission Reserve Fund established under subsection (f) of this section in securities issued by the North Carolina Technological Development Authority, Inc., the proceeds for which are directed to support investment in venture capital funds. The State Treasurer shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on October 1 and March 1 of each fiscal year on investments made pursuant to this subsection."

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

#### **CENTER FOR COMMUNITY SELF-HELP FUNDS**

Sec. 26.7. (a) Of the funds appropriated in this act to the Department of Commerce, the sum of three million dollars (\$3,000,000) for the 1996-97 fiscal year shall be allocated to the Center for Community Self-Help to further a statewide program of lending for home ownership throughout North Carolina. These funds will be leveraged on a ten-to-one basis, generating at least ten dollars (\$10.00) of nontraditional



home loans for every one dollar (\$1.00) of State funds. Payments of principal shall be available for further loans or loan guarantees.

(b) The Center for Community Self-Help shall submit, within 180 days after the close of its fiscal year, audited financial statements to the State Auditor. All records pertaining to the use of State funds shall be made available to the State Auditor upon request. The Center for Community Self-Help shall make quarterly reports on the use of State funds to the State Auditor, in form and format prescribed by the State Auditor or his designee. The Center for Community Self-Help shall make a written report by May 1 of each year for the next three years to the General Assembly on the use of the funds allocated under this section.

(c) The Center for Community Self-Help shall report to the Joint Legislative Commission on Governmental Operations, the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Department of Commerce on a quarterly basis for the next three years.

(d) The Office of the State Auditor may conduct an annual end-of-year audit of the revolving fund for economic development lending created by this appropriation for each year of the life of the revolving fund.

(e) If the Center for Community Self-Help dissolves, the corporation shall transfer the remaining assets of the revolving fund to the State and shall refrain from disposing of the revolving fund assets without approval of the State Treasurer.

(f) The Department of Commerce shall disburse this appropriation within 15 working days of the receipt of a request for the funds from the Center for Community Self-Help. The request shall include a commitment of the leveraged funds by the Center for Community Self-Help or its affiliates.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

### **RURAL TOURISM DEVELOPMENT FUNDS**

Sec. 26.8. (a) Of the funds appropriated in this act to the Department of Commerce for the 1996-97 fiscal year, the sum of one hundred thousand dollars (\$100,000) shall be used for the Rural Tourism Development Grant Program. The Department shall establish and implement this Program to provide grants to local governments and nonprofit organizations to encourage the development of new tourism projects and activities in rural areas of the State. The Department shall develop procedures for the administration and distribution of funds allocated to the Rural Tourism Development Program under the following guidelines:

- (1) Eligible organizations shall make application under procedures established by the Department;
- (2) Eligible organizations shall be nonprofit tourism-related organizations located in the State's rural regions;
- (3) Priority shall be given to eligible organizations that have significant involvement of travel and tourism-related businesses;

- (4) Priority shall be given to eligible organizations serving economically distressed rural counties;
- (5) Priority shall be given to eligible organizations that match funds; and
- (6) Funds may not be used for renting or purchasing land or buildings, or for financing debt.

No recipient or new tourism project shall receive a total of more than fifty thousand dollars (\$50,000) of these grant funds for the 1996-97 fiscal year.

(b) Of the funds appropriated in this act from the General Fund to the Department of Commerce for the 1996-97 fiscal year, the sum of ten thousand dollars (\$10,000) shall be used to fund the 1996 Babe Ruth Regional All-Star Tournament.

Requested by: Representatives Mitchell, Weatherly, Senators Martin of Pitt, Jordan, Kerr

### **FUNDS FROM WORKER TRAINING TRUST FUND**

Sec. 26.9. Notwithstanding G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 1996-97 fiscal year for the following purposes:

- (1) \$218,500 to the Department of Commerce to be used for a computer system upgrade in the Division of Employment and Training in order to meet federal reporting requirements under the Job Training Partnership Act;
- (2) \$210,000 to the Department of Labor for a computer upgrade in the apprenticeship tracking system in order to meet federal reporting requirements under the Federal Apprenticeship Program;
- (3) \$90,000 to the Department of Labor to establish nationally certified dietary managers pilot projects. These projects will offer training programs to meet new federal regulations requiring a certified dietary manager on-site at every residential care facility in the State. Funds allocated under this subdivision may also be used to support other customized job training programs authorized by the Department; and
- (4) \$100,000 to the Department of Community Colleges for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises. Funds appropriated under this subdivision are in addition to those appropriated for the same purpose under Section 25.9(d)(6) of Chapter 507 of the 1995 Session Laws.

Requested by: Senators Perdue, Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

### **EXTEND STATE PORTS STUDY COMMISSION**

Sec. 26.10. (a) Section 16.1(e) of Chapter 542 of the 1995 Session Laws reads as rewritten:

"(e) The Commission shall report the results of its study and its recommendations to the ~~1995 General Assembly by May 1, 1996. General Assembly.~~ The Commission may make an interim report to the 1996 Regular Session of the 1995 General Assembly

and shall make a final report upon the convening of the 1997 General Assembly. The Commission shall terminate upon filing of its final report."

(b) This section becomes effective April 30, 1996.

Requested by: Senators Plyler, Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

#### **INDUSTRIAL PARK/AUTHORITY**

Sec. 26.11. Section 7 of Chapter 419 of the 1971 Session Laws, as rewritten by Section 2 of Chapter 342 of the 1995 Session Laws and Section 7 of Chapter 511 of the 1995 Session Laws, reads as rewritten:

"Sec. 7. Private property needed by said Airport Authority for any airport, industrial park, landing field or facilities of same may be acquired by gift or devise, or may be acquired by private purchase or by the exercise of the power of eminent domain, pursuant to the provisions of Chapter 40A of the General Statutes of North Carolina, as amended. When the Airport Authority files a complaint to condemn property for a purpose authorized by this act, title to the property and the right to immediate possession of the property vests in the Airport Authority when the complaint is filed and the Airport Authority deposits the value of the property in accordance with ~~G.S. 40A-41~~, unless the owner of the property initiates an action for injunctive relief. G.S. 40A-41."

#### **PART 27. DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

Requested by: Representatives Mitchell, Weatherly, Nichols, Senators Martin of Pitt, Jordan, Kerr

#### **AGRICULTURE COST SHARE FUNDS FOR ANIMAL OPERATIONS LOCATED IN A RIVER BASIN OTHER THAN THE NEUSE RIVER BASIN**

Sec. 27. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, Division of Soil and Water Conservation, for the Agriculture Cost Share Program for Nonpoint Source Pollution Control, the sum of five million seven hundred fifty thousand dollars (\$5,750,000) for the 1996-97 fiscal year shall be used to assist existing animal operations in obtaining approved animal waste management plans for those animal operations located, in whole or in part, in a county in one of the State's 17 river basins other than the Neuse River Basin and shall be used in accordance with G.S. 143-215.74(b), as amended by this act. When implementing this section, the Department shall cooperate with the Cooperative Extension Service, the Natural Resource Conservation Service of the United States Department of Agriculture, and the local Soil and Water Conservation Districts. Any of these funds remaining at the end of the 1996-97 fiscal year shall not revert, but shall remain available for use pursuant to this section.

Requested by: Representatives Mitchell, Weatherly, Nichols, Senators Martin of Pitt, Jordan, Kerr

**AGRICULTURE COST SHARE FUNDS FOR ANIMAL OPERATIONS LOCATED IN THE NEUSE RIVER BASIN**

Sec. 27.1. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, Division of Soil and Water Conservation, for the Agriculture Cost Share Program for Nonpoint Source Pollution Control, the sum of one million seven hundred fifty thousand dollars (\$1,750,000) for the 1996-97 fiscal year shall be used to assist existing animal operations in obtaining approved animal waste management plans and farm operations in installing best management practices for those agriculture operations located, in whole or in part, in a county in the Neuse River Basin and shall be used in accordance with G.S. 143-215.74(b), as amended by this act. When implementing this section, the Department shall cooperate with the Cooperative Extension Service, the Natural Resource Conservation Service of the United States Department of Agriculture, and the local Soil and Water Conservation Districts. Any of these funds remaining at the end of the 1996-97 fiscal year shall not revert, but shall remain available for use pursuant to this section.

Requested by: Representatives Mitchell, Nichols, Weatherly, Senators Martin of Pitt, Jordan, Kerr

**STATEWIDE TECHNICAL ASSISTANCE FOR ANIMAL WASTE MANAGEMENT PLANS**

Sec. 27.2. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, Division of Soil and Water Conservation, the sum of one million one hundred sixty-seven thousand five hundred dollars (\$1,167,500) for the 1996-97 fiscal year shall be used to provide technical assistance to operators in the process of obtaining approved animal waste management plans for animal operations. When implementing this section, the Department shall cooperate with the Cooperative Extension Service, the Natural Resource Conservation Service of the United States Department of Agriculture, and the local Soil and Water Conservation Districts. Any of these funds remaining at the end of the 1996-97 fiscal year shall not revert, but shall remain available for use pursuant to this section.

Requested by: Representatives Mitchell, Weatherly, Nichols, Senators Martin of Pitt, Jordan, Kerr

**ODOR CONTROL TECHNOLOGY STUDY**

Sec. 27.3. Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act, the sum of six hundred thousand dollars (\$600,000) for the 1996-97 fiscal year shall be transferred to the Board of Governors of The University of North Carolina for the North Carolina Agricultural Research Service at North Carolina State University to conduct research into economically feasible odor control technologies and to provide detailed economic analysis of odor management alternatives; provided these funds are matched with an equal sum from private sources. No later than January 1, 1997, the Board of Governors shall report to the Environmental Review Commission and the Fiscal Research Division on progress under the research, including any findings and recommendations at that time.

Requested by: Senators Martin of Pitt, Plexico, Jordan, Kerr, Representatives Holmes, Creech, Esposito, Mitchell, Weatherly, Nichols

### **WETLANDS RESTORATION PROGRAM/FUNDS**

Sec. 27.4. (a) Article 21 of Chapter 143 of the General Statutes is amended by adding the following new sections to read:

#### **"§ 143-214.8. Wetlands Restoration Program: established.**

The Wetlands Restoration Program is established within the Department of Environment, Health, and Natural Resources. The Wetlands Restoration Program shall be developed by the Department as a nonregulatory statewide wetlands restoration program for the acquisition, maintenance, restoration, enhancement, and creation of wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities. The Wetlands Restoration Program shall consist of the following components:

- (1) Restoration and perpetual maintenance of wetlands.
- (2) Development of restoration plans.
- (3) Landowner contact and land acquisition.
- (4) Evaluation of site plans and engineering studies.
- (5) Oversight of construction and monitoring of restoration sites.
- (6) Land ownership and management.
- (7) Mapping, site identification, and assessment of wetlands functions.
- (8) Oversight of private wetland mitigation banks to facilitate the components of the Wetlands Restoration Program.

#### **"§ 143-214.9. Wetlands Restoration Program: purposes.**

The purposes of the program are as follows:

- (1) To restore wetlands functions and values across the State to replace critical functions lost through historic wetlands conversion and through current and future permitted impacts. It is not the policy of the State to destroy upland habitats unless it would further the purposes of the Wetlands Restoration Program.
- (2) To provide a consistent and simplified approach to address mitigation requirements associated with permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344.
- (3) To streamline the wetlands permitting process, minimize delays in permit decisions, and decrease the burden of permit applicants of planning and performing compensatory mitigation for wetlands losses.
- (4) To increase the ecological effectiveness of compensatory mitigation.
- (5) To achieve a net increase in wetland acres, functions, and values in each major river basin.
- (6) To foster a comprehensive approach to environmental protection.

#### **"§ 143-214.10. Wetlands Restoration Program: development and implementation of basinwide restoration plans.**

Develop Basinwide Restoration Plans. – The Department shall develop basinwide plans for wetlands and riparian area restoration with the goal of protecting and enhancing water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities within each of the 17 major river basins in the State. Beginning July 1, 1997, the Department shall develop and begin implementing a basinwide restoration plan for each of the 17 river basins in the State in accordance with the basinwide schedule currently established by the Division of Water Quality.

**"§ 143-214.11. Wetlands Restoration Program: compensatory mitigation.**

(a) Definition. – For purposes of this section, the term 'compensatory mitigation' means the restoration, creation, enhancement, or preservation of wetlands or other areas required as a condition of a section 404 permit issued by the United States Army Corps of Engineers.

(b) Department of Environment, Health, and Natural Resources to Coordinate Compensatory Mitigation. – All compensatory mitigation required by permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 shall be coordinated by the Department consistent with the basinwide plans for wetlands restoration and rules developed by the Environmental Management Commission. All compensatory wetlands mitigation, whether performed by the Department or by permit applicants, shall be consistent with the basinwide restoration plans.

(c) Mitigation Emphasis on Replacing Ecological Function Within Same River Basin. – The emphasis of mitigation is on replacing functions within the same river basin unless it is demonstrated that restoration of other areas would be more beneficial to the overall purposes of the Wetlands Restoration Program.

(d) Compensatory Mitigation Options Available to Applicant. – An applicant may satisfy compensatory wetlands mitigation requirements by the following actions, if those actions are consistent with the basinwide restoration plans and also meet or exceed the requirements of the United State Army Corps of Engineers:

- (1) Payment of a fee established by the Department into the Wetlands Restoration Fund established in G.S. 143-214.12.
- (2) Donation of land to the Wetlands Restoration Program or to other public or private nonprofit conservation organizations as approved by the Department.
- (3) Participation in a private wetlands mitigation bank.
- (4) Preparing and implementing a wetlands restoration plan.

