

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 397  
Committee Substitute Favorable 4/15/03  
Committee Substitute #2 Favorable 4/15/03**

Short Title: 2003 Budget/Family Tax Cut/AAA Bond Rating. (Public)

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Sponsors:

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Referred to:

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March 11, 2003

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES, AND TO IMPLEMENT A STATE BUDGET THAT ENABLES THE STATE TO PROVIDE TAX RELIEF FOR WORKING FAMILIES AND PROTECTS THE STATE'S TRIPLE-A BOND RATING.

The General Assembly of North Carolina enacts:

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

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

**INTRODUCTION**

**SECTION 1.1.** 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.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

**TITLE OF ACT**

**SECTION 1.2.** This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2003."

**PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes

1 as enumerated are made for the biennium ending June 30, 2005, according to the  
 2 following schedule:

3  
 4 **Current Operations – General Fund**

**2003-2004**

**2004-2005**

5  
 6 **EDUCATION**

7  
 8 Community Colleges System Office 659,110,455 662,184,769

9  
 10 Department of Public Instruction 6,017,691,217 6,025,509,098

11  
 12 University System 1,761,408,589 1,796,324,529

13  
 14 **HEALTH AND HUMAN SERVICES**

15  
 16 Department of Health and Human Services

17 Office of the Secretary 81,783,833 80,583,833

18 Division of Aging 27,535,838 27,535,838

19 Division of Blind Services/Deaf/HH 9,302,670 9,387,008

20 Division of Child Development 250,943,174 250,943,174

21 Division of Education Services 31,606,862 31,470,076

22 Division of Facility Services 9,442,530 9,442,530

23 Division of Medical Assistance 2,270,544,822 2,558,592,984

24 Division of Mental Health 577,021,583 580,154,434

25 NC Health Choice 45,057,907 45,057,907

26 Division of Public Health 123,425,475 122,421,895

27 Division of Social Services 176,728,674 186,579,268

28 Division of Vocation Rehabilitation 39,798,384 40,591,118

29 Total 3,643,191,752 3,942,760,065

30  
 31 **NATURAL AND ECONOMIC RESOURCES**

32  
 33 Department of Agriculture and Consumer Services 49,214,757 49,237,156

34  
 35 Department of Commerce

36 Commerce 32,925,728 33,165,487

37 Commerce State-Aid 10,999,731 10,999,731

38 NC Biotechnology Center 5,883,395 5,883,395

39 Rural Economic Development Center 4,425,677 4,425,677

40  
 41 Department of Environment and Natural Resources

42 Environment and Natural Resources 146,337,419 153,052,962

43 Clean Water Management Trust Fund 25,000,000 25,000,000

44  
 45 Office of the Governor – Housing Finance Agency 4,750,945 4,750,945

46  
 47 Department of Labor 13,265,001 13,273,651

48  
 49 **JUSTICE AND PUBLIC SAFETY**

50  
 51 Department of Correction 940,840,075 960,172,282

52  
 53 Department of Crime Control and Public Safety 29,034,326 28,139,010

54  
 55 Judicial Department 303,251,883 310,448,697

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**GENERAL ASSEMBLY OF NORTH CAROLINA**

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**SESSION 2003**

1	Judicial Department – Indigent Defense	72,578,130	70,645,094
2			
3	Department of Justice	70,673,310	71,459,312
4			
5	Department of Juvenile Justice and		
6	Delinquency Prevention	130,313,473	130,505,498
7			
8	<b>GENERAL GOVERNMENT</b>		
9			
10	Department of Administration	55,733,844	56,312,231
11			
12	Office of Administrative Hearings	2,409,683	2,411,797
13			
14	Department of State Auditor	10,243,471	10,243,471
15			
16	Office of State Controller	9,694,464	9,719,451
17			
18	Department of Cultural Resources		
19	Cultural Resources	54,193,964	53,915,314
20	Roanoke Island Commission	1,500,000	1,500,000
21			
22	State Board of Elections	7,439,982	4,915,939
23			
24	General Assembly	41,561,463	44,971,305
25			
26	Office of the Governor		
27	Office of the Governor	4,856,503	4,826,503
28	Office of State Budget and Management	4,176,537	4,180,842
29	OSBM – Reserve for Special Appropriations	3,130,000	3,130,000
30			
31	Department of Insurance		
32	Insurance	21,735,135	21,766,272
33	Insurance – Volunteer Safety Workers'		
34	Compensation	4,500,000	4,500,000
35			
36	Office of Lieutenant Governor	601,722	601,722
37			
38	Department of Revenue	73,501,897	73,501,897
39			
40	Rules Review Commission	310,454	310,454
41			
42	Department of Secretary of State	7,754,229	7,453,229
43			
44	Department of State Treasurer		
45	State Treasurer	19,941,830	19,944,585
46	State Treasurer – Retirement for Fire and		
47	Rescue Squad Workers	7,181,179	7,181,179
48			
49	<b>TRANSPORTATION</b>		
50			
51	Department of Transportation	11,429,525	11,460,101
52			
53	<b>RESERVES, ADJUSTMENTS AND DEBT SERVICE</b>		
54			
55	Reserve for Compensation Increases	132,350,000	126,250,000

1			
2	Statewide Reserve for State Health Plan	72,000,000	96,000,000
3			
4	Reserve for Teachers' and State Employees'		
5	Retirement Rate Adjustment	26,546,000	154,200,000
6			
7	Retiree Health Benefits	36,800,000	36,800,000
8			
9	Contingency and Emergency	5,000,000	5,000,000
10			
11	Reserve for Salary Adjustments	500,000	500,000
12			
13	Mental Health, Developmental Disabilities and		
14	Substance Abuse Services Trust Fund	10,000,000	0
15			
16	Reserve to Implement HIPAA	2,000,000	0
17			
18	Economic Incentives Reserve	2,600,000	0
19			
20	Judicial Staffing/Salary Reserve	461,198	461,198
21			
22	State Surplus Real Property System	250,000	0
23			
24	Blue Ribbon Commission on Medicaid Reform	500,000	0
25			
26	Debt Service		
27	General Debt Service	387,785,920	474,479,452
28	Federal Reimbursement	1,155,948	1,155,948
29			
30	<b>TOTAL CURRENT OPERATIONS –</b>		
31	<b>    GENERAL FUND</b>	14,940,740,811	15,535,630,248
32			
33	Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,		
34	Owens, Wright		
35	<b>GENERAL FUND AVAILABILITY STATEMENT</b>		
36	<b>SECTION 2.2.(a)</b> The General Fund availability used in developing the		
37	2003-2005 biennial budget is shown below:		
38		<b>FY 2003-2004</b>	<b>FY 2004-2005</b>
39	<b>Unappropriated Balance</b>	103,885	0
40			
41	<b>Beginning Unreserved Credit Balance</b>	375,000,000	0
42			
43	<b>Revenues Based on Existing Tax Structure</b>	13,398,700,000	14,203,160,000
44			
45	<b>Nontax Revenues</b>		
46	Investment Income	126,266,801	132,056,801
47	Judicial Fees	137,520,000	144,430,000
48	Disproportionate Share	100,000,000	100,000,000
49	Insurance	51,900,000	53,900,000
50	Other Nontax Revenues	116,050,000	120,100,000
51	Highway Trust Fund Transfer	252,422,125	231,774,330
52	Highway Fund Transfer	16,379,000	16,166,400
53			
54	Subtotal Nontax Revenues	800,537,926	798,427,531
55			