(e) Payment Schedule. – A standardized schedule of per-acre payment amounts shall be established by the Environmental Management Commission. The monetary payment shall be based on the ecological functions and values of wetlands permitted to be lost and on the cost of restoring or creating wetlands capable of performing the same or similar functions, including directly related costs of wetlands restoration planning, long-term monitoring, and maintenance of restored areas.

(f) Mitigation Banks. – State agencies and private mitigation banking companies shall demonstrate that adequate, dedicated financial surety exists to provide for the perpetual land management and hydrological maintenance of lands acquired by the

State as mitigation banks, or proposed to the State as privately operated and permitted mitigation banks.

**"§ 143-214.12. Wetlands Restoration Program: Wetlands Restoration Fund.**

(a) Wetlands Restoration Fund. – The Wetlands Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Wetlands Restoration Fund shall provide a repository for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for payments made in lieu of compensatory mitigation as described in subsection (b) of this section. No funds shall be expended from this Fund for any purpose other than those directly contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas in accordance with the basinwide plan as described in subsection (a) of this section.

(b) Authorized Methods of Payment. – A person subject to a permit or authorization issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344, may contribute to the Wetlands Restoration Program, to comply with conditions to, or terms of, the permit or authorization, if participation in the Wetlands Restoration Program will meet the mitigation requirements of the United States Army Corps of Engineers. The Department shall, at the discretion of the applicant, accept payment into the Wetlands Restoration Fund in lieu of other compensatory mitigation requirements of any authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 if the contributions will meet the mitigation requirements of the United States Army Corps of Engineers. Payment may be made in the form of monetary contributions according to a fee schedule established by the Environmental Management Commission or in the form of donations of real property provided that the property is approved by the Department as a suitable site consistent with the basinwide wetlands restoration plan.

(c) Accounting of Payments. – The Department shall provide an itemized statement that accounts for each payment into the Fund. The statement shall include the expenses and activities financed by the payment.

**"§ 143-214.13. Wetlands Restoration Program: reporting requirement.**

The Department of Environment, Health, and Natural Resources shall report each year by November 1 to the Environmental Review Commission regarding its progress in implementing the Wetlands Restoration Program and its use of the funds in the Wetlands Restoration Fund. The report shall document statewide wetlands losses and gains and compensatory mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall also provide an accounting of receipts and disbursements of the Wetlands Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a per-acre basis between the State's Wetland Restoration Program and private mitigation banks. The Department shall also send a copy of its report to the Fiscal Research Division of the General Assembly."

(b) G.S. 143B-282(a)(1) is amended by adding the following:

"u. To administer the State's authority under 33 USC § 1341 of the federal Clean Water Act."

(c) The Department of Environment, Health, and Natural Resources is directed to negotiate and enter into a Memorandum of Agreement with the United States Army Corps of Engineers regarding the restoration, creation, enhancement, and preservation of wetlands and the compensatory mitigation required of permit applicants under 33 U.S.C. § 1344. The purpose of the Memorandum of Agreement is to ensure that the State's implementation of the Wetlands Restoration Program with regard to mitigation of wetlands satisfies the United States Army Corps of Engineers and that the standards developed by the State to which the State's and other mitigation banks must adhere is acceptable to the Corps for purposes of section 404 mitigation requirements.

(d) Of the funds appropriated to the Department of Environment, Health, and Natural Resources, the sum of five hundred thousand dollars (\$500,000) in recurring funds for the 1996-97 fiscal year shall be allocated to support eight staff positions and for administrative and other expenses to implement the Wetlands Restoration Program.

(e) The Environmental Review Commission shall study private mitigation banks. In its study the Environmental Review Commission shall compare private mitigation banks with the Wetlands Restoration Program and may also consider any additional issues relevant to those topics. The Environmental Review Commission shall report to the 1997 General Assembly regarding its findings and recommendations.

Requested by: Senators Basnight, Perdue, Odom, Plyler, Martin of Pitt, Jordan, Kerr, Representatives Holmes, Creech, Esposito, Mitchell, Weatherly, Nichols

#### **CLEAN WATER MANAGEMENT TRUST FUND**

Sec. 27.6. (a) Chapter 113 of the General Statutes is amended by adding a new Article to read:

#### "ARTICLE 13A.

#### "Clean Water Management Trust Fund.

#### "§ 113-145.1. Purpose.

The General Assembly recognizes that a critical need exists in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted. The task of cleaning up polluted waters and protecting the State's water resources is multifaceted and requires different approaches that take into account the problems, the type of pollution, the geographical area, and the recognition that the hydrological and ecological values of each resource sought to be upgraded, conserved, and protected are unique.

It is the intent of the General Assembly that moneys from the Fund created under this Article shall be used to help finance projects that specifically address water pollution problems and focus on upgrading surface waters, eliminating pollution, and protecting and conserving unpolluted surface waters, including urban drinking water supplies. It is the further intent of the General Assembly that moneys from the Fund also be used to build a network of riparian buffers and greenways for environmental,



educational, and recreational benefits. While the purpose of this Article is to focus on the cleanup and prevention of pollution of the State's surface waters and the establishment of a network of riparian buffers and greenways, the General Assembly believes that the results of these efforts will also be beneficial to wildlife and marine fisheries habitats.

**"§ 113-145.2. Definitions.**

As used in this Article:

- (1) Council. – The advisory council for the Clean Water Management Trust Fund.
- (2) Economically Distressed Units of Local Government. – Counties designated as economically distressed by the Secretary of Commerce under G.S. 143B-437A and any cities located in those counties.
- (3) Fund. – The Clean Water Management Trust Fund created pursuant to this Article.
- (4) Land. – Real property and any interest in, easement in, or restriction on real property.
- (5) Trustees. – The trustees of the Clean Water Management Trust Fund.

**"§ 113-145.3. Clean Water Management Trust Fund: established.**

(a) Fund Established. – There is established a Clean Water Management Trust Fund in the State Treasurer's Office that shall be used to finance projects to clean up or prevent surface water pollution in accordance with this Article.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. – Moneys from the Fund may be used for any of the following purposes:

- (1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses.
- (2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water supplies.
- (3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.
- (4) To restore previously degraded lands to reestablish their ability to protect water quality.
- (5) To repair failing waste treatment systems if: (i) an application has first been submitted to receive a loan or grant from the Clean Water Revolving Loan and Grant Fund and the application was denied during

the latest review cycle; (ii) the repair is a reasonable remedy for resolving an existing waste treatment problem; and (iii) the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community. Priority shall be given to economically distressed units of local government.

(6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand waste treatment systems if the system is being expanded as a remedy to eliminate failing septic tank systems or illegal drainage connections. Priority shall be given to economically distressed units of local government.

(7) To improve stormwater controls and management practices.

(8) To facilitate planning that targets reductions in surface water pollution.

(9) To fund operating expenses of the Board of Trustees and its staff.

(d) Limit on Operating and Administrative Expenses. – No more than two percent (2%) of the annual balance of the Fund on July 1 or a total sum of eight hundred fifty thousand dollars (\$850,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Board of Trustees and its staff.

**"§ 113-145.4. Clean Water Management Trust Fund: eligibility for grants; matching funds or property requirement.**

(a) Eligible Grant Applicants. – Any of the following are eligible to apply for a grant from the Fund for the purpose of protecting and enhancing water quality:

(1) A State agency.

(2) A local government or other political subdivision of the State or a combination of such entities.

(3) A nonprofit corporation whose primary purpose is the conservation, preservation, and restoration of our State's environmental and natural resources.

(b) Grant Matching Requirement. – The Board of Trustees shall establish matching requirements for grants awarded under this Article. The Board of Trustees may require a match of up to twenty percent (20%) of the amount of the grant awarded. This requirement may be satisfied by the donation of land to a public or private nonprofit conservation organization as approved by the Board of Trustees. The Board of Trustees may also waive the requirement to match a grant pursuant to guidelines adopted by the Board of Trustees.

(c) Grants Not Available to Satisfy Compensatory Mitigation Requirements. – No grant shall be awarded under this article to satisfy compensatory mitigation requirements under 33 USC § 1344 or G.S.143-214.11.

**"§ 113-145.5. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.**

(a) Board of Trustees Established. – There is established the Clean Water Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees shall be independent, but for administrative purposes shall be located under the Department of Environment, Health, and Natural Resources.

(b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall be composed of 18 members. Six members shall be appointed by the Governor, six by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and six by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution.

Persons appointed shall be knowledgeable in one of the following areas:

- (1) Acquisition and management of natural areas.
- (2) Conservation and restoration of water quality.
- (3) Wildlife and fisheries habitats and resources.
- (4) Environmental management.

(c) Initial Appointments. – Each appointing officer shall designate two of the officer's initial appointments to serve two-year terms, two to serve four-year terms, and two to serve six-year terms. Thereafter, all appointments shall be for four years, subject to reappointment. All initial appointments shall be made on or before January 1, 1997. The Governor shall appoint one Trustee to serve as Chair of the Board.

(d) Vacancies. – If a vacancy occurs, other than by the expiration of term, of a member subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled in accordance with G.S. 120-122. All other vacancies shall be filled by the appointing official in the original manner.

(e) Frequency of Meetings. – The Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.

(f) Per Diem and Expenses. – The Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

(g) Meeting Facilities. – The Secretary of the Department of Environment, Health, and Natural Resources shall provide meeting facilities for the Board of Trustees and its staff as requested by the Chair.

**"§ 113-145.6. Clean Water Management Trust Fund Board of Trustees: powers and duties.**

(a) Allocate Grant Funds. – The Trustees shall allocate moneys from the Fund as grants. A grant may be awarded only for a project or activity that satisfies the criteria and furthers the purposes of this Article.

(b) Develop Grant Criteria. – The Trustees shall develop criteria for awarding grants under this Article. The criteria developed shall include consideration of the following:

- (1) The significant enhancement and conservation of water quality in the State.
- (2) The objectives of the basinwide management plans for the State's river basins and watersheds.

- (3) The promotion of regional integrated ecological networks insofar as they affect water quality.
- (4) The specific areas targeted as being environmentally sensitive.
- (5) The geographic distribution of funds as appropriate.
- (6) The preservation of water resources with significant recreational or economic value and uses.
- (7) The development of a network of riparian buffer-greenways bordering and connecting the State's waterways that will serve environmental, educational, and recreational uses.

(c) Develop Additional Guidelines. – The Trustees may develop guidelines in addition to the grant criteria consistent with and as necessary to implement this Article.

(d) Acquisition of Land. – The Trustees may acquire land by purchase, negotiation, gift, or devise. Any acquisition of land by the Trustees must be reviewed and approved by the Council of State and the deed for the land subject to approval of the Attorney General before the acquisition can become effective. In determining whether to acquire land as permitted by this Article, the Trustees shall consider whether the acquisition furthers the purposes of this Article and may also consider recommendations from the Council. Nothing in this section shall allow the Trustees to acquire land under the right of eminent domain.

(e) Exchange of Land. – The Trustees may exchange any land they acquire in carrying out the powers conferred on the Trustees by this Article.

(f) Land Management. – The Trustees may designate managers or managing agencies of the lands acquired under this Article.

(g) Tax Credit Certification. – The Trustees shall develop guidelines to determine whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 are suitable for one of the purposes under this Article and may be certified for a tax credit.

(h) Rule-making Authority.– The Trustees may adopt rules to implement this Article. Chapter 150B of the General Statutes applies to the adoption of rules by the Trustees.

**"§ 113-145.7. Clean Water Management Trust Fund: Executive Director and staff.**

The Clean Water Management Trust Fund Board of Trustees, as soon as practicable after its organization, shall select and appoint a competent person in accordance with this section as Executive Director of the Clean Water Management Trust Fund Board of Trustees. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Trustees and shall serve as the chief administrative officer of the Trustees. Subject to the approval of the Trustees and the Director of the Budget, the Executive Director may employ such clerical and other assistants as may be deemed necessary.

The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources. The salary of the Executive Director shall be fixed by the Trustees, and the Executive Director shall be allowed travel and subsistence expenses in accordance with G.S. 138-6. The Executive

Director's salary and expenses shall be paid from the Fund. The term of office of the Executive Director shall be at the pleasure of the Trustees.

**"§ 113-145.8. Clean Water Management Trust Fund: Advisory Council.**

There is established the Clean Water Management Trust Fund Advisory Council. The Council shall advise the Trustees with regard to allocations made from the Fund, and other issues as requested by the Trustees. The Council shall be composed of the following or its designees:

- (1) Commissioner of Agriculture.
  - (2) Chair of the Wildlife Resources Commission.
  - (3) Secretary of the Department of Environment, Health, and Natural Resources.
  - (4) Secretary of the Department of Commerce."
- (b) Article 1 of Chapter 143 of the General Statutes is amended by adding

a new section to read:

**"§ 143-15.3B. The Clean Water Management Trust Fund.**

(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. The State Controller shall reserve to the Clean Water Management Trust Fund six and one-half percent (6.5%) of any unreserved credit balance remaining in 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 State Controller to the Savings Reserve Account, the Repairs and Renovations Reserve Account, or the Clean Water Management Trust Fund pursuant to this section, G.S. 143-15.3, and G.S. 143-15.3A.

(b) The funds in the Clean Water Management Trust Fund shall be used only in accordance with Article 13A of Chapter 113 of the General Statutes."

(c) The Chair of the Board of Trustees of the Clean Water Management Trust Fund shall report to the Environmental Review Commission beginning November 1, 1996, and annually thereafter on implementation of this section. A written copy of the report shall also be sent to the Fiscal Research Division of the General Assembly beginning November 1, 1996, and annually thereafter on implementation of this section.

(d) For the 1996-97 fiscal year only, of the funds reserved under G.S. 143-15.3B to the Clean Water Management Trust Fund, the State Controller shall transfer the sum of nine million two hundred thousand dollars (\$9,200,000) to the Wetlands Restoration Fund to be used to implement the Wetlands Restoration Program. The 1997 General Assembly shall review and consider further funding needs of the Wetlands Restoration Program and the Wetlands Restoration Fund for the 1997-98 fiscal year and subsequent years.

(e) This section becomes effective June 30, 1996.

Requested by: Representatives Mitchell, Weatherly, Nichols, Senators Martin of Pitt, Jordan, Kerr

**STUDY GROUNDWATER IMPACTS OF LAGOONS**

Sec. 27.7. Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act, the sum of three hundred seventy-five

thousand dollars (\$375,000) for the 1996-97 fiscal year shall be transferred to the Board of Governors of The University of North Carolina to be used by the North Carolina Agricultural Research Service at North Carolina State University to design and implement a scientifically based study for the purpose of determining the extent to which animal waste lagoons pose a threat, if any, to the groundwater of the State. Lagoons that are representative of soil types and hydrologic conditions in North Carolina shall be selected for this study. No later than January 1, 1997, the Board of Governors of The University of North Carolina shall report to the Environmental Review Commission and the Fiscal Research Division on progress under the research, including any findings and recommendations at that time.

Requested by: Representatives Mitchell, Weatherly, Nichols, Senators Martin of Pitt, Jordan, Kerr

#### **LOWER NEUSE RIVER BASIN ASSOCIATION FUNDS**

Sec. 27.8. (a) Of the funds appropriated by this act to the Lower Neuse River Basin Association for the 1996-97 fiscal year, the sum of two million dollars (\$2,000,000) shall be allocated as grants to local government units in the Neuse River Basin to assist those local government units in fulfilling their obligations under the Neuse River Nutrient Sensitive Waters Management Strategy plan adopted by the Environmental Management Commission. The funds are contingent upon the adoption of the plan by the Environmental Management Commission. If the Environmental Management Commission fails to adopt the plan by June 30, 1997, then the funds shall revert to the General Fund.

(b) The Lower Neuse River Basin Association shall report by October 15, 1996, and quarterly thereafter to the Environmental Review Commission regarding the grants awarded and the effectiveness of the projects funded by those grants in reducing the pollution in the Neuse River Basin. The Lower Neuse River Basin Association shall also send a written copy of its report to the Fiscal Research Division of the General Assembly.

Requested by: Representatives Mitchell, Weatherly, Nichols, Senators Martin of Pitt, Jordan, Kerr

#### **STUDY OF ATMOSPHERIC DEPOSITION OF NITROGEN IN NEUSE ESTUARY**

Sec. 27.9. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act, the sum of four hundred fifty thousand dollars (\$450,000) for the 1996-97 fiscal year shall be transferred to the Board of Governors of The University of North Carolina for the North Carolina Agricultural Research Service at North Carolina State University to be used to contract with a research institution to research and perform computer modelling to identify the amount of atmospheric nitrogen reaching the Neuse estuary, to enable the development of strategies to reduce the most significant sources of nitrogen, and to improve water quality. If the expertise required for this research is available at a research institution in the State, the Board of Governors shall contract with a research institution in the State. No later than January

1, 1997, the Board of Governors shall report to the Environmental Review Commission and the Fiscal Research Division on progress under the research, including any findings and recommendations at that time.

(b) The Board of Governors of The University of North Carolina and the research institution with which it enters a contract shall collaborate and work cooperatively with the Department of Environment, Health, and Natural Resources in implementing subsection (a) of this section.

(c) Funds not expended or encumbered under subsection (a) of this section shall revert at the end of the 1997-98 fiscal year.

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

**TRANSFER THE GEODETIC SURVEY SECTION TO THE OFFICE OF STATE PLANNING**

Sec. 27.9A. The 22 positions, support, and equipment in the Geodetic Survey Section of the Division of Land Resources, Department of Environment, Health, and Natural Resources, shall be moved to the Office of State Planning in the Office of the Governor.

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

**HAZARDOUS WASTE REPORTS**

Sec. 27.10. Beginning in 1997, the Department of Environment, Health, and Natural Resources shall report on the generation, storage, treatment, and disposal of hazardous waste in North Carolina no more often than it is required to report under federal law or federal regulation.

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

**DRINKING WATER WAIVER PROGRAM**

Sec. 27.11. The Department of Environment, Health, and Natural Resources, Division of Environmental Health, shall establish a drinking water waiver program that will enable the Division to seek and qualify for additional waivers from the drinking water regulations of the United States Environmental Protection Agency. The program shall include, but not be limited to, the collection and study of data on the State's drinking water testing program to determine which contaminants do not present a significant health risk and which water systems are not susceptible to particular contaminants. The Division shall report its progress in establishing and implementing the drinking water waiver program not later than December 15, 1996, to the Fiscal Research Division, the Environmental Review Commission, and the Legislative Research Commission Study Committee on Water Issues.

Requested by: Representatives Mitchell, Weatherly, Tolson, Nichols, H. Hunter, Senators Martin of Pitt, Kerr, Jordan

**STUDY ENVIRONMENTAL IMPACTS OF ABANDONED LAGOONS/ANIMAL FACILITIES**

Sec. 27.12. Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act, the sum of twenty-five thousand dollars (\$25,000) for the 1996-97 fiscal year shall be placed in a reserve in the Department for the General Assembly for a legislative study commission to study the environmental impacts of animal waste lagoons and animal facilities that have been closed or abandoned or are inactive in order to determine the extent and scope of the problems, if any, associated with these structures, to identify potential solutions for any existing problems, to identify scientifically and environmentally effective methods of closure for these structures in the future, and to determine the advisability of providing incentives for the proper management of abandoned animal waste lagoons and abandoned animal facilities. No later than January 1, 1997, this study commission shall report to the 1997 General Assembly, the Environmental Review Commission, and the Fiscal Research Division on its findings, recommendations, and any legislative proposals.

Requested by: Representatives Mitchell, Weatherly, Nichols, Senators Martin of Pitt, Jordan, Kerr

**RESERVE FOR PERMITTING AND INSPECTING ANIMAL WASTE MANAGEMENT SYSTEMS**

Sec. 27.13. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of one million five hundred fifty thousand seven hundred sixty-six dollars (\$1,550,766) shall be placed in a reserve to be used to establish and support positions to conduct permitting, inspection, and enforcement activities for animal waste management systems. These funds shall be used as follows:

- (1) \$704,473 in recurring funds shall be used to establish and support 14 positions in the Division of Soil and Water Conservation; and
- (2) \$846,293 in recurring funds shall be used to establish and support 18 positions in the Division of Water Quality.

When implementing this section, the Department shall cooperate with the Cooperative Extension Service, the Natural Resources Conservation Service of the United States Department of Agriculture, and the local Soil and Water Conservation Districts.

(b) No later than October 15, 1996, and quarterly thereafter, the Department of Environment, Health, and Natural Resources shall submit status reports to the Environmental Review Commission and the Fiscal Research Division. Each report shall include, but not be limited to:

- (1) The number of permits for animal waste management systems, itemized by type of animal subject to such permits, issued since the last report and a total for that calendar year.
- (2) The number of operations reviews of animal waste management systems that the Division of Soil and Water Conservation has conducted since the last report and a total for that calendar year.
- (3) The number of reinspections associated with operations reviews conducted by the Division of Soil and Water Conservation since the last report and a total for that calendar year.



- (4) The number of compliance inspections of animal waste management systems that the Division of Water Quality has conducted since the last report and a total for that calendar year.
- (5) The number of follow-up inspections associated with compliance inspections conducted by the Division of Water Quality since the last report and a total for that calendar year.
- (6) The average length of time for each category of reviews and inspections under subdivisions (2) through (4) of this subsection.
- (7) The number of violations found during each category of review and inspection under subdivisions (2) through (4) of this subsection, the status of enforcement actions taken and pending, and the penalties imposed, collected, and in the process of being negotiated for each such violation.

(c) The information to be included in the reports pursuant to subsection (b) of this section shall be itemized by each regional office of the Department, with totals for the State indicated.

(d) Fees collected pursuant to G.S. 143-215.10G shall not be used by the department to cover the cost of this program, but shall be credited to the General Fund as nontax revenue.

Requested by: Representatives Mitchell, Weatherly, H. Hunter, Senator Martin of Pitt  
**HEALTHY START FOUNDATION FUNDS**

Sec. 27.14. Section 26.4 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 26.4. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of ~~two hundred six hundred fifty thousand dollars (\$200,000) (\$650,000)~~ for the ~~1995-96-1996-97~~ fiscal year shall be allocated to the North Carolina Healthy Start Foundation to support the programs and activities of the Governor's Commission on Reduction of Infant Mortality Foundation. Funds allocated pursuant to this section shall be expended first to support statewide planning, promotion, and coordination for the First Step Campaign. Funds remaining after allocation for First Step shall be used to support other programs and ~~activities~~ activities aimed at reducing infant mortality. The Healthy Start Foundation shall report on all of its programs to the Joint Legislative Commission on Governmental Operations on or before March 1, ~~1996-1997~~. The report shall include information on the Foundation's activities and accomplishments during the past fiscal year, a list of the groups, organizations, communities, and other recipients of assistance from the Foundation 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, Culpepper, Senators Martin of Pitt, Jordan, Kerr  
**BEAVER DAMAGE CONTROL FUNDS**

Sec. 27.15. (a) Subsection (b) of Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws, Section 27.3 of Chapter 769 of the 1993 Session Laws, and Section 26.6 of Chapter 507 of the 1995 Session Laws, reads as rewritten:

"(b) The Beaver Damage Control Advisory Board shall develop a ~~pilot~~ program to control beaver damage on private and public lands. Anson, Bladen, Brunswick, Carteret, Chatham, Chowan, Craven, Columbus, Cumberland, Duplin, Edgecombe, Franklin, Granville, Greene, Halifax, Harnett, Hertford, Johnston, Jones, Lee, Lenoir, Lincoln, Martin, Nash, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Scotland, Vance, Warren, Washington, Wayne, and Wilson Counties shall participate in the ~~pilot~~ program. The Beaver Damage Control Advisory Board shall act in an advisory capacity to the Wildlife Resources Commission in the implementation of the program. In developing the program, the Board shall:

- (1) Orient the program primarily toward public health and safety and toward landowner assistance, providing some relief to landowners through beaver control and management rather than eradication;
- (2) Develop a priority system for responding to complaints about beaver damage;
- (3) Develop a system for documenting all activities associated with beaver damage control, so as to facilitate evaluation of the program;
- (4) Provide educational activities as a part of the program, such as printed materials, on-site instructions, and local workshops;
- (5) Provide for the hiring of personnel necessary to implement beaver damage control activities, administer the ~~pilot~~ program, and set salaries of personnel;
- (6) Evaluate the costs and benefits of the program that might be applicable elsewhere in North Carolina.

No later than ~~September 30, 1994 and again upon the conclusion of the pilot program on June 30, 1996, January 15, 1997,~~ the Board shall issue a report to the Wildlife Resources Commission on the program to date, including recommendations on the feasibility of continuing the program in participating counties and the desirability of expanding the program into other counties. The Wildlife Resources Commission shall prepare a plan to implement a statewide program to control beaver damage on private and public lands. No later than ~~January 1, 1995, March 15, 1997,~~ the Wildlife Resources Commission shall present its plan in a report to the House Appropriations Subcommittee on Natural and Economic ~~Resources and Resources,~~ the Senate Appropriations Committee on Natural and Economic ~~Resources. Resources,~~ and the Fiscal Research Division."

(b) Subsection (c) of Section 69 of Chapter 1044 of the 1991 Session Laws reads as rewritten:

"(c) The Wildlife Resources Commission shall implement the ~~pilot~~ program, and may enter a cooperative agreement with the Animal Damage Control Division of the Animal and Plant Health Inspection Service, United States Department of Agriculture, to accomplish the ~~pilot~~ program."

(c) Subsection (h) of Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws, Section 27.3 of Chapter 769 of the 1993 Session Laws, and Section 26.6 of Chapter 507 of the 1995 Session Laws, reads as rewritten:

"(h) Subsections (a) through (d) of this section expire June 30, ~~1996-1997~~."

(d) Subsection (d) of Section 26.6 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"(d) Of the funds appropriated from the General Fund to the Wildlife Resources Commission for the 1995-96 fiscal year, ~~year~~ and the 1996-97 fiscal year, there is allocated the sum of three hundred seventy-two thousand six hundred ninety dollars (\$372,690) for the 1995-96 fiscal year and the sum of four hundred fifty thousand dollars (\$450,000) for the 1996-97 fiscal year to provide the State share necessary to continue the beaver damage control ~~pilot~~ program established by Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws and Section 27.3 of the 1993 Session Laws, in Anson, Bladen, Brunswick, Carteret, Chatham, Chowan, Craven, Columbus, Cumberland, Duplin, Edgecombe, Franklin, Granville, Greene, Halifax, Harnett, Hertford, Johnston, Jones, Lee, Lenoir, Lincoln, Martin, Nash, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Scotland, Vance, Warren, Washington, Wayne, and Wilson Counties, provided the sum of twenty-five thousand dollars (\$25,000) in federal funds is available in each fiscal year to provide the federal share. These funds shall be matched by four thousand dollars (\$4,000) of local funds in each fiscal year from each of the ~~27~~ participating counties. Counties participating in this program shall make a commitment of their local matching funds to the Wildlife Resources Commission no later than September 30 of that fiscal year."