1	<b>Total General Fund Availability</b>	<b>14,574,341,811</b>	<b>15,001,587,531</b>
2			
3	<b>Adjustments to Availability: 2003 Session</b>		
4	Finance Committee Revenue Initiatives	384,000,000	480,900,000
5	Tobacco Settlement Funds – Tobacco Trust Fund	40,000,000	40,000,000
6	Tobacco Settlement Funds – Health & Wellness		
7	Trust Fund	20,000,000	20,000,000
8	Transfer from Disaster Reserve	100,000,000	0
9	Credit Savings Reserve Account	(100,000,000)	0
10	Credit to Repairs and Renovations Account	(50,000,000)	0
11			
12	Subtotal Adjustments to Availability:		
13	2003 Session	394,000,000	540,900,000
14			
15	<b>General Fund Availability</b>		
16	<b>for 2003-2005 Biennium</b>	14,968,341,811	15,542,487,531
17			
18	<b>Total General Fund Appropriations</b>		
19	<b>2003-2005 Biennium</b>	(14,968,341,811)	(15,535,630,248)
20			
21	<b>Unappropriated Balance</b>	0	6,857,283
22			

23           **SECTION 2.2.(b)** Notwithstanding G.S. 143-16.4(a2), of the funds credited  
24 to the Tobacco Trust Account from the Master Settlement Agreement pursuant to  
25 Section 6(2) of S.L. 1999-2 during the 2003-2004 and 2004-2005 fiscal years, the sum  
26 of forty million dollars (\$40,000,000) shall be transferred from the Department of  
27 Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund) to the  
28 State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to  
29 support General Fund appropriations for the 2003-2004 and 2004-2005 fiscal years.

30           **SECTION 2.2.(c)** Notwithstanding G.S. 143-16.4(a1), of the funds credited  
31 to the Health Trust Account from the Master Settlement Agreement pursuant to Section  
32 6(2) of S.L. 1999-2 during the 2003-2004 and 2004-2005 fiscal years, the sum of twenty  
33 million dollars (\$20,000,000) that would otherwise be deposited in the Fund Reserve  
34 established by G.S. 147-86.30(c) shall be transferred from the Department of State  
35 Treasurer, Budget Code 23460 (Health and Wellness Trust Fund) to the State Controller  
36 to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General  
37 Fund appropriations for the 2003-2004 and 2004-2005 fiscal years.

38           **SECTION 2.2.(d)** On July 1, 2003, the State Controller shall transfer one  
39 hundred million dollars (\$100,000,000) from the Disaster Reserve Fund, Budget Code  
40 13017, to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund  
41 appropriations for the 2003-2004 fiscal year.

42           **SECTION 2.2.(e)** Notwithstanding G.S. 105-187.9(b)(1), the sum to be  
43 transferred to the General Fund for each of the fiscal years 2003-2004 and 2004-2005 is  
44 two hundred fifty million dollars (\$250,000,000).

45           **SECTION 2.2.(f)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, the  
46 State Controller shall transfer only one hundred million dollars (\$100,000,000) from the  
47 unreserved credit balance to the Savings Reserve Account on June 30, 2003. This is not  
48 an "appropriation made by law", as that phrase is used in Article V, Section 7(1) of the  
49 North Carolina Constitution. This subsection becomes effective June 30, 2003.

50           **SECTION 2.2.(g)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the  
51 State Controller shall transfer only fifty million dollars (\$50,000,000) from the  
52 unreserved credit balance to the Repairs and Renovations Reserve Account on June 30,  
53 2003. This subsection becomes effective June 30, 2003.

54           **SECTION 2.2.(h)** Notwithstanding G.S. 147-86.30(c), the Health and  
55 Wellness Trust Fund Commission may expend the balance of funds remaining from

1 funds transferred from the Fund Reserve to Health and Wellness Trust Fund  
 2 nonreserved funds pursuant to Section 2.2(h) of S.L. 2002-126. These funds shall be  
 3 expended in accordance with G.S. 147-86.30(d) during the 2003-2005 fiscal biennium.

4  
 5 **PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

6  
 7 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
 8 Owens, Wright

9 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

10 **SECTION 3.1.** Appropriations from the State Highway Fund for the  
 11 maintenance and operation of the Department of Transportation, and for other purposes  
 12 as enumerated, are made for the biennium ending June 30, 2005, according to the  
 13 following schedule:

14

15 <b>Current Operations – Highway Fund</b>	2003-2004	2004-2005
16 (1) Transportation Admin. (84210)	\$70,917,203	\$69,242,486
17 (2) Transportation Operations (84220)	28,190,393	28,150,605
18 (3) Transportation programs (84230)		
19 State Construction		
20     Secondary	89,600,000	90,590,000
21         Urban	14,000,000	14,000,000
22         Public access	2,000,000	2,000,000
23         Spot safety	9,100,000	9,100,000
24         Contingency	10,000,000	10,000,000
25     Federal Aid Match	4,160,000	4,280,000
26     Maintenance	600,933,217	576,859,889
27         Asphalt plant/OSHA	425,000	425,000
28         Capital	7,000,000	0
29     Ferry Operations	19,677,283	19,677,283
30     Aid to municipalities	89,600,000	90,590,000
31     Rail	15,090,919	15,531,153
32     Public transit	76,232,576	78,475,484
33 (4) Governor's highway safety (84240)	292,449	293,118
34 (5) Transportation regulation (84260)	100,255,703	100,323,363
35 (6) Reserves, transfers, other agencies (84270)	213,455,257	218,670,347
36 <b>TOTAL</b>	<b>1,350,930,000</b>	<b>1,328,208,728</b>

37  
 38 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
 39 Owens, Wright

40 **HIGHWAY FUND AVAILABILITY STATEMENT**

41 **SECTION 3.2.** The Highway Fund availability used in developing the  
 42 2003-2005 biennial budget is shown below:

43

44 <b>Highway Fund Budget Reform Statement</b>	2003-2004	2004-2005
45 Beginning Credit Balance		-
46 Estimated Revenue	\$ 1,350,930,000	\$ 1,373,080,000
47 Estimated Reversions		-
48		
49 <b>Total Highway Fund Availability</b>	<b>\$ 1,350,930,000</b>	<b>\$ 1,373,080,000</b>

50  
 51  
 52 **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

53  
 54 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
 55 Owens, Wright

**HIGHWAY TRUST FUND APPROPRIATIONS**

**SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2005, according to the following schedule:

<b>Current Operations – Highway Trust Fund</b>	<b>2003-2004</b>	<b>2004-2005</b>
Intrastate System	\$ 423,993,831	\$ 459,363,570
Urban Loops	79,689,271	84,350,953
Aid to Municipalities	171,445,448	185,747,496
Total for Secondary Roads	44,486,843	48,197,953
Program Administration	38,001,482	39,636,698
Transfer to General Fund	252,422,125	231,774,330
<b>GRAND TOTAL CURRENT OPERATIONS AND EXPANSION</b>	<b>\$ 1,010,039,000</b>	<b>\$ 1,049,071,000</b>

**PART V. BLOCK GRANTS**

Requested by: Representatives Barnhart, Nye

**DHHS BLOCK GRANTS**

**SECTION 5.1.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2004, according to the following schedule:

**COMMUNITY SERVICES BLOCK GRANT**

01. Community Action Agencies	\$ 15,266,973
02. Limited Purpose Agencies	848,165
03. Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	848,165

**TOTAL COMMUNITY SERVICES BLOCK GRANT** \$ 16,963,303

**SOCIAL SERVICES BLOCK GRANT**

01. County departments of social services (Transfer from TANF - \$4,500,000)	\$ 28,868,189
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	3,234,601
04. Division of Services for the Blind	3,105,711
05. Division of Facility Services	426,836
06. Division of Aging - Home and Community	

1	Care Block Grant	1,840,234
2		
3	07. Child Care Subsidies	3,000,000
4		
5	08. Division of Vocational Rehabilitation -	
6	United Cerebral Palsy	71,484
7		
8	09. State administration	1,693,368
9		
10	10. Child Medical Evaluation Program	238,321
11		
12	11. Adult day care services	2,155,301
13		
14	12. Comprehensive Treatment Services	
15	Program	422,003
16		
17	13. Department of Administration	
18	for the N.C. State Commission of Indian Affairs	
19	In-Home Services Program for the Elderly	203,198
20		
21	14. Division of Vocational Rehabilitation Services -	
22	Easter Seals Society	116,779
23		
24	15. UNC-CH CARES Program for training and	
25	consultation services	247,920
26		
27	16. Office of the Secretary - Office of Economic	
28	Opportunity for N.C. Senior Citizens'	
29	Federation for outreach services to	
30	low-income elderly persons	41,302
31		
32	17. Division of Social Services - Child	
33	Caring Agencies	1,500,000
34		
35	18. Division of Mental Health,	
36	Developmental Disabilities, and	
37	Substance Abuse Services - Developmentally	
38	Disabled Waiting List for services	5,000,000
39		
40	19. Transfer to Preventive Health Services Block	
41	Grant for HIV/AIDS education, counseling, and	
42	testing	145,819
43		
44	20. Division of Facility Services -	
45	Mental Health Licensure	213,128
46		
47	21. Transfer to the Division of Aging for training	
48	provided through Alzheimer's Associations	150,000
49		
50	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 54,775,307
51		
52	LOW-INCOME ENERGY BLOCK GRANT	
53		
54	01. Energy Assistance Programs	\$ 12,775,323
55		



1	02.	Crisis Intervention	9,192,927
2			
3	03.	Administration	2,957,339
4			
5	04.	Weatherization Program	4,212,740
6			
7	05.	Department of Administration -	
8		N.C. State Commission of Indian Affairs	54,840
9			
10	06.	Heating Air Repair and Replacement Program	1,966,153
11			
12	TOTAL LOW-INCOME ENERGY BLOCK GRANT		\$ 31,159,322
13			
14	MENTAL HEALTH SERVICES BLOCK GRANT		
15			
16	01.	Provision of community-based	
17		services for severe and persistently	
18		mentally ill adults	\$ 5,442,798
19			
20	02.	Provision of community-based	
21		services to children	2,513,141
22			
23	03.	Comprehensive Treatment Services	
24		Program for Children	1,500,000
25			
26	04.	Administration	783,911
27			
28	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		\$ 10,239,850
29			
30	SUBSTANCE ABUSE PREVENTION		
31	AND TREATMENT BLOCK GRANT		
32			
33	01.	Provision of community-based	
34		alcohol and drug abuse services,	
35		tuberculosis services, and services	
36		provided by the Alcohol and Drug Abuse	
37		Treatment Centers	\$ 18,901,711
38			
39	02.	Continuation of services for	
40		pregnant women and women	
41		with dependent children	8,069,524
42			
43	03.	Continuation of services to	
44		IV drug abusers and others at risk	
45		for HIV diseases	4,616,378
46			
47	04.	Provision of services to children	
48		and adolescents	7,740,611
49			
50	05.	Juvenile Services - Family Focus	851,156
51			
52	06.	Allocation to the Division of Public Health	
53		for HIV/STD Risk Reduction Projects	383,980
54			
55	07.	Allocation to the Division of Public Health	

1	for HIV/STD Prevention by County Health	
2	Departments	209,576
3		
4	08. Allocation to the Division of Public Health	
5	for the Maternal and Child Health Hotline	37,779
6		
7	09. Administration	2,596,307
8		
9	TOTAL SUBSTANCE ABUSE PREVENTION	
10	AND TREATMENT BLOCK GRANT	\$ 43,407,022
11		
12	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
13		
14	01. Child care subsidies	\$154,713,475
15		
16	02. Quality and availability initiatives	16,449,256
17		
18	03. Administrative expenses	6,969,533
19		
20	04. Transfer from TANF Block Grant for	
21	child care subsidies	79,562,189
22		
23	TOTAL CHILD CARE AND DEVELOPMENT FUND	
24	BLOCK GRANT	\$257,694,453
25		
26	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
27	(TANF) BLOCK GRANT	
28		
29	01. Work First Cash Assistance	\$129,396,275
30		
31	02. Work First County Block Grants	94,653,315
32		
33	03. Transfer to the Child Care and	
34	Development Fund Block Grant	
35	for child care subsidies	79,562,189
36		
37	04. Child Care Subsidies for TANF Recipients	26,621,241
38		
39	05. Child Welfare Workers	
40	for local DSS	10,382,391
41		
42	06. Transfer to Social Services Block Grant for	
43	County Departments of Social Services for	
44	Children's Services	4,500,000
45		
46	07. Support Our Students – Department of	
47	Juvenile Justice and Delinquency	
48	Prevention	1,925,000
49		
50	08. Residential Substance Abuse Services	
51	for Women With Children	2,000,000
52		
53	09. Domestic Violence Services	
54	for Work First Families	1,200,000
55		