Requested by: Representatives Mitchell, Weatherly, Senator Martin of Pitt  
**1995-96 BEAVER DAMAGE CONTROL FUNDS REVERT**

Sec. 27.16. (a) The sum of one hundred fifty thousand dollars (\$150,000) that was appropriated to the Wildlife Resources Commission for the 1995-96 fiscal year to provide the State share for beaver damage control pursuant to Section 27.3 of Chapter 769 of the 1993 Session Laws and that was designated as recurring funds shall revert to the General Fund on June 30, 1996.

(b) This section is effective June 30, 1996.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

**PILOT PRIVATIZATION PROJECT FOR CONSTRUCTION OF FORESTRY BUILDINGS**

Sec. 27.18. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of one hundred fifty thousand dollars (\$150,000) for the 1996-97 fiscal year shall be placed in a reserve within the Department, and the Department shall, as part of a pilot project, enter into a contract with a county to construct a forestry headquarters building in that county. The contract

shall provide: that the county may contract with a private for-profit or nonprofit firm for the construction of a building at least 2,300 square feet in size to consist of, at a minimum, a storage unit and an office area and to include a surfaced driveway and parking area and utility services; that the county shall submit the design plans and specifications to the Department of Insurance, the Office of State Construction, and the Secretary of Environment, Health, and Natural Resources for review and approval; that the State shall not lease any State-owned land to the county for the building prior to the Department of Insurance, the Office of State Construction, and the Secretary of Environment, Health, and Natural Resources approving the design plans and specifications; that the Department of Insurance, the Office of State Construction, and the Secretary of Environment, Health, and Natural Resources shall inspect and review the project during construction and at the completion of construction to ensure that the building is suitable for its intended use and to determine whether the building is suitable for acquisition by the State; that the Department shall not reimburse the county from the reserve until the Department of Insurance, the Office of State Construction, and the Secretary of Environment, Health, and Natural Resources determine that the building is suitable for acquisition by the State; that the State shall lease to the county any land the State owns that is needed for siting the building and its appurtenances, and, prior to the Department reimbursing the county from the reserve, the county shall transfer to the State for no additional consideration such property, the building, and its appurtenances; and that, prior to the Department reimbursing the county from the reserve, the county shall transfer to the State for no additional consideration any land the county owns that is needed for siting the building and its appurtenances, the building, and its appurtenances. It is the intent of the General Assembly that the General Assembly shall not appropriate additional funds for this pilot project and that the county in which the forestry headquarters building is to be located shall be responsible for all costs in excess of one hundred fifty thousand dollars (\$150,000), including those costs related to the county purchasing any new land necessary for siting the building and its appurtenances and those costs related to constructing and equipping this building and its appurtenances. No later than December 15, 1996, and again no later than April 15, 1997, the Department shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the progress of this pilot project and shall include in both reports the Department's findings and recommendations on the desirability and feasibility of expanding this project to the construction of forestry buildings in other counties.

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

**FOREST RESOURCES NURSERY PROGRAM FUNDS**

Sec. 27.18. The Division of Forest Resources, Department of Environment, Health, and Natural Resources, may retain and use any funds derived from the taking of nursery acreage at Claridge State Forest Nursery near Goldsboro in Wayne County due to the construction of the Highway 70 Bypass. These funds shall remain in a nonreverting fund in the Department to be used to cover the cost associated with relocating nursery fields and seed orchards.

Requested by: Representatives Mitchell, Weatherly, Reynolds, Allred, Sexton, Baker, Senators Martin of Pitt, Jordan, Kerr

## **MULTI-COUNTY WATER CONSERVATION AND INFRASTRUCTURE DISTRICT**

Sec. 24.22. (a) G.S. 158-15.1 reads as rewritten:

### **"§ 158-15.1. Multi-County Water Conservation and Infrastructure District.**

(a) There is established the Multi-County Water Conservation and Infrastructure District, which is a public authority for the purpose of the Local Government Budget and Fiscal Control Act.

(b) The member counties of the Multi-County Water Conservation and Infrastructure District are Bertie, Caswell, Forsyth, Granville, Guilford, Halifax, Martin, Northampton, Person, Rockingham, Stokes, Surry, Vance-Vance, and Warren, and Washington.

(c) The governing body of the Multi-County Water Conservation and Infrastructure District is the Multi-County Water ~~Commission, which has eight members.~~ Commission. One member of this Commission shall be appointed for a three-year term by the board of commissioners of each member county for a three-year term.

(d) All monies received by the State of North Carolina for sale of water under the Roanoke River Basin Compact, if enacted, shall be paid to the Multi-County Water Conservation and Infrastructure District.

(e) The District may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any political subdivision of this State or any other state, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. The nature, amount and condition, if any, attendant upon any donation or grant accepted pursuant to this subsection together with the identity of the donor or grantor, shall be detailed in the annual audit of the District.

(f) At times specified by the Multi-County Water Commission, net revenues after operating expenses of the District shall be paid only to the member counties Bertie, Granville, Halifax, Martin, Northampton, Person, Vance, and Warren Counties according to the following formula: (i) one-half pro-rata based on population of each member county; and (ii) one-half pro-rata based on land area of each county. The remaining member counties shall receive none of the net revenues received pursuant to subsection (d) of this section.

(g) Member counties may use funds received under this section for public purposes relating to infrastructure development, economic development, and water conservation.

(h) The Commission may adopt such rules as may be needful for operation of its affairs, and shall employ and terminate personnel as if it were a county."

(b) Notwithstanding G.S. 158-15.1 as amended by subsection (a) of this section, of the funds appropriated to the Department of Environment, Health, and

Natural Resources in Section 26.12 of Chapter 507 of the 1995 Session Laws for the 1996-97 fiscal year for the member counties of the Multi-County Water Conservation and Infrastructure District, the sum of five hundred thousand dollars (\$500,000) shall be allocated among Bertie, Granville, Halifax, Martin, Northampton, Person, Vance, and Warren Counties based on the following formula: (i) one-half pro-rata based on population of each member county; and (ii) one-half pro-rata based on land area of each county.

(c) Notwithstanding G.S. 158-15.1 as amended by subsection (a) of this section, of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources for the 1996-97 fiscal year for the member counties of the Multi-County Water Conservation and Infrastructure District, the sum of one million dollars (\$1,000,000) shall be allocated among Caswell, Forsyth, Guilford, Rockingham, Stokes, Surry, and Washington Counties based on the percentage of each member county's land area within that part of the Roanoke River Basin that is located in North Carolina.

Requested by: Senators Perdue, Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

#### **MARINE FISHERIES DOCK MAY BE USED BY OTHER AGENCIES**

Sec. 27.21. The Division of Marine Fisheries' Morehead City Dock Facility shall be available for use by the University of North Carolina Institute of Marine Sciences, the North Carolina Sea Grant College Program, and Carteret Community College for their programs and activities.

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

#### **ACCOUNTABILITY FOR CERTAIN STATE AGRICULTURE COST SHARE FUNDING**

Sec. 27.22. (a) G.S. 143-215.74(b) reads as rewritten:

- "(b) The program shall be subject to the following requirements and limitations:
- (1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the water courses of the State.
  - (2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.
  - (3) ~~Priority~~—Subject to subdivision (7) of this subsection, priority designations for inclusions in the program shall be under the authority of the Soil and Water Conservation Commission and the Commission. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds.
  - (4) Areas shall be included in the program as the funds are appropriated and the technical assistance becomes available from the local Soil and Water Conservation District.
  - (5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sediment control structures, sod-based rotations, grassed waterways,

strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, closure of lagoons, emergency spillways, riparian buffers or equivalent controls, odor control best management practices, insect control best management practices, and animal waste management systems and application. Funding for animal waste management shall be allocated for practices in river basins such that the funds will have the greatest impact in improving water quality.

- (6) State funding shall be limited to seventy-five percent (75%) of the average cost for each practice with the assisted farmer providing twenty-five percent (25%) of the cost (which may include in-kind support) with a maximum of seventy-five thousand dollars (\$75,000) per year to each applicant.
- (7) Priority designation for inclusion in the program for State funding shall be given to projects that improve water quality. To be eligible for cost share funds under this subdivision, a project shall be evaluated before funding is awarded and after the project is completed to determine the impact on water quality."

(b) G.S. 143-215.74 is amended by adding a new subsection to read:

"(e) The Soil and Water Conservation Commission shall report no later than January 31, 1997, and annually thereafter to the Environmental Review Commission and the Fiscal Research Division. This report shall include a list of projects that received State funding pursuant to the program, the results of the evaluations conducted pursuant to subdivision (7) of subsection (b) of this section, findings regarding the effectiveness of each of these projects to accomplish its primary purpose, and any recommendations to assure that State funding is used in the most cost-effective manner and accomplishes the greatest improvement in water quality."

(c) The Division of Soil and Water Conservation, Department of Environment, Health, and Natural Resources, shall report to the Environmental Review Commission no later than January 1, 1997, regarding the desirability of requiring each applicant for State funding under the Agriculture Cost Share Program for Nonpoint Source Pollution Control under Part 9 of Article 21 of Chapter 143 of the General Statutes to submit a nutrient management plan.

(d) This section applies to contracts entered into on or after ratification of this act.

Requested by: Representatives Holmes, Creech, Esposito, Senator Martin of Pitt

### **PROHIBIT TRANSFER OF POSITIONS FROM SOIL AND WATER CONSERVATION TO WATER QUALITY**

Sec. 27.23. The Department of Environment, Health, and Natural Resources shall not transfer any positions established in this act for the Division of Soil and Water Conservation to the Division of Water Quality.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

**ADOPT-A-BEACH**

Sec. 27.24. (a) Chapter 143 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 69.

"Adopt-A-Beach Program.

**"§ 143-660. Definitions.**

The following definitions apply in this Article:

- (1) Department. – The Department of Environment, Health, and Natural Resources.
- (2) Program. – Adopt-A-Beach Program established by this Article.
- (3) Trash. – Debris not natural to the coastal environment such as plastic bags, aluminum, glass, and paper products. The term does not include indigenous materials such as driftwood and seaweed.

**"§ 143-661. Adopt-A-Beach Program; established; purposes.**

The Adopt-A-Beach Program is established within the Department of Environment, Health, and Natural Resources. The purpose of the Program is twofold: (i) to educate citizens and make them more aware of the need to keep the State's coastline clean and free of trash, and (ii) to generate data on the volume and contents of beach pollution.

**"§ 143-662. Adopt-A-Beach Program; pilot program; expansion of program reporting requirement.**

(a) Initially, the Department shall select five improved ocean accesses and two sound-side accesses to be cleaned up and maintained on a monthly basis. Each access shall be assigned by the Department to an organization or business applying to the Department to participate in the Program. Participants in the Program shall be recognized at their selected access by the placement of an 8"x10"sign bearing the Adopt-A-Beach Program name, sponsor, and participant. The Program shall be expanded to accommodate increased participation as appropriate.

(b) The Department shall report to the Environmental Review Commission by March 15, 1997, and annually thereafter regarding its progress in implementing the Program.

**"§ 143-663. Rule-making authority.**

The Department may adopt rules to implement this Article."

(b) Of the funds appropriated by this act for the 1996-97 fiscal year to the Department of Environment, Health, and Natural Resources, the sum of thirty thousand dollars (\$30,000) shall be allocated to implement this section.

Requested by: Representatives Holmes, Creech, Esposito, Senators Martin of Pitt, Jordan, Kerr

**WATER RESOURCES DEVELOPMENT PROJECTS FUNDS**

Sec. 27.26. (a) Of the funds designated in Section 7.11 of this act to the Department of Environment, Health, and Natural Resources for the 1996-97 fiscal year



for capital projects, the sum of eight million seven hundred five thousand dollars (\$8,705,000) shall be used for water resources development projects. The Department shall allocate funds for the following projects whose estimated costs are as indicated:

(1)	Jordan Lake Water Supply Repayment	\$130,000
(2)	Wilmington Harbor Maintenance Dredging	575,000
(3)	Morehead City Harbor Maintenance Dredging	50,000
(4)	Wanchese Channel Maintenance Dredging	100,000
(5)	Aquatic Plant Control (statewide, including Lake Gaston)	200,000
(6)	Wilmington Harbor Anchorage Basin Widener	400,000
(7)	Cape Fear - Northeast Cape Fear Deepening	530,000
(8)	North & Manteo Channel Maintenance Dredging	400,000
(9)	State - Local Projects	380,000
(10)	New Hanover County Spoil Disposal	125,000
(11)	Beaufort Harbor	80,000
(12)	Rollinson Channel Maintenance, Dare County	400,000
(13)	Far Creek Channel Maintenance, Hyde County	280,000
(14)	Currituck Sound Flow Study	100,000
(15)	Emergency Flood Control Projects (Section 14)	75,000
(16)	Corps of Engineers Feasibility Studies	100,000
(17)	Planning Assistance to Communities	75,000
(18)	Walter Slough Dredging	500,000
(19)	Whittaker Creek Canal Dredging	425,000
(20)	Carolina Beach South (Kure Beach) Beach Protection	3,580,000
(21)	Dare County Beaches Feasibility Study	<u>200,000</u>
	TOTAL	\$8,705,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1996-97 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) Corps of Engineers project feasibility studies.
- (2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1996-97.
- (3) State-local Water Resources Development Projects.  
Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1997-98 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research

Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

### **STRAIGHT PIPE ELIMINATION AMNESTY PROGRAM**

Sec. 27.26. (a) The Department of Environment, Health, and Natural Resources shall establish a program for the elimination of domestic sewage or wastewater discharges, both direct (straight pipes) and from overland flow of failing septic systems. The initial focus of the program shall include three components: (i) the identification and elimination of domestic sewage discharges into streams proposed to be used or currently used for public water supplies, (ii) an amnesty period to end December 31, 1997, during which violations of State rules and laws regarding domestic sewage and wastewater discharges identified as a result of this program may be reported and addressed without incurring legal consequences, and (iii) a public education effort regarding the program and the amnesty period.

(b) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of one hundred seventeen thousand five hundred dollars (\$117,500) in recurring funds and the sum of twelve thousand five hundred dollars (\$12,500) in nonrecurring funds shall be allocated for two staff positions with the responsibility for carrying out the program developed by the Department of Environment, Health, and Natural Resources pursuant to this section and for other operating costs of implementing this section.

(c) The Department of Environment, Health, and Natural Resources shall report to the Environmental Review Commission and the Fiscal Research Division beginning October 15, 1996, and quarterly thereafter, regarding the implementation of this program.

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

### **ABOVEGROUND STORAGE TANKS INSPECTION AND MONITORING**

Sec. 27.30. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act for the 1996-97 fiscal year, the sum of two hundred thousand dollars (\$200,000) shall be used to continue to conduct periodic inspections at major oil terminal facilities, as defined in G.S. 143-215.77, in

Mecklenburg County and the equipment at these facilities to determine whether oil or any other hazardous substance is being discharged into the environment and, at the facility and in the area surrounding the facility, to monitor the quality of the air, water, and soil and analyze air, water, and soil samples to determine the presence of toxic emissions, water quality degradation, or soil contamination.

(b) Beginning October 1, 1996, and quarterly thereafter, the Department of Environment, Health, and Natural Resources shall submit a report of its inspection and monitoring activities pursuant to subsection (a) of this section to the Environmental Review Commission.

Requested by: Senators Martin of Pitt, Jordan, Kerr; Representatives Mitchell, Weatherly, Redwine

### **WASTEWATER SYSTEM IMPROVEMENT PERMITS**

Sec. 27.31. (a) G.S. 130A-334(7b) reads as rewritten:

"(7b) 'Plat' means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of the proposed facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters. 'Plat' also means, for subdivision lots approved by the local planning authority and recorded with the county register of deeds, a copy of the recorded subdivision plat that is accompanied by a site plan that is drawn to scale."

(b) G.S. 130A-334(13a) reads as rewritten:

"(13a) 'Site plan' means a drawing not necessarily drawn to scale that shows the existing and proposed property lines with dimensions, the location of the facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters."

(c) G.S. 130A-335(f) reads as rewritten:

"(f) The rules of the Commission and the rules of the local board of health shall classify systems of wastewater collection, treatment and disposal according to size, type of treatment and any other appropriate factors. The rules shall provide construction requirements, including pretreatment and system control requirements, standards for operation, maintenance, monitoring, reporting, and ownership requirements for each classification of systems of wastewater collection, treatment and disposal in order to prevent, as far as reasonably possible, any contamination of the land, groundwater and surface waters. The Department and local health departments may impose conditions on the issuance of permits and may revoke the permits for failure of the system to satisfy the conditions, the rules or this Article. Permits other than improvement permits shall be valid for a period prescribed by rule. Improvement permits shall be valid upon a showing satisfactory to the Department or the local health department that the site and soil conditions are unaltered, that the facility, design wastewater flow, and wastewater characteristics are not increased, and that a wastewater system can be installed that meets the permitting requirements in effect on the date the improvement permit was issued. Improvement permits for which a plat is provided shall be valid without

expiration. Improvement permits for which a site plan is provided shall be valid for five years. ~~A statement~~ The period of time for which the permit is valid and a statement that the permit is subject to revocation if the site plan or plat, whichever is applicable, or the intended use changes shall be displayed prominently on both the application form for the permit and the permit that states that the permit is subject to revocation if site plans or the intended use change permit."

(d) G.S. 130A-336(a) reads as rewritten:

"(a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system shall be evaluated by the local health department in accordance with rules adopted pursuant to this Article. An improvement permit shall be issued in compliance with the rules adopted pursuant to this Article. An improvement permit shall include:

- (1) For permits that are valid without expiration, a plat or, for permits that are valid for five years, a site plan.
- (2) A description of the facility the proposed site is to serve.
- (3) The proposed wastewater system, system and its location.
- (4) The conditions for any site modifications.
- (5) Any other information required by the rules of the Commission.

The improvement permit shall not be affected by change in ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person owning the facility. No person shall commence or assist in the construction, location, or relocation of a residence, place of business, or place of public assembly in an area not served by an approved wastewater system unless an improvement permit and an authorization for wastewater system construction are obtained from the local health department. This requirement shall not apply to a manufactured residence exhibited for sale or stored for later sale and intended to be located at another site after sale."

(e) G.S. 130A-336(b) reads as rewritten:

"(b) The local health department shall issue an authorization for wastewater system construction authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. This authorization for wastewater system construction shall be valid for a period of five years equal to the period of validity of the improvement permit, not to exceed five years, and may be issued at the same time the improvement permit is issued. No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and an authorization for wastewater system construction have been obtained from the Department or the local health department. No improvement permit or authorization for wastewater system construction shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and an authorization for wastewater system construction."

(f) G.S. 130A-336 is amended by adding a new subsection to read:

"(d) If a local health department repeatedly fails to issue or deny improvement permits for conventional septic tank systems within 60 days of receiving completed applications for the permits, then the Department of Environment, Health, and Natural Resources may withhold public health funding from that local health department."

(g) This section becomes effective upon the ratification date of this act and applies to all applications for permits filed on or after that date.

Requested by: Senators Martin of Pitt, Jordan, Kerr; Representatives Mitchell, Weatherly

### **ENVIRONMENTAL REPORTS**

Sec. 27.32. (a) The Department of Environment, Health, and Natural Resources shall report to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, and the Fiscal Research Division on January 1, 1997, and July 1, 1997, on:

- (1) Actions taken to reorganize the Department to make the Department operate more efficiently and effectively.
- (2) Actions taken by the Environmental Management Commission, the Coastal Resources Commission, and the Marine Fisheries Commission to enhance communication, and to develop a strategic plan to coordinate and consolidate activities.
- (3) Progress made to implement initiatives to protect and restore impaired water quality in the Neuse River Basin and in nutrient sensitive waters including a report on implementation of the animal waste management system permits.

(b) The Primary Investigator or Researcher receiving funding from the State shall report to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, and the Fiscal Research Division on January 1, 1997, and July 1, 1997, on preliminary and final results of research projects and studies on:

- (1) Odor control technology;
- (2) Sources of nitrogen through isotope markers;
- (3) Groundwater impacts of lagoons;
- (4) Atmospheric deposition of nitrogen in the Neuse Estuary; and
- (5) Alternative animal waste technologies.

Requested by: Senators Perdue, Martin of Pitt, Jordan, Kerr; Representatives Mitchell, Weatherly

### **CORE SOUND/DESCRIPTION OF AREA A FOR SHELLFISH LEASE MORATORIUM.**

Sec. 27.33. Section 3 of Chapter 547 of the 1995 Session Laws (1996 Regular Session) as amended by Section 1 of Chapter 633 of the 1995 Session Laws (1996 Regular Session) reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire July 1, 1997."

Requested by: Senators Martin of Pitt, Jordan, Kerr, Representatives Mitchell, Weatherly

#### **ENVIRONMENTAL TECHNICAL CORRECTIONS**

Sec. 27.34. (a) G.S. 143-215.10A, as enacted by Chapter 626 of the 1995 Session Laws (1996 Reg. Sess.), reads as rewritten:

**"§ 143-215.10A. Legislative findings and intent.**

The General Assembly finds that animal operations provide significant economic and other benefits to this State. The growth of animal operations in recent years has increased the importance of good animal waste management practices to protect water quality. It is critical that the State balance growth with prudent environmental safeguards. It is the intention of the State to promote a cooperative and coordinated approach to animal waste management among the agencies of the State with a primary emphasis on technical assistance to farmers. To this end, the General Assembly intends to establish a permitting program for animal waste management systems that will protect water quality and promote innovative systems and practices while minimizing the regulatory burden. Technical assistance, through operations reviews, will be provided by the Division of Soil and Water Conservation. Permitting, inspection, and enforcement will be vested in the Division of ~~Environmental Management~~. Water Quality."

(b) G.S. 143-215.10B(4), as enacted by Chapter 626 of the 1995 Session Laws (1996 Reg. Sess.), reads as rewritten:

"(4) 'Division' means the Division of ~~Environmental Management~~ Water Quality of the Department."

(c) G.S. 90A-47.3(b), as enacted by Chapter 626 of the 1995 Session Laws (1996 Reg. Sess.), reads as rewritten:

"(b) The Commission, in cooperation with the Division of ~~Environmental Management~~ Water Quality of the Department of Environment, Health, and Natural Resources, and the Cooperative Extension Service, shall develop and administer a training program for animal waste management system operators in charge. An applicant for initial certification shall complete 10 hours of classroom instruction prior

to taking the examination. In order to remain certified, an animal waste management system operator in charge shall complete six hours of approved additional training during each three-year period following initial certification. A certified animal waste management system operator in charge who fails to complete approved additional training within 30 days of the end of the three-year period shall take and pass the examination for certification in order to renew the certificate."

(d) G.S. 106-805(5), as enacted by Chapter 626 of the 1995 Session Laws (1996 Reg. Sess.), reads as rewritten:

"(5) Information informing the adjoining property owners and the property owners who own property located across a public road, street, or highway from the swine farm that they may submit written comments to the Division of ~~Environmental Management, Water Quality~~, Department of Environment, Health, and Natural Resources."

(e) Subsection (b) of Section 17 of Chapter 626 of the 1995 Session Laws (1996 Reg. Sess.) reads as rewritten:

"(b) The interagency group shall consist of two representatives from each of the following State agencies: the Division of Soil and Water Conservation, Department of Environment, Health, and Natural Resources; the Division of ~~Environmental Management, Water Quality~~, Department of Environment, Health, and Natural Resources; the Department of Agriculture; and the Cooperative Extension Service. The General Assembly encourages the Natural Resources Conservation Service, United States Department of Agriculture, to provide two representatives from its agency to participate fully as members of the interagency group. The interagency group shall remain in existence until such time after December 31, 1997, that the Secretary of Environment, Health, and Natural Resources determines the interagency group is no longer needed to resolve issues related to certifying animal waste management plans."

(f) Section 18 of Chapter 743 of the 1995 Session Laws (1996 Reg. Sess.) reads as rewritten:

"Sec. 18. G.S. ~~143-215.114(g)~~143-215.114A(g) is repealed."

(g) This section becomes effective 1 July 1996.

Requested by: Representatives Mitchell, Weatherly, Nichols, Senators Martin of Pitt, Jordan, Kerr

### **STUDY ALTERNATIVE ANIMAL WASTE TECHNOLOGIES**

Sec. 27.35. Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act, the sum of five hundred thousand dollars (\$500,000) for the 1996-97 fiscal year shall be transferred to the Board of Governors of The University of North Carolina for the North Carolina Agricultural Research Service at North Carolina State University to serve as focal points for experimentation with and testing of alternative animal waste disposal technologies for use in agriculture. No later than January 1, 1997, the Board of Governors shall report to the Environmental Review Commission and the Fiscal Research Division on progress under the research, including any findings and recommendations at that time.

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

**ENSURE LEGISLATIVE REVIEW OF CERTAIN RULES**

Sec. 27.36. G.S. 150B-21.3(c) does not apply to a rule that extends the date set in 15A NCAC 13B .1627(c)(10)(A) for closure of a municipal solid waste landfill facility beyond January 1, 2000.

Requested by: Senators Martin of Pitt, Odom, Jordan, Kerr, Representatives Mitchell, Weatherly

**OPERATION OF PERMIT INFORMATION CENTER**

Sec. 27.37. The Department of Environment, Health, and Natural Resources may operate the Permit Information Center in order to improve permit applications, guidance materials, applicant and citizen training, and other purposes.

**PART 28. SALARIES AND BENEFITS**

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

**GOVERNOR AND COUNCIL OF STATE**

Sec. 28. (a) Effective September 1, 1996, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~ninety-eight thousand five hundred seventy-six dollars (\$98,576)~~ one hundred three thousand twelve dollars (\$103,012) annually, payable monthly."