1	10.	After-School Services for	
2		At-Risk Children	1,925,000
3			
4	11.	Division of Social Services -	
5		Administration	400,000
6			
7	12.	Child Welfare Training	1,600,000
8			
9	13.	TANF Automation Projects	592,500
10			
11	14.	Work First/ Boys and Girls Clubs	1,000,000
12			
13	15.	Work Central Career Advancement Center	550,000
14			
15	16.	WCH-Teen Pregnancy Prevention	570,000
16			
17	17.	Transfer to Social Services Block Grant for Child Caring	
18		Institutions	1,500,000
19			
20	18.	Special Children's Adoption Fund	2,000,000
21			
22	19.	NC Fast Implementation	630,000
23			
24	20.	Maternity Homes	838,000
25			
26	21.	Pregnancy Prevention Coalition of North Carolina	127,500
27			
28	22.	Individual Development Accounts	180,000
29			
30	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES		
31	(TANF) BLOCK GRANT		\$362,153,411
32			
33	MATERNAL AND CHILD HEALTH BLOCK GRANT		
34			
35	01.	Healthy Mothers/Healthy Children	
36		Block Grants to Local Health	
37		Departments	9,838,074
38			
39	02.	High-Risk Maternity Clinic Services,	
40		Perinatal Education and Training,	
41		Childhood Injury Prevention,	
42		Public Information and Education, and	
43		Technical Assistance to Local Health	
44		Departments	2,307,918
45			
46	03.	Services to Children With Special Health	
47		Care Needs	5,078,647
48			
49	TOTAL MATERNAL AND CHILD		
50	HEALTH BLOCK GRANT		\$ 17,224,639
51			
52	PREVENTIVE HEALTH SERVICES BLOCK GRANT		
53			
54	01.	Statewide Health Promotion Programs	\$3,282,810
55			

1	02.	Rape Crisis/Victims' Services	
2		Program - Council for Women	197,112
3			
4	03.	Transfer from Social Services	
5		Block Grant -	
6		HIV/AIDS education, counseling, and	
7		testing	145,819
8			
9	04.	Office of Minority Health	159,459
10			
11	05.	Administrative Costs	108,546
12			
13	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$3,893,746

14  
15 **SECTION 5.1.(b)** Decreases in Federal Fund Availability. – If the United  
16 States Congress reduces federal fund availability in the Social Services Block Grant  
17 below the amounts appropriated in this section, then the Department of Health and  
18 Human Services shall allocate these decreases giving priority first to those direct  
19 services mandated by State or federal law, then to those programs providing direct  
20 services that have demonstrated effectiveness in meeting the federally and  
21 State-mandated services goals established for the Social Services Block Grant. The  
22 Department shall not include transfers from TANF for specified purposes in any  
23 calculations of reductions to the Social Services Block Grant.

24 If the United States Congress reduces the amount of TANF funds below the  
25 amounts appropriated in this section after the effective date of this act, then the  
26 Department shall allocate the decrease in funds after considering any underutilization of  
27 the budget and the effectiveness of the current level of services. Any TANF Block  
28 Grant fund changes shall be reported to the Senate Appropriations Committee on Health  
29 and Human Services, the House of Representatives Appropriations Subcommittee on  
30 Health and Human Services, and the Fiscal Research Division.

31 Decreases in federal fund availability shall be allocated for the Maternal and  
32 Child Health and Preventive Health Services federal block grants by the Department of  
33 Health and Human Services after considering the effectiveness of the current level of  
34 services.

35 **SECTION 5.1.(c)** Increases in Federal Fund Availability. – Any block grant  
36 funds appropriated by the United States Congress in addition to the funds specified in  
37 this act shall be expended by the Department of Health and Human Services, with the  
38 approval of the Office of State Budget and Management, provided the resultant  
39 increases are in accordance with federal block grant requirements and are within the  
40 scope of the block grant plan approved by the General Assembly.

41 **SECTION 5.1.(d)** Changes to the budgeted allocations to the block grants  
42 appropriated in this act and new allocations from the block grants not specified in this  
43 act shall be submitted to the Joint Legislative Commission on Governmental Operations  
44 for review prior to the change and shall be reported immediately to the Senate  
45 Appropriations Committee on Health and Human Services, the House of  
46 Representatives Appropriations Subcommittee on Health and Human Services, and the  
47 Fiscal Research Division.

48 **SECTION 5.1.(e)** The Department of Health and Human Services may  
49 allow no-cost contract extensions for up to six months for nongovernmental grant  
50 recipients under the TANF Block Grant.

51 **SECTION 5.1.(f)** If federal funds are received under the Maternal and Child  
52 Health Block Grant for abstinence education, pursuant to section 912 of Public Law  
53 104-193 (42 U.S.C. § 710), for the 2003-2004 fiscal year, then those funds shall be  
54 transferred to the State Board of Education to be administered by the Department of  
55 Public Instruction. The Department of Public Instruction shall use the funds to establish

1 an Abstinence Until Marriage Education Program and shall delegate to one or more  
2 persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The  
3 Department of Public Instruction shall carefully and strictly follow federal guidelines in  
4 implementing and administering the abstinence education grant funds.

5 The Department of Health and Human Services shall contract for the  
6 follow-up testing involved with the Newborn Screening Program. The Department may  
7 contract for these services with an entity within or outside of the State; however, the  
8 Department may only contract with an out-of-state entity if it can be demonstrated that  
9 there is a cost-savings associated with contracting with the out-of-state entity. The  
10 contract amount shall not exceed twenty-five thousand dollars (\$25,000). The amount of  
11 the contract shall be covered by funds in the Maternal and Child Health Block Grant.

12 **SECTION 5.1.(g)** The sum of four hundred thousand dollars (\$400,000)  
13 appropriated in this section to the Department of Health and Human Services in the  
14 Child Care and Development Fund Block Grant shall be used to develop and implement  
15 a Medical Child Care Pilot open to children throughout the State.

16 **SECTION 5.1.(h)** Payment for subsidized child care services provided with  
17 federal TANF funds shall comply with all regulations and policies issued by the  
18 Division of Child Development for the subsidized child care program.

19 **SECTION 5.1.(i)** The sum of four hundred thousand dollars (\$400,000)  
20 appropriated in this section in the TANF Block Grant to the Department of Health and  
21 Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be  
22 used to support administration of TANF-funded programs.

23 **SECTION 5.1.(j)** The sum of two million dollars (\$2,000,000) appropriated  
24 in this section in the TANF Block Grant to the Department of Health and Human  
25 Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse  
26 Services, for the 2003-2004 fiscal year shall be used to provide regional residential  
27 substance abuse treatment and services for women with children. The Department of  
28 Health and Human Services, the Division of Social Services, and the Division of Mental  
29 Health, Developmental Disabilities, and Substance Abuse Services, in consultation with  
30 local departments of social services, area mental health programs, and other State and  
31 local agencies or organizations, shall coordinate this effort in order to facilitate the  
32 expansion of regionally based substance abuse services for women with children. These  
33 services shall be culturally appropriate and designed for the unique needs of TANF  
34 women with children.

35 In order to expedite the expansion of these services, the Secretary of the  
36 Department of Health and Human Services may enter into contracts with service  
37 providers.

38 The Department of Health and Human Services, the Division of Social  
39 Services, and the Division of Mental Health, Developmental Disabilities, and Substance  
40 Abuse Services, shall report on their progress in complying with this subsection no later  
41 than October 1, 2003, and March 1, 2004, to the Senate Appropriations Committee on  
42 Health and Human Services, the House of Representatives Appropriations  
43 Subcommittee on Health and Human Services, and the Fiscal Research Division. These  
44 reports shall include all of the following:

- 45 (1) The number and location of additional beds created.
- 46 (2) The types of facilities established.
- 47 (3) The delineation of roles and responsibilities at the State and local  
48 levels.
- 49 (4) Demographics of the women served, the number of women served,  
50 and the cost per client.
- 51 (5) Demographics of the children served, the number of children served,  
52 and the services provided.
- 53 (6) Job placement services provided to women.
- 54 (7) A plan for follow-up and evaluation of services provided with an  
55 emphasis on outcomes.

- 1 (8) Barriers identified to the successful implementation of the expansion.
- 2 (9) Identification of other resources needed to appropriately and
- 3 efficiently provide services to Work First recipients.
- 4 (10) Other information as requested.

5 **SECTION 5.1.(k)** The sum of one million nine hundred twenty-five  
6 thousand dollars (\$1,925,000) appropriated in this section in the TANF Block Grant to  
7 the Department of Health and Human Services and transferred to the Department of  
8 Juvenile Justice and Delinquency Prevention for the 2003-2004 fiscal year shall be used  
9 to support the existing Support Our Students Program and to expand the Program  
10 statewide, focusing on low-income communities in unserved areas. These funds shall  
11 not be used for administration of the Program.

12 **SECTION 5.1.(l)** The sum of one million two hundred thousand dollars  
13 (\$1,200,000) appropriated under this section in the TANF Block Grant to the  
14 Department of Health and Human Services, Division of Social Services, for the  
15 2003-2004 fiscal year shall be used to provide domestic violence services to Work First  
16 recipients. These funds shall be used to provide domestic violence counseling, support,  
17 and other direct services to clients. These funds shall not be used to establish new  
18 domestic violence shelters or to facilitate lobbying efforts. The Division of Social  
19 Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to  
20 establish one administrative position within the Division of Social Services to  
21 implement this subsection.

22 Each county department of social services and the local domestic violence  
23 shelter program serving the county shall jointly develop a plan for utilizing these funds.  
24 The plan shall include the services to be provided and the manner in which the services  
25 shall be delivered. The county plan shall be signed by the county social services director  
26 or the director's designee and the domestic violence program director or the director's  
27 designee and submitted to the Division of Social Services by December 1, 2003. The  
28 Division of Social Services, in consultation with the Council for Women, shall review  
29 the county plans and shall provide consultation and technical assistance to the  
30 departments of social services and local domestic violence shelter programs, if needed.

31 The Division of Social Services shall allocate these funds to county  
32 departments of social services according to the following formula: (i) each county shall  
33 receive a base allocation of five thousand dollars (\$5,000) and (ii) each county shall  
34 receive an allocation of the remaining funds based on the county's proportion of the  
35 statewide total of the Work First caseload as of July 1, 2003, and the county's proportion  
36 of the statewide total of the individuals receiving domestic violence services from  
37 programs funded by the Council for Women as of July 1, 2003. The Division of Social  
38 Services may reallocate unspent funds to counties that submit a written request for  
39 additional funds.

40 The Department of Health and Human Services shall report on the uses of  
41 these funds no later than March 1, 2004, to the Senate Appropriations Committee on  
42 Health and Human Services, the House of Representatives Appropriations  
43 Subcommittee on Health and Human Services, and the Fiscal Research Division.

44 **SECTION 5.1.(m)** The sum of one million nine hundred twenty-five  
45 thousand dollars (\$1,925,000) appropriated in this section in the TANF Block Grant to  
46 the Department of Health and Human Services, Division of Social Services, shall be  
47 used to expand after-school programs and services for at-risk children. The Department  
48 shall develop and implement a grant program to award grants to community-based  
49 programs that demonstrate the ability to reach children at risk of teen pregnancy and  
50 school dropout. The Department shall award grants to community-based organizations  
51 that demonstrate the ability to develop and implement linkages with local departments  
52 of social services, area mental health programs, schools, and other human services  
53 programs in order to provide support services and assistance to the child and family.  
54 These funds may be used to establish one position within the Division of Social  
55 Services to coordinate at-risk after-school programs and shall not be used for other State

1 administration. The Department shall report no later than March 1, 2003, on its progress  
2 in complying with this section to the Senate Appropriations Committee on Health and  
3 Human Services, the House of Representatives Subcommittee on Health and Human  
4 Services, and the Fiscal Research Division.

5 **SECTION 5.1.(n)** The sum of ten million three hundred eighty-two  
6 thousand three hundred ninety-one dollars (\$10,382,391) appropriated in this section in  
7 the TANF Block Grant to the Department of Health and Human Services, Division of  
8 Social Services, for the 2003-2004 fiscal year for Child Welfare Improvements shall be  
9 allocated to the county departments of social services for hiring or contracting staff to  
10 investigate and provide services in Child Protective Services cases; to provide foster  
11 care and support services; to recruit, train, license, and support prospective foster and  
12 adoptive families; and to provide interstate and post-adoption services for eligible  
13 families.

14 **SECTION 5.1.(o)** The sum of one million five hundred thousand dollars  
15 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the  
16 Department of Health and Human Services, Division of Mental Health, Developmental  
17 Disabilities, and Substance Abuse Services, for the 2003-2004 fiscal year and the sum  
18 of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this  
19 section in the Social Services Block Grant to the Department of Health and Human  
20 Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to  
21 continue a Comprehensive Treatment Services Program for Children in accordance with  
22 Section 21.60 of S.L. 2001-424, as amended.