(b) Effective September 1, 1996, Section 7.1(b) of Chapter 507 of the 1995 Session Laws reads as rewritten:

"(b) The annual salaries for the members of the Council of State, payable monthly, for the ~~1995-96 and 1996-97 fiscal years-year~~, beginning September 1, 1996, are:

<u>Council of State</u>	<u>Annual Salary</u>	
Lieutenant Governor	<del>\$87,000</del>	<u>\$90,915</u>
Attorney General	<del>87,000</del>	<u>90,915</u>
Secretary of State	<del>87,000</del>	<u>90,915</u>
State Treasurer	<del>87,000</del>	<u>90,915</u>
State Auditor	<del>87,000</del>	<u>90,915</u>
Superintendent of Public Instruction	<del>87,000</del>	<u>90,915</u>
Agriculture Commissioner	<del>87,000</del>	<u>90,915</u>
Insurance Commissioner	<del>87,000</del>	<u>90,915</u>
Labor Commissioner	<del>87,000</del>	<u>90,915</u> "

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

**NONELECTED DEPARTMENT HEADS**



Sec. 28.1. Effective September 1, 1996, Section 7.2 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 7.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the ~~1995-96 and 1996-97~~ fiscal years-year, beginning September 1, 1996, are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>	
Secretary of Administration	<del>\$85,000</del>	<u>\$88,825</u>
Secretary of Correction	<del>85,000</del>	<u>88,825</u>
Secretary of Cultural Resources	<del>85,000</del>	<u>88,825</u>
Secretary of Commerce	<del>85,000</del>	<u>88,825</u>
Secretary of Environment, Health, and Natural Resources	<del>85,000</del>	<u>88,825</u>
Secretary of Human Resources	<del>85,000</del>	<u>88,825</u>
Secretary of Revenue	<del>85,000</del>	<u>88,825</u>
Secretary of Transportation	<del>85,000</del>	<u>88,825</u>
Secretary of Crime Control and Public Safety	<del>85,000</del>	<u>88,825"</u>

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

**CERTAIN EXECUTIVE BRANCH OFFICIALS**

Sec. 28.2. (a) Effective September 1, 1996, Section 7.3 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 7.3. The annual salaries, payable monthly, for the ~~1995-96 and 1996-97~~ fiscal years-year, beginning September 1, 1996, for the following executive branch officials are:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>	
Chairman, Alcoholic Beverage Control Commission	<del>\$ 77,365</del>	<u>\$80,846</u>
State Controller	<del>108,271</del>	<u>113,143</u>
Commissioner of Motor Vehicles	<del>77,365</del>	<u>80,846</u>
Commissioner of Banks	<del>77,365</del>	<u>80,846</u>
<del>Chairman, Employment Security Commission</del>	<del>77,365</del>	<u>77,365</u>
State Personnel Director	<del>85,000</del>	<u>88,825</u>
Chairman, Parole Commission	<del>70,643</del>	<u>73,822</u>
Members of the Parole Commission	<del>65,220</del>	<u>68,155</u>
Chairman, Industrial Commission	<del>69,510</del>	<u>72,638</u>
Members of the Industrial Commission	<del>67,817</del>	<u>70,869</u>
<del>Chairman of the Utilities Commission</del>	<del>81,381</del>	<u>81,381</u>
<del>Commissioner of the Utilities Commission</del>	<del>80,381</del>	<u>80,381</u>
Executive Director, Agency for Public		

Telecommunications	<del>65,220-68,155</del>
General Manager, Ports Railway Commission	<del>58,893-61,543</del>
Director, Museum of Art	<del>79,274-82,841</del>
Executive Director, Wildlife Resources Commission	<del>66,773-69,778</del>
Executive Director, North Carolina Housing Finance Agency	<del>95,746-100,055</del>
Executive Director, North Carolina Agricultural Finance Authority	<del>75,302-78,691</del>
Director, Office of Administrative Hearings	<del>76,500-79,943</del>

(b) Effective September 1, 1996, G.S. 62-10(h) reads as rewritten:

"(h) The salary of each commissioner ~~and that of the commissioner designated as chairman shall be set by the General Assembly in the Current Operations Appropriations Act.~~ shall be the same as that fixed from time to time for judges of the superior court except that the commissioner designated as the chairman shall receive one thousand dollars (\$1,000) additional per annum. In lieu of merit and other increment raises paid to regular State employees, each commissioner, including the commissioner designated as chairman, shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. 'Service' means service as a member of the Utilities Commission."

(c) Effective September 1, 1996, G.S. 96-3(c) reads as rewritten:

"(c) Salaries. – The chairman of the Employment Security Commission of North Carolina, appointed by the Governor, shall be paid from the Employment Security Administration Fund a salary payable on a monthly basis, which salary shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act;~~ appointing officer in an amount no higher than the highest salary set by the General Assembly for an executive branch official; and the members of the Commission, other than the chairman, shall each receive the same amount per diem for their services as is provided for the members of other State boards, commissions, and committees who receive compensation for their services as such, including necessary time spent in traveling to and from his place of residence within the State to the place of meeting while engaged in the discharge of the duties of his office and his actual traveling expenses, the same to be paid from the aforesaid fund."

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

### **JUDICIAL BRANCH OFFICIALS**

Sec. 28.3. Effective September 1, 1996, Section 7.4 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 7.4. (a) The annual salaries, payable monthly, for specified judicial branch officials for the ~~1995-96 and 1996-97~~ fiscal years-year, beginning September 1, 1996, are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
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Chief Justice, Supreme Court	<del>\$98,576</del> <u>\$103,012</u>
Associate Justice, Supreme Court	<del>96,000</del> <u>100,320</u>
Chief Judge, Court of Appeals	<del>93,600</del> <u>97,812</u>
Judge, Court of Appeals	<del>92,000</del> <u>96,140</u>
Judge, Senior Regular Resident Superior Court	<del>89,500</del> <u>93,528</u>
Judge, Superior Court	<del>87,000</del> <u>90,915</u>
Chief Judge, District Court	<del>79,000</del> <u>82,555</u>
Judge, District Court	<del>76,500</del> <u>79,943</u>
District Attorney	<del>80,600</del> <u>84,227</u>
Administrative Officer of the Courts	<del>89,500</del> <u>93,528</u>
Assistant Administrative Officer of the Courts	<del>75,160</del> <u>78,542</u>
Public Defender	<del>80,600</del> <u>84,227</u>

(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed ~~forty nine thousand five hundred eighty dollars (\$49,580)~~, fifty-one thousand eight hundred eleven dollars (\$51,811) and the minimum salary of any assistant district attorney or assistant public defender is at least ~~twenty five thousand three hundred twelve dollars (\$25,312) effective July 1, 1995~~, twenty-six thousand four hundred fifty-one dollars (\$26,451) effective September 1, 1996.

(c) The salaries in effect ~~for the 1994-95 fiscal year on August 31, 1996~~, for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by ~~two percent (2%), commencing July 1, 1995~~, four and five-tenths percent (4.5%), commencing September 1, 1996.

(d) The salaries in effect ~~for the 1994-95 fiscal year on August 31, 1996~~, for all permanent, part-time employees of the Judicial Department shall be increased on and after ~~July 1, 1995~~, September 1, 1996, by pro rata amounts of the ~~two percent (2%)~~, four and five-tenths percent (4.5%)."

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

**CLERKS OF SUPERIOR COURT**

Sec. 28.4. Effective September 1, 1996, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	<del>\$57,670</del> <u>\$60,265</u>
100,000 to 149,999	<del>64,780</del> <u>67,695</u>
150,000 to 249,999	<del>71,890</del> <u>75,125</u>

250,000 and above

~~79,000.~~ 82,555.

The salary schedule in this subsection is intended to represent the following percentage of the salary of a chief district court judge:

Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

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

**ASSISTANT AND DEPUTY CLERKS OF SUPERIOR COURT**

Sec. 28.5. Effective September 1, 1996, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	<del>\$21,549</del> <u>\$22,519</u>
Maximum	<del>38,154</del> <u>39,871</u>
Deputy Clerks	Annual Salary
Minimum	<del>\$17,229</del> <u>\$18,004</u>
Maximum	<del>29,389.</del> <u>30,712.</u>

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

**MAGISTRATES' PAY PLAN**

Sec. 28.6. (a) Effective September 1, 1996, G.S. 7A-171.1(a)(1) reads as rewritten:

"(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every

four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary	
Entry Rate	<del>\$23,417</del>	<u>\$24,471</u>
Step 1	<del>25,767</del>	<u>26,927</u>
Step 2	<del>28,325</del>	<u>29,600</u>
Step 3	<del>31,116</del>	<u>32,516</u>
Step 4	<del>34,173</del>	<u>35,711</u>
Step 5	<del>37,533</del>	<u>39,222</u>
Step 6	<del>41,228</del>	<u>43,083</u>

(b) Effective September 1, 1996, G.S. 7A-171.1(a1)(1) reads as rewritten:  
 "(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

<del>Less than 1 year of service</del>	<del>\$18,457</del>
1 or more but less than 3 years of service	<del>19,406</del> <u>20,279</u>
3 or more but less than 5 years of service	<del>21,314</del> <u>22,273</u>

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

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

**GENERAL ASSEMBLY PRINCIPAL CLERKS**

Sec. 28.7. Effective September 1, 1996, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~fifty-five thousand eighty dollars (\$55,080)~~ fifty-seven thousand five hundred fifty-nine dollars (\$57,559) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

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

**SERGEANT-AT-ARMS AND READING CLERKS**

Sec. 28.8. Effective September 1, 1996, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred thirty-seven dollars (\$237.00) per week~~, two hundred forty-eight dollars (\$248.00) per week plus subsistence at the same daily rate provided for members

of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

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

#### **LEGISLATIVE EMPLOYEES**

Sec. 28.9. Effective September 1, 1996, Section 7.11 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 7.11. The Legislative Administrative Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year ~~1994-95 by two percent (2%)~~ 1995-96 by four and five-tenths percent (4.5%). Nothing in this act limits any of the provisions of G.S. 120-32."

Requested by: Representatives Holmes, Creech, Esposito, Grady, Preston, Senators Plyler, Perdue, Odom, Winner, Plexico

#### **COMMUNITY COLLEGES PERSONNEL**

Sec. 28.10. Effective September 1, 1996, Section 7.12 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 7.12. The Director of the Budget shall transfer from the Reserve for Salary Increases created in this act for fiscal year ~~1995-96-1996-97~~ funds to the Department of Community Colleges necessary to provide an average annual salary increase of ~~two percent (2%)~~ four and five-tenths percent (4.5%), including funds for the employer's retirement and social security contributions, commencing ~~July 1, 1995~~ September 1, 1996, for all permanent full-time community college institutional personnel supported by State funds. The State Board of Community Colleges shall establish guidelines for providing their salary increases to community college institutional ~~personnel~~ personnel to include consideration of increases based on performance. Salary funds shall be used to provide an average annual salary increase of ~~two percent (2%)~~ four and five-tenths percent (4.5%) to all full-time employees and part-time employees on a pro rata basis."

Requested by: Representatives Holmes, Creech, Esposito, Grady, Preston, Senators Plyler, Perdue, Odom, Winner, Plexico

#### **UNIVERSITY OF NORTH CAROLINA SYSTEM - EPA SALARY INCREASES**

Sec. 28.11. (a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Salary Increases created in this act for fiscal year 1996-97 to provide an annual average salary increase of four and five-tenths percent (4.5%), including funds for the employer's retirement and social security contributions, commencing September 1, 1996, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by

State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section. The Board of Governors shall include consideration of increases based on performance in its adoption of rules for the allocation of funds for salary increases.

(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Salary Increases created in this act for fiscal year 1996-97 to provide an annual average salary increase of five and five-tenths percent (5.5%), including funds for the employer's retirement and social security contributions, commencing September 1, 1996, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics, and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

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

### **MOST STATE EMPLOYEES**

Sec. 28.12. Section 7.14 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"Sec. 7.14. (a) The salaries in effect ~~June 30, 1995, August 31, 1996,~~ of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall be increased, on or after ~~July 1, 1995, September 1, 1996,~~ unless otherwise provided by this act, by two percent (2%) pursuant to the Comprehensive Compensation System set forth in G.S. 126-7 and rules adopted by the State Personnel Commission, as follows:

- (1) Career growth recognition awards in the amount of two percent (2%);  
and
- (2) A cost-of-living adjustment in the amount of two and five-tenths percent (2.5%).

Notwithstanding G.S. 126-7(4a), any permanent full-time State employee whose salary is set in accordance with the State Personnel Act and whose salary is at the top of the salary range or within two percent (2%) of the top of the salary range shall receive a one-time bonus of two percent (2%) less the career growth recognition award the employee receives. The employee shall receive the career growth bonus at the time the employee is eligible for the career growth recognition award, but not earlier than September 1, 1996.

(b) Except as otherwise provided in this act, salaries in effect ~~June 30, 1995, August 31, 1996,~~ for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget

Commission and set by the General Assembly shall be increased by ~~two percent (2%), commencing July 1, 1995.~~ four and five-tenths percent (4.5%), commencing September 1, 1996.

(c) The salaries in effect ~~June 30, 1995,~~ August 31, 1996, for all permanent part-time State employees shall be increased on and after ~~July 1, 1995,~~ September 1, 1996, by pro rata amounts of the salary increases provided for permanent full-time employees covered under subsection (a) of this section.

(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase on and after ~~July 1, 1995,~~ September 1, 1996, in accordance with subsections (a), (b), or (c) of this section, including funds for the employer's retirement and social security contributions, of the permanent full-time and part-time employees of the agency.

(e) Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the four and five-tenths percent (4.5%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing ~~July 1, 1995.~~ September 1, 1996.

(f) ~~No~~ Except as provided by subsection (a) of this section, no person may receive a salary increase under G.S. 126-7 during the ~~1995-96-1996-97~~ fiscal year, and no State employee or officer shall receive a merit increment during the ~~1995-96 and 1996-97~~ fiscal ~~years~~ year except as otherwise provided by this act."

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

#### **ALL STATE-SUPPORTED PERSONNEL**

Sec. 28.13. (a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall 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) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

(c) The salary increases provided in this Part are to be effective September 1, 1996, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, whose last workday is prior to September 1, 1996, or to employees involved in final written disciplinary procedures. The employee shall receive the increase on a current basis when the final written disciplinary procedure is resolved.

Payroll checks issued to employees after September 1, 1996, which represent payment of services provided prior to September 1, 1996, shall not be eligible for salary



increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

(d) The Director of the Budget shall transfer from the Reserve for Salary Increases in this act for fiscal year 1996-97 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

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

### **TEACHER SALARY SCHEDULES**

Sec. 28.14. (a) Effective with the third payroll period of the 1996-97 fiscal year, the Director of the Budget may transfer from the Reserve for Salary Increases for the 1996-97 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one percent (1%) of base salary for 10 to 14 years of State service, one and one-half percent (1.5%) of base salary for 15 to 19 years of State service, two percent (2%) of base salary for 20 to 24 years of State service, and two and one-half percent (2.5%) of base salary for 25 or more years of State service, commencing with the third payroll period of the 1996-97 fiscal year, for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education and the Superintendent of Public Instruction. The longevity payment shall be paid in a lump sum once a year.

(b)(1) For the third through the twelfth payroll periods of the 1996-97 fiscal year, the following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "A" teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

<u>Years of Experience</u>	<u>Monthly Salary</u>
0	\$2,133
1	2,175
2	2,218
3	2,306
4	2,353
5	2,401
6	2,450
7	2,499
8	2,548
9	2,598
10	2,650

11	2,703
12	2,757
13	2,812
14	2,868
15	2,925
16	2,983
17	3,043
18	3,104
19	3,167
20	3,230
21	3,294
22	3,359
23	3,426
24	3,495
25	3,565
26	3,636
27	3,709
28	3,783
29	3,859
30+	3,859

- (2) For the third through the twelfth payroll periods of the 1996-97 fiscal year, the following monthly salary schedule shall apply to certified personnel of the public schools who are classified as "G" teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

<u>Years of Experience</u>	<u>Monthly Salary</u>
0	\$2,266
1	2,311
2	2,357
3	2,451
4	2,501
5	2,551
6	2,602
7	2,654
8	2,707
9	2,761
10	2,816
11	2,872
12	2,929
13	2,987
14	3,047
15	3,108
16	3,170

17	3,233
18	3,298
19	3,364
20	3,431
21	3,500
22	3,570
23	3,641
24	3,714
25	3,788
26	3,864
27	3,941
28	4,020
29	4,100
30+	4,100

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

(c) Effective with the third payroll period of the 1996-97 fiscal year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "G" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

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

(d) Effective with the third payroll period of the 1996-97 fiscal year, speech pathologists who hold masters degrees and who are employed in the public schools as speech and language specialists shall be paid on the school psychologist salary schedule.

Speech pathologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six

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

(e) The provisions of Section 7.18 of Chapter 507 of the 1995 Session Laws and the salaries, longevity, and salary supplements set by that section shall remain in effect through the second payroll period of the 1996-97 fiscal year, except that teachers and other employees shall not receive credit for a year of service performed during the 1995-96 school year until the beginning of the third payroll period of the 1996-97 fiscal year.

(f) Certified personnel of the public schools who are: (i) classified as "A" teachers; (ii) at the maximum of their pay range at the beginning of the third payroll period of the 1996-97 fiscal year; and (iii) employed as teachers for the first three pay periods of the 1996-97 school year shall receive a one-time bonus of seven hundred thirty-three dollars (\$733.00), payable at the third payroll period of the 1996-97 school year. Certified personnel of the public schools who are: (i) classified as "G" teachers; (ii) at the maximum of their pay range at the beginning of the third payroll period of the 1996-97 fiscal year; and (iii) employed as teachers for the first three pay periods of the 1996-97 school year shall receive a one-time bonus of seven hundred seventy-nine dollars (\$779.00), payable at the third payroll period of the 1996-97 school year. Certified personnel of the public schools who are: (i) certified based on academic preparation at the six-year degree level; (ii) at the maximum of their pay range at the beginning of the third payroll period of the 1996-97 fiscal year; and (iii) employed as teachers for the first three pay periods of the 1996-97 school year shall receive a one-time bonus of eight hundred four dollars (\$804.00), payable at the third payroll period of the 1996-97 school year. Certified personnel of the public schools who are: (i) certified based on academic preparation at the doctoral degree level; (ii) at the maximum of their pay range at the beginning of the third payroll period of the 1996-97 fiscal year; and (iii) employed as teachers for the first three pay periods of the 1996-97 school year shall receive a one-time bonus of eight hundred twenty-nine dollars (\$829.00), payable at the third payroll period of the 1996-97 school year.

(g) Certified personnel of the public schools who are: (i) classified as psychologists with advanced degrees; (ii) at the maximum of their pay range at the beginning of the third payroll period of the 1996-97 fiscal year; and (iii) employed as school psychologists for the first three pay periods of the 1996-97 school year shall receive a one-time bonus of eight hundred eighty-five dollars (\$885.00), payable at the third payroll period of the 1996-97 school year. Certified personnel of the public schools who are: (i) classified as psychologists with doctoral degrees; (ii) at the maximum of their pay range at the beginning of the third payroll period of the 1996-97 fiscal year; and (iii) employed as school psychologists for the first three pay periods of the 1996-97 school year shall receive a one-time bonus of nine hundred ten dollars (\$910.00), payable at the third payroll period of the 1996-97 school year.

(h) Speech pathologists who (i) hold masters degrees; (ii) are at the maximum of their pay range at the beginning of the third payroll period of the 1996-97 fiscal year; and (iii) are employed as speech and language specialists for the first three pay periods of the 1996-97 school year shall receive a one-time bonus of eight hundred eighty-five dollars (\$885.00), payable at the third payroll period of the 1996-97 school year. Speech pathologists who (i) hold doctoral degrees; (ii) are at the maximum of their pay range at the beginning of the third payroll period of the 1996-97 fiscal year; and (iii) are employed as speech and language specialists for the first three pay periods of the 1996-97 school year shall receive a one-time bonus of nine hundred ten dollars (\$910.00), payable at the third payroll period of the 1996-97 school year. Speech pathologists who (i) hold advanced degrees; (ii) are at the maximum of their pay range at the beginning of the third payroll period of the 1996-97 fiscal year; and (iii) are employed as speech and language specialists for the first three pay periods of the 1996-97 school year shall receive a one-time bonus of nine hundred ten dollars (\$910.00), payable at the third payroll period of the 1996-97 school year.

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

**SCHOOL-BASED ADMINISTRATOR SALARIES**

Sec. 28.15. (a) Funds appropriated to the Reserve for Salary Increases shall be used for the implementation of the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

(b) The salary schedule for school-based administrators shall apply only to principals and assistant principals. The salary schedule for the 1996-97 fiscal year, commencing September 1, 1996, is as follows:

Step	Asst. Prin.	Prin.I	Prin.II	Prin.III	Prin.IV	Prin.V	Prin.VI	Prin.VII
0	—	—	—	—	—	—	—	—
1	—	—	—	—	—	—	—	—
2	—	—	—	—	—	—	—	—
3	—	—	—	—	—	—	—	—
4	\$2,576	—	—	—	—	—	—	—
5	2,627	—	—	—	—	—	—	—
6	2,680	—	—	—	—	—	—	—
7	2,734	—	—	—	—	—	—	—
8	2,789	\$2,789	—	—	—	—	—	—
9	2,845	2,845	—	—	—	—	—	—
10	2,902	2,902	\$2,960	—	—	—	—	—
11	2,960	2,960	3,019	—	—	—	—	—
12	3,019	3,019	3,079	\$3,141	—	—	—	—
13	3,079	3,079	3,141	3,204	\$3,268	—	—	—

14	3,141	3,141	3,204	3,268	3,333	\$3,400	—	—
15	3,204	3,204	3,268	3,333	3,400	3,468	—	—
16	3,268	3,268	3,333	3,400	3,468	3,537	\$3,608	—
17	3,333	3,333	3,400	3,468	3,537	3,608	3,680	\$3,754
18	3,400	3,400	3,468	3,537	3,608	3,680	3,754	3,829
19	3,468	3,468	3,537	3,608	3,680	3,754	3,829	3,906
20	3,537	3,537	3,608	3,680	3,754	3,829	3,906	3,984
21	3,608	3,608	3,680	3,754	3,829	3,906	3,984	4,064
22	3,680	3,680	3,754	3,829	3,906	3,984	4,064	4,145
23	3,754	3,754	3,829	3,906	3,984	4,064	4,145	4,228
24	3,829	3,829	3,906	3,984	4,064	4,145	4,228	4,313
25	3,906	3,906	3,984	4,064	4,145	4,228	4,313	4,399
26	3,984	3,984	4,064	4,145	4,228	4,313	4,399	4,487
27	4,064	4,064	4,145	4,228	4,313	4,399	4,487	4,577
28	4,145	4,145	4,228	4,313	4,399	4,487	4,577	4,669
29	4,228	4,228	4,313	4,399	4,487	4,577	4,669	4,762
30	4,313	4,313	4,399	4,487	4,577	4,669	4,762	4,857
31	4,399	4,399	4,487	4,577	4,669	4,762	4,857	4,954
32	—	4,487	4,577	4,669	4,762	4,857	4,954	5,053
33	—	—	4,669	4,762	4,857	4,954	5,053	5,154
34	—	—	4,762	4,857	4,954	5,053	5,154	5,257
35	—	—	—	4,954	5,053	5,154	5,257	5,362
36	—	—	—	5,053	5,154	5,257	5,362	5,469
37	—	—	—	—	5,257	5,362	5,469	5,578
38	—	—	—	—	—	5,469	5,578	5,690
39	—	—	—	—	—	—	5,690	5,804
40	—	—	—	—	—	—	5,804	5,920
41	—	—	—	—	—	—	—	6,038.

(c) The appropriate classification for placement of principals and assistant principals on the salary schedule shall be determined in accordance with the following schedule:

<b>Classification</b>	<b>Number of Teachers Supervised</b>
Assistant Principal	
Principal I	Less than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	More than 65 Teachers

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

(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal, except that a principal shall not receive credit for a year of service performed during the 1995-96 fiscal year until September 1, 1996.

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

(f) There shall be no State requirement that superintendents in each local school unit shall receive in State-paid salary at least one percent (1%) more than the highest paid principal receives in State salary in that school unit: Provided, however, the additional State-paid salary a superintendent who was employed by a local school administrative unit for the 1992-93 fiscal year received because of that requirement shall not be reduced because of this subsection for subsequent fiscal years that the superintendent is employed by that local school administrative unit so long as the superintendent is entitled to at least that amount of additional State-paid salary under the rules in effect for the 1992-93 fiscal year.

(g) Longevity pay for principals and assistant principals shall be as provided for State employees.

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

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

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

(i) Except as provided in subsection (h) of this section, the salary of a principal or assistant principal shall not be less for the 1996-97 fiscal year than it was

for the 1993-94 fiscal year solely as a result of placement on the salary schedule established in this section.

(j) The provisions of Section 7.19 of Chapter 507 of the 1995 Session Laws and the salaries, longevity, and salary supplements set by that section shall remain in effect through August 31, 1996, except that assistant principals and principals shall not receive credit for a year of service performed during the 1995-96 school year until September 1, 1996.

(k) Certified personnel of the public schools who are school administrators and who are at the maximum of their pay range as of September 1, 1996, shall receive a one-time bonus as set out in the table below payable September 1, 1996:

<u>Classification</u>	<u>Bonus Amount</u>
Asst. Principal	\$792
Asst. Principal Advanced	815
Asst. Principal Doctorate	837
Principal I	894
Principal I Advanced	919
Principal I Doctorate	945
Principal II	949
Principal II Advanced	974
Principal II Doctorate	999
Principal III	1,007
Principal III Advanced	1,032
Principal III Doctorate	1,057
Principal IV	1,047
Principal IV Advanced	1,072
Principal IV Doctorate	1,097
Principal V	1,090
Principal V Advanced	1,115
Principal V Doctorate	1,140
Principal VI	1,156
Principal VI Advanced	1,181
Principal VI Doctorate	1,207
Principal VII	1,203
Principal VII Advanced	1,228
Principal VII Doctorate	1,253.

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

### **SCHOOL CENTRAL OFFICE SALARIES**

Sec. 28.16. (a) The following monthly salary ranges apply to public school superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 1996-97 fiscal year, beginning September 1, 1996:



(1)	School Administrator I:	\$2,818 - \$4,533
(2)	School Administrator II:	\$2,991 - \$4,811
(3)	School Administrator III:	\$3,174 - \$5,106
(4)	School Administrator IV:	\$3,302 - \$5,313
(5)	School Administrator V:	\$3,435 - \$5,528
(6)	School Administrator VI:	\$3,645 - \$5,867
(7)	School Administrator VII:	\$3,792 - \$6,104

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer, within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 1996.

(b) The following monthly salary ranges apply to public school superintendents for the 1996-97 fiscal year, beginning September 1, 1996:

(1)	Superintendent I (Up to 2,500 ADM):	\$4,025 - \$6,478
(2)	Superintendent II (2,501 - 5,000 ADM):	\$4,272 - \$6,874
(3)	Superintendent III (5,001 - 10,000 ADM):	\$4,533 - \$7,295
(4)	Superintendent IV (10,001 - 25,000 ADM):	\$4,811 - \$7,741
(5)	Superintendent V (Over 25,000 ADM):	\$5,106 - \$8,215

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

Notwithstanding the provisions of this subsection, a local board of education may pay an amount in excess of the applicable range to a superintendent who is entitled to receive the higher amount under Section 28.15(f) of this act.