23 **SECTION 5.1.(p)** The sum of one million six hundred thousand dollars  
24 (\$1,600,000) appropriated in this section in the TANF Block Grant to the Department of  
25 Health and Human Services, Division of Social Services, for fiscal year 2003-2004 shall  
26 be used to support various child welfare training projects as follows:

- 27 (1) Provide a regional training center in southeastern North Carolina.
- 28 (2) Support the Masters Degree in Social Work/Baccalaureate Degree in  
29 Social Work Collaborative.
- 30 (3) Provide training for residential child care facilities.
- 31 (4) Provide for various other child welfare training initiatives.

32 **SECTION 5.1.(q)** If funds appropriated through the Child Care and  
33 Development Fund Block Grant for any program cannot be obligated or spent in that  
34 program within the obligation or liquidation periods allowed by the federal grants, the  
35 Department may move funds to child care subsidies, unless otherwise prohibited by  
36 federal requirements of the grant, in order to use the federal funds fully.

37 **SECTION 5.1.(r)** The sum of eight hundred thirty-eight thousand dollars  
38 (\$838,000) appropriated in this section in the TANF Block Grant to the Department of  
39 Health and Human Services shall be used to purchase services at maternity homes  
40 throughout the State.

41 **SECTION 5.1.(s)** The sum of two million dollars (\$2,000,000) appropriated  
42 in this section in the TANF Block Grant to the Department of Health and Human  
43 Services, Special Children Adoption Fund, for the 2003-2004 fiscal year shall be used  
44 to implement this subsection. The Division of Social Services, in consultation with the  
45 North Carolina Association of County Directors of Social Services and representatives  
46 of licensed private adoption agencies, shall develop guidelines for the awarding of funds  
47 to licensed public and private adoption agencies upon the adoption of children described  
48 in G.S. 108A-50 and in foster care. Payments received from the Special Children  
49 Adoption Fund by participating agencies shall be used exclusively to enhance the  
50 adoption services program. No local match shall be required as a condition for receipt of  
51 these funds.

52 **SECTION 5.1.(t)** The sum of one million five hundred thousand dollars  
53 (\$1,500,000) appropriated in this act in the TANF Block Grant and transferred to the  
54 Social Services Block Grant to the Department of Health and Human Services, Division  
55 of Social Services, for child caring agencies for the 2003-2004 fiscal year shall be

1 allocated to the State Private Child Caring Agencies Fund. These funds shall be  
 2 combined with all other funds allocated to the State Private Child Caring Agencies Fund  
 3 for the reimbursement of the State's portion of the cost of care for the placement of  
 4 certain children by the county departments of social services who are not eligible for  
 5 federal IV-E funds. These funds shall not be used to match other federal funds.

6 **SECTION 5.1.(u)** The sum of one million dollars (\$1,000,000) appropriated  
 7 in this section to the Department of Health and Human Services in the TANF Block  
 8 Grant for Boys and Girls Clubs shall be used to make grants for approved programs.  
 9 The Department of Health and Human Services, in accordance with federal regulations  
 10 for the use of TANF Block Grant funds, shall administer a grant program to award  
 11 funds to the Boys and Girls Clubs across the State in order to implement programs that  
 12 improve the motivation, performance, and self-esteem of youths and to implement other  
 13 initiatives that would be expected to reduce school dropout and teen pregnancy rates.  
 14 The Department shall encourage and facilitate collaboration between the Boys and Girls  
 15 Clubs and Support Our Students, Communities in Schools, and similar programs to  
 16 submit joint applications for the funds if appropriate.

17  
 18 Requested by: Representatives Fox, West

19 **NER BLOCK GRANT FUNDS**

20 **SECTION 5.2.(a)** Appropriations from federal block grant funds are made  
 21 for the fiscal year ending June 30, 2004, according to the following schedule:

22  
 23 **COMMUNITY DEVELOPMENT BLOCK GRANT**

24	01. State Administration	\$1,000,000
25		
26	02. Urgent Needs and Contingency	50,000
27		
28	03. Scattered Site Housing	13,200,000
29		
30	04. Economic Development	
31	a. Administered by Rural Economic	
32	Development Center, Inc.	2,250,000
33	b. Administered by Finance Center	
34	of the Department of Commerce	8,710,000
35		
36	05. Community Revitalization	12,200,000
37		
38	06. State Technical Assistance	450,000
39		
40	07. Housing Development	2,000,000
41		
42	08. Infrastructure	5,140,000
43		
44		

45 **TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT –**  
 46 **2004 Program Year** \$45,000,000

47  
 48 **SECTION 5.2.(b)** Decreases in Federal Fund Availability. – If federal funds  
 49 are reduced below the amounts specified above after the effective date of this act, then  
 50 every program in each of these federal block grants shall be reduced by the same  
 51 percentage as the reduction in federal funds.

52 **SECTION 5.2.(c)** Increases in Federal Fund Availability for Community  
 53 Development Block Grant. – Any block grant funds appropriated by the Congress of the  
 54 United States in addition to the funds specified in this section shall be expended as



1 follows: Each program category under the Community Development Block Grant shall  
2 be increased by the same percentage as the increase in federal funds.

3 **SECTION 5.2.(d)** Limitations on Community Development Block Grant  
4 Funds. – Of the funds appropriated in this section for the Community Development  
5 Block Grant, the following shall be allocated in each category for each program year:  
6 up to one million dollars (\$1,000,000) may be used for State administration; not less  
7 than fifty thousand (\$50,000) may be used for Urgent Needs and Contingency; up to  
8 thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered  
9 Site Housing; up to ten million nine hundred sixty thousand dollars (\$10,960,000) may  
10 be used for Economic Development, including Urban Redevelopment grants; not less  
11 than twelve million two hundred thousand dollars (\$12,200,000) shall be used for  
12 Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be  
13 used for State Technical Assistance; up to two million dollars (\$2,000,000) may be used  
14 for Housing Development; up to five million one hundred forty thousand dollars  
15 (\$5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or  
16 increased by the Congress of the United States after the effective date of this act, then  
17 these reductions or increases shall be allocated in accordance with subsection (b) or (c)  
18 of this section, as applicable.

19 **SECTION 5.2.(e)** Increase Capacity for Nonprofit Organizations. –  
20 Assistance to nonprofit organizations to increase their capacity to carry out  
21 CDBG-eligible activities in partnership with units of local government is an eligible  
22 activity under any program category in accordance with federal regulations. Capacity  
23 building grants may be made from funds available within program categories, program  
24 income, or unobligated funds.

25 **SECTION 5.2.(f)** Up to four million dollars (\$4,000,000) of funds for  
26 Economic Development may be used for Urgent Needs and Contingency for drought  
27 recovery.

## 28 **PART VI. GENERAL PROVISIONS**

29  
30  
31 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
32 Owens, Wright

### 33 **SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL RECEIPTS,** 34 **AND AUTHORIZATION FOR EXPENDITURES**

35 **SECTION 6.1.** There is appropriated out of the cash balances, federal  
36 receipts, and departmental receipts available to each department, sufficient amounts to  
37 carry on authorized activities included under each department's operations. All these  
38 cash balances, federal receipts, and departmental receipts shall be expended and  
39 reported in accordance with provisions of the Executive Budget Act, except as  
40 otherwise provided by statute, and shall be expended at the level of service authorized  
41 by the General Assembly. If the receipts, other than gifts and grants that are  
42 unanticipated and are for a specific purpose only, collected in a fiscal year by an  
43 institution, department, or agency exceed the receipts certified for it in General Fund  
44 Codes or Highway Fund Codes, then the Director of the Budget shall decrease the  
45 amount he allots to that institution, department, or agency from appropriations from that  
46 Fund by the amount of the excess, unless the Director of the Budget finds that the  
47 appropriations from the Fund are necessary to maintain the function that generated the  
48 receipts at the level anticipated in the certified Budget Codes for that Fund.

49 Funds that become available from overrealized receipts in General Fund  
50 Codes and Highway Fund Codes may be used for new permanent employee positions or  
51 to raise the salary of existing employees only as follows:

- 52 (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or
- 53 (2) If the Director of the Budget finds that the new permanent employee  
54 positions are necessary to maintain the function that generated the  
55 receipts at the level anticipated in the certified budget codes for that

1 Fund. The Director of the Budget shall notify the President Pro  
2 Tempore of the Senate, the Speakers of the House of Representatives,  
3 the Chairs of the Appropriations Committees of the Senate and the  
4 House of Representatives, and the Fiscal Research Division of the  
5 Legislative Services Office that he intends to make such a finding at  
6 least 10 days before he makes the finding. The notification shall set out  
7 the reason the positions are necessary to maintain the function.

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

13 This section shall expire June 30, 2004.

14  
15 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
16 Owens, Wright

17 **NO EXPENDITURE OF UNBUDGETED RECEIPTS**

18 **SECTION 6.2.** Effective July 1, 2004, G.S. 143-27 reads as rewritten:

19 **"§ 143-27. Appropriations to educational, charitable and correctional institutions**  
20 **are in addition to receipts by them.**

21 All appropriations now or hereafter made to the educational institutions, and to the  
22 charitable and correctional institutions, and to such other departments and agencies of  
23 the State as receive moneys available for expenditure by them are declared to be in  
24 addition to such receipts of said institutions, departments or agencies, and are to be  
25 available as and to the extent that such receipts are insufficient to meet the costs  
26 anticipated in the budget authorized by the General Assembly, of maintenance of such  
27 institutions, departments, and agencies; Provided, however, that if the receipts, other  
28 than gifts and grants that are unanticipated and are for a specific purpose only, collected  
29 in a fiscal year by an institution, department, or agency exceed the receipts certified for  
30 it in General Fund Codes, Highway Fund Codes, or Wildlife Fund Codes, the Director  
31 of the Budget shall decrease the amount he allots to that institution, department, or  
32 agency from appropriations from that Fund by the amount of the excess, ~~unless the~~  
33 ~~Director of the Budget has consulted with the Joint Legislative Commission on~~  
34 ~~Governmental Operations and unless the Director of the Budget finds that (i) the~~  
35 ~~appropriations from that Fund are necessary to maintain the function that generated the~~  
36 ~~receipts at the level anticipated in the certified Budget Codes for that Fund and (ii) the~~  
37 ~~funds may be expended in accordance with G.S. 143-23.excess.~~ Notwithstanding the  
38 foregoing provisions of this section, receipts within The University of North Carolina  
39 realized in excess of budgeted levels shall be available, up to a maximum of ten percent  
40 (10%) above budgeted levels, for each Budget Code, in addition to appropriations, to  
41 support the operations generating such receipts, as approved by the Director of the  
42 Budget.

43 The Office of State Budget and Management shall report to the Joint Legislative  
44 Commission on Governmental Operations and to the Fiscal Research Division of the  
45 Legislative Services Office within 30 days after the end of each quarter on expenditures  
46 of receipts in excess of the amounts certified in General Fund Codes, Highway Fund  
47 Codes, or Wildlife Fund Codes, that did not result in a corresponding reduced allotment  
48 from appropriations from that Fund."

49  
50 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
51 Owens, Wright

52 **PREPARE TO BUDGET PAYROLL AT ACTUAL COST**

53 **SECTION 6.3.** The Office of State Budget and Management shall prepare  
54 and present to the General Assembly no later than 10 days after the convening of the  
55 2004 Regular Session of the 2003 General Assembly such adjustments as are necessary

1 to rebudget the payroll costs of State departments, agencies, and institutions in fiscal  
2 year 2004-2005 at levels that reflect actual payroll requirements. Proposed adjustments  
3 shall include changes in related expenditure lines that have been underbudgeted with the  
4 expectation that shortfalls could be met with lapsed salary funds.

5  
6 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
7 Owens, Wright

#### 8 **CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

9 **SECTION 6.4.** Funds in the amount of five million dollars (\$5,000,000) for  
10 the 2003-2004 fiscal year and five million dollars (5,000,000) for the 2004-2005 fiscal  
11 year appropriated in this act to the Contingency and Emergency Fund may be expended  
12 only for the purposes outlined in G.S. 143-23(a1)(2).  
13

14 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
15 Owens, Wright

#### 16 **CHANGE EFFECTIVE DATE - PRIVATE PLATES ON PUBLIC VEHICLES**

17 **SECTION 6.5.(a)** The introductory language to Section 6.14(b) of S.L.  
18 2001-424 reads as rewritten:

19 "**SECTION 6.14.(b)** Effective October 1, ~~2003~~, 2004, G.S. 20-39.1(b), as enacted  
20 in subsection (a) of this section, reads as rewritten:"

21 **SECTION 6.5.(b)** Section 6.14(h) of S.L. 2001-424 reads as rewritten:

22 "**SECTION 6.14.(h)** Subsection (b) of this section becomes effective October 1,  
23 ~~2003~~. 2004. Except as provided in subsection (c) of this section, the remainder of this  
24 section is effective when it becomes law."  
25

26 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
27 Owens, Wright

#### 28 **HIPAA RESERVE**

29 **SECTION 6.6.** Funds in the amount of two million dollars (\$2,000,000) are  
30 appropriated in this act to the Reserve to Implement HIPAA. This reserve shall be  
31 located in the Office of State Budget and Management.  
32

33 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
34 Owens, Wright

#### 35 **HIPAA IMPLEMENTATION**

36 **SECTION 6.7.** The Governor or the Governor's designee shall coordinate  
37 the State's implementation of the federal Health Insurance Portability and  
38 Accountability Act ("HIPAA"), Title II Subtitle F (Administrative Simplification).  
39 Specifically, the scope of coordination shall include the following:

- 40 (1) Coordinating correspondence between the State and the United States  
41 government on all matters relating to HIPAA Administrative  
42 Simplification requirements under Subtitle F of Title II of HIPAA.
- 43 (2) Coordinating official State comments on proposed federal regulations  
44 and the federal rule-making process pertaining to HIPAA  
45 Administrative Simplification.
- 46 (3) Obtaining from the North Carolina Attorney General legal  
47 interpretations of federal rules pertaining to HIPAA Administrative  
48 Simplification compliance, implementation, and enforcement.
- 49 (4) Establishing deadlines and benchmarks for State agencies to provide  
50 the necessary data required to monitor compliance with HIPAA  
51 Administrative Simplification requirements.