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

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

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

(f) The Director of the Budget shall transfer from the Reserve for Salary Increases created in this act for fiscal year 1996-97, beginning September 1, 1996, funds

necessary to provide an average annual salary increase of four and five-tenths percent (4.5%), including funds for the employer's retirement and social security contributions, commencing September 1, 1996, for all permanent full-time personnel paid from the Central Office Allotment. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing their salary increases to these personnel.

(g) The provisions of Section 7.17 of Chapter 507 of the 1995 Session Laws shall remain in effect through August 31, 1996.

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

### **NONCERTIFIED PUBLIC SCHOOL EMPLOYEES' SALARY INCREASE**

Sec. 28.17. (a) The Director of the Budget may transfer from the Reserve for Salary Increases created in this act for fiscal year 1996-97, commencing with the third payroll period, funds necessary to provide a salary increase of four and five-tenths percent (4.5%), including funds for the employer's retirement and social security contributions, commencing with the third payroll period, for all noncertified public school employees, except school bus drivers, whose salaries are supported from the State's General Fund. These funds shall not be used for any purpose other than for the salary increases and necessary employer contributions provided by this subsection.

(b) The fiscal year 1995-96 pay rates adopted by local boards of education for school bus drivers shall be increased by at least four and five-tenths percent (4.5%), commencing with the third payroll period, to the extent that such rates of pay are supported by the allocation of State funds from the State Board of Education. Local boards of education shall increase the rates of pay for all school bus drivers who were employed during fiscal year 1995-96 and who continue their employment for fiscal year 1996-97 by at least four and five-tenths percent (4.5%), commencing with the third payroll period. The Director of the Budget may transfer from the salary increase reserve fund created in this act for fiscal year 1996-97, beginning with the third payroll period of the 1996-97 fiscal year, funds necessary to provide the salary increases for school bus drivers whose salaries are supported from the State's General Fund in accordance with the provisions of this subsection.

(c) The Director of the Budget may transfer from the Reserve for Salary Increases created in this act for fiscal year 1996-97, beginning with the third payroll period of the 1996-97 fiscal year, funds necessary to increase the minimum teacher assistant salary to grade 54.

Requested by: Representatives Holmes, Creech, Esposito

### **STUDY COMMISSION ON THE COMPREHENSIVE COMPENSATION SYSTEM**

Sec. 28.18. (a) The Study Commission on the Comprehensive Compensation System is created. The Commission shall consist of nine members: three Representatives appointed by the Speaker of the House of Representatives, three Senators appointed by the President Pro Tempore of the Senate, and three members

appointed by the Governor. The Speaker of the House of Representatives shall designate one Representative as cochair and the President Pro Tempore of the Senate shall designate one Senator as cochair. Vacancies in the membership of the Commission shall be filled by the same appointing officer who made the initial appointment.

(b) The Commission shall:

- (1) Evaluate the Comprehensive Compensation System established in Article 2 of Chapter 126 of the General Statutes; and
- (2) Determine a methodology for funding the pay plan for State employees at varying levels of appropriations to fund State pay increases.

The Commission shall submit a final report of its findings and recommendations to the General Assembly on or before the first day of the 1997 Session by filing the report 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.

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

(d) Members of the Commission who are legislators shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1. Other members of the Commission shall receive reimbursement for travel expenses at the rates allowed by G.S. 138-6.

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

(f) All State departments and agencies shall furnish the Commission with any information in their possession or available to them.

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

### **SALARY ADJUSTMENT FUND**

Sec. 28.19. Any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund. These funds shall first be used to provide reclassifications of those positions already approved by the Office of State Personnel. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations prior to the allocation of these funds.

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

### **TRAVEL EXPENSE REIMBURSEMENT STUDY**

Sec. 28.20. The Office of State Budget and Management shall study the issue of whether the current system of reimbursement of State employees for job-related travel expenses is flexible enough to allow State employees to recover the actual cost of expenses incurred for lodging and meals, when the total of all such costs does not exceed the maximum statutory amount. If the Office of State Budget and Management finds that the current system is not flexible enough to allow State employees to recover all such expenses, the Office of State Budget and Management shall consider ways to make the system more flexible. The Office of State Budget and Management shall report the results of its study, including any proposed policy or statutory changes and the fiscal impact of such changes, to the Joint Legislative Commission on Governmental Operations, prior to February 1, 1997.

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

### **POSTRETIREMENT BENEFIT INCREASES**

Sec. 28.21. (a) G.S. 135-5 is amended by adding a new subsection to read:

"(bbb) From and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1995, shall be increased by four and four-tenths percent (4.4%) of the allowance payable on July 1, 1995, in accordance with G.S. 135-5(o). Furthermore, from and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1995, but before June 30, 1996, shall be increased by a prorated amount of four and four-tenths percent (4.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1995, and June 30, 1996."

(b) G.S. 135-65 is amended by adding a new subsection to read:

"(q) From and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1995, shall be increased by four and four-tenths percent (4.4%) of the allowance payable on July 1, 1995. Furthermore, from and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1995, but before June 30, 1996, shall be increased by a prorated amount of four and four-tenths percent (4.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1995, and June 30, 1996."

(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(k) In accordance with subsection (a) of this section, from and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1996, shall be increased by four and four-tenths percent (4.4%) of the allowance payable on January 1, 1996. Furthermore, from and after September 1, 1996, the retirement allowance to or on account of beneficiaries

whose retirement commenced after January 1, 1996, but before June 30, 1996, shall be increased by a prorated amount of four and four-tenths percent (4.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1996, and June 30, 1996."

(d) G.S. 128-27 is amended by adding a new subsection to read:

"(rr) From and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1995, shall be increased by four and four-tenths percent (4.4%) of the allowance payable on July 1, 1995, in accordance with G.S. 128-27(k). Furthermore, from and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1995, but before June 30, 1996, shall be increased by a prorated amount of four and four-tenths percent (4.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1995, and June 30, 1996."

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

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

Sec. 28.22. Section 7.1(b) of Chapter 324 of the 1995 Session Laws, as amended by Section 7.22A of Chapter 507 of the 1995 Session Laws, reads as rewritten:

"(b) ~~Effective July 1, 1995, July 1, 1996,~~ the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the ~~1995-96-1996-97~~ 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 eighteen hundredths percent (9.18%) - 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%)~~ twenty-four and fifty-eight hundredths percent (24.58%) - 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."

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

#### **STATE EMPLOYEE HEALTH BENEFIT PLAN/PREEXISTING HEALTH CONDITIONS**

Sec. 28.23. (a) G.S. 135-40.1(15) reads as rewritten:

"(15) Preexisting Condition. – A condition, disease, illness or injury ~~which existed or had its beginning to any degree, whether diagnosed or not,~~

diagnosed and treated within six months prior to the effective date of coverage."

- (b) G.S. 135-40.3(b) is amended by adding a new subdivision to read:  
"(5) To administer the 12-month waiting period for preexisting conditions under this Article, the Plan must give credit against the 12-month period for the time that a person was covered under a previous plan if the previous plan's coverage was continuous to a date not more than 60 days before the effective date of coverage. As used in this subdivision, a 'previous plan' means any policy, certificate, contract, or any other arrangement provided by any accident and health insurer, any hospital or medical service corporation, any health maintenance organization, any preferred provider organization, any multiple employer welfare arrangement, any self-insured health benefit arrangement, any governmental health benefit or health care plan or program, or any other health benefit arrangement."
- (c) This section is effective July 1, 1995.

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

**STATE EMPLOYEE HEALTH BENEFIT PLAN/SKILLED NURSING FACILITY BENEFITS IN FACILITIES NOT MEDICARE-QUALIFIED**

Sec. 28.24. G.S. 135-40.6(3) reads as rewritten:

- "(3) Skilled Nursing Facility Benefits. – The Plan will pay benefits in a skilled nursing facility ~~which qualifies for delivery of benefits under Title XVIII of the Social Security Act (Medicare),~~ licensed under applicable State laws as follows:

After discharge from a hospital for which inpatient hospital benefits were provided by this Plan for a period of not less than three days, and treatment consistent with the same illness or condition for which the covered individual was hospitalized, the daily charges will be paid for room and board in a semiprivate room or any multibed unit up to the maximum benefit specified in subsection (1) of this section, less the days of care already provided for the same illness in a hospital. Plan allowances for total daily charges may be negotiated but will not exceed the daily semiprivate hospital room rate as determined by the Plan.

Credit will be allowed toward private room charges in an amount equal to the facility's most prevalent charge for semiprivate accommodations. Charges will also be paid for general nursing care and other services which would ordinarily be covered in a general hospital. In order to be eligible for these benefits, admission must occur within 14 days of discharge from the hospital.

In order to qualify for benefits provided by a skilled nursing facility, the following stipulations apply:

- a. The services are medically required to be given on an inpatient basis because of the covered individual's need for skilled nursing care on a continuing basis for any of the conditions for which he or she was receiving inpatient hospital services prior to transfer from a hospital to the skilled nursing facility or for a condition requiring such services which arose after such transfer and while he or she was still in the facility for treatment of the condition or conditions for which he or she was receiving inpatient hospital services,
- b. Only on prior referral by and so long as, the patient remains under the active care of an attending doctor who certifies that continual hospital confinement would be required without the care and treatment of the skilled nursing facility, and
- c. Approved in advance by the Claims Processor.

For facilities not qualified for delivery of services covered by the benefits of Title XVIII of the Social Security Act (Medicare), neither the Plan nor any of its members shall be billed or held liable by such facilities for charges that otherwise would be covered by Medicare."

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

### **REDEFINE SERVICE FOR PURPOSES OF LONGEVITY PAY FOR PUBLIC DEFENDERS**

Sec. 28.25. G.S. 7A-465(b) reads as rewritten:

"(b) The public defender shall be an attorney licensed to practice law in North Carolina, and shall devote his full time to the duties of his office.

In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. 'Service' means service as a public defender, defender, assistant public defender, justice or judge of the General Court of Justice, or clerk of superior court."

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

### **MECKLENBURG LAW OFFICERS' EMERGENCY AND PENSION FUND CHANGE**

Sec. 28.26. (a) Section 5 of Chapter 446 of the Public-Local Laws of 1931, as amended by Section 1 of Chapter 305 of the 1967 Session Laws, is rewritten to read:

"Sec. 5. The funds accumulated under this act shall be known as the 'Emergency and Pension Fund of the County of Mecklenburg' and shall be used as a fund for all arresting officers, as defined in Section 2 of this act, and their families. If an officer

while in the actual performance of that officer's duties is killed, the board may pay any amount up to a maximum of ten thousand dollars (\$10,000) as a death benefit to the surviving spouse of the deceased officer. If the officer is not married at the time of death, the board may pay any amount up to a maximum of ten thousand dollars (\$10,000) to the nearest dependent next of kin of the deceased. It is further the true intent, meaning, and purpose of this act that the board may pay any amount less than the amount specified, and the board may refuse to make a payment of any amount in any case in any or all of the classes enumerated in this act. Further, the board may use monies from the fund to award scholarships to dependent children of officers who are either killed while in the performance of their duties or who are rendered totally disabled as a result of an injury received while in the performance of their duties. The maximum scholarship amount shall be two thousand five hundred dollars (\$2,500) per child."

(b) Nothing in this section shall create any liability for the Emergency and Pension Fund of the County of Mecklenburg unless there are sufficient current assets in the Fund to pay fully for the liability. Under no circumstances shall the State incur any liability as a result of this section.

## **PART 29. MISCELLANEOUS PROVISIONS**

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

### **EXECUTIVE BUDGET ACT APPLIES**

Sec. 29. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, as amended by this act, 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 Plyler, Perdue, Odom

### **CONFERENCE REPORT**

Sec. 29.1. (a) The Joint Appropriations Committee House/Senate Conference Report on Budget Modifications, dated August 3, 1996, together with any accompanying correction sheets, which was distributed in the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act.

(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. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.



The General Assembly amended the 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 Joint Appropriations Committee House/Senate Conference Report on Budget Modifications, dated August 3, 1996, together with any accompanying correction sheets.
- (3) Transfers of funds supporting programs were made in accordance with the Joint Appropriations Committee House/Senate Conference Report on Budget Modifications, dated August 3, 1996, together with any accompanying correction sheets.

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.

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

**MOST TEXT APPLIES ONLY TO 1996-97**

Sec. 29.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1996-97 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1996-97 fiscal year.

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

**1995-96 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

Sec. 29.3. (a) Except where expressly repealed or amended by this act, the provisions of Chapters 324 and 507 of the 1995 Session Laws remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1995-96 fiscal year in Chapters 324 and 507 of the 1995 Session Laws that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations and budget reductions of this act for those same particular purposes.

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

**EFFECT OF HEADINGS**

Sec. 29.4. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

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

**SEVERABILITY CLAUSE**

Sec. 29.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

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

**EFFECTIVE DATE**

Sec. 29.6. Except as otherwise provided, this act becomes effective July 1, 1996.

In the General Assembly read three times and ratified this the 3rd day of August, 1996.

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Dennis A. Wicker  
President of the Senate

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Harold J. Brubaker  
Speaker of the House of Representatives