52 The Information Resource Management Commission ("IRMC") shall  
53 cooperate with the Governor to ensure that IRMC policies and activities and State  
54 HIPAA implementation are complementary to ensure effective and efficient monitoring  
55 of HIPAA Administrative Simplification requirements.

1           **SECTION 6.7.** The University of North Carolina System and the Teachers'  
2 and State Employees' Comprehensive Major Medical Plan may develop and implement  
3 HIPAA Administrative Simplification compliance and shall report bimonthly to the  
4 Governor on the status of implementation.

5           **SECTION 6.7.** Funds appropriated to the Reserve for Health Insurance  
6 Portability and Accountability Compliance that are unexpended and unencumbered at  
7 the end of the fiscal year shall not revert to the General Fund but shall remain in the  
8 Reserve for use in accordance with the purposes of the Reserve.

9  
10 Requested by:           Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
11 Owens, Wright

## 12 **STATE SURPLUS REAL PROPERTY SYSTEM**

13           **SECTION 6.8.(a)** The Department of Administration, in consultation with  
14 the Office of State Budget and Management and other affected State departments, shall  
15 develop and implement a uniform real property disposal system that will continuously  
16 identify, evaluate, and dispose of all unused or underused State-owned land and  
17 buildings. In order to comply with this section, the Department of Administration, in  
18 consultation with the Office of State Budget and Management and other affected State  
19 departments, shall do all of the following:

- 20           (1) Review the current inventory of State-owned land and buildings for  
21 accuracy and completeness.
- 22           (2) Determine how and when State-owned land and buildings should be  
23 declared surplus.
- 24           (3) Determine whether State agencies have the authority to retain funds  
25 from the disposal of surplus real property and whether this is  
26 consistent among agencies and conducive to the disposal of unneeded  
27 property.
- 28           (4) Consider the use of private real estate brokers, auction, and any other  
29 method determined to be suitable in order to efficiently and effectively  
30 dispose of surplus real property.
- 31           (5) Review the real property held by a selected number of State agencies  
32 to determine whether the agency has any property that meets the  
33 criteria as set forth in this section.
- 34           (6) Assess the need for additional staff to effectively administer the  
35 system.
- 36           (7) Examine current State law to assess the need for changes in order to  
37 support a uniform system to identify, evaluate, and dispose of all  
38 unused or underused State-owned land and buildings.

39           The Department may retain consultants to assist the accomplishment of the  
40 objectives set forth in subdivisions (1) through (7) of this subsection. The Department  
41 shall report its findings and recommendations to the General Assembly no later than  
42 March 1, 2004.

43           **SECTION 6.8.(b)** There is established the Real Property Management  
44 Advisory Council in the Department of Administration. The Advisory Council shall  
45 examine the use of State-owned real property and shall advise the Secretary of  
46 Administration as to the identification of those properties that are unneeded or  
47 underutilized. The Advisory Council shall consist of the following members:

- 48           (1) Four members appointed by the Speaker of the House of  
49 Representatives, including one member who shall be designated as  
50 House cochair.
- 51           (2) Four members appointed by the President Pro Tempore of the Senate,  
52 including one member who shall be designated as Senate cochair.
- 53           (3) Four members appointed by the Governor.

54           The Advisory Council shall meet upon the call of the cochairs.

1 Members of the Advisory Council shall serve for a term of two years  
2 beginning July 1, 2003, and shall receive subsistence and travel expenses as provided in  
3 G.S. 138-5. Staff support to the Advisory Council shall be provided by the Department  
4 of Administration.

5 **SECTION 6.8.(c)** Of funds appropriated in this act to the Department of  
6 Administration, a sum not exceeding two hundred fifty thousand dollars (\$250,000)  
7 shall be used to accomplish the purposes set forth in this section.

8  
9 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
10 Owens, Wright

11 **EXPEDITE SALE OF SURPLUS LAND**

12 **SECTION 6.9.** The Department of Administration shall work with all State  
13 departments, agencies, and institutions, including the Department of Transportation and  
14 The University of North Carolina, to identify surplus state-owned real property and to  
15 expedite the sale of that property. Unless otherwise provided by law, the clear proceeds  
16 of the sale of surplus real property shall be credited to the General Fund. It is the intent  
17 of the General Assembly that these proceeds shall partially offset debt service costs  
18 occasioned by the use of Certificates of Participation to finance the repair and  
19 renovation of State buildings. The Department of Administration shall report to the  
20 Joint Legislative Commission on Governmental Operations no later than December 1,  
21 2003, regarding the extraordinary measures being taken to comply with this provision.

22  
23 Requested by: Representatives Culpepper, Crawford, Earle, Owens, Wright

24 **GOVERNMENT AGENCIES TO USE PRODUCTS OF RECYCLED STEEL**

25 **SECTION 6.10.** G.S. 130A-309.14 is amended by adding a new subsection  
26 to read:

27 "(1) Any State agency or agency of a political subdivision of the State that is using  
28 State funds, or any person contracting with any agency with respect to work performed  
29 under contract, shall procure products of recycled steel if all of the following conditions  
30 are satisfied:

31 (1) The product must be acquired competitively within a reasonable time  
32 frame.

33 (2) The product must meet appropriate performance standards.

34 (3) The product must be acquired at a reasonable price."

35  
36 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
37 Owens, Wright

38 **IMPLEMENT A PILOT PROJECT FOR LONG-TERM CARE COMMUNITY**  
39 **SERVICE COORDINATION**

40 **SECTION 6.11.(a)** In accordance with the recommendations in the final  
41 report from the Institute of Medicine Task Force on Long-Term Care and the study  
42 report recommendations resulting from S.L. 2001-491, Part XXII, the Department of  
43 Health and Human Services shall implement a communications and coordination  
44 initiative to support local coordination of long-term care and shall pilot the  
45 establishment of local lead agencies to facilitate the long-term care coordination process  
46 at the county or regional level. For those counties that voluntarily participate, the local  
47 long-term care coordination initiative shall aid in the development of core services,  
48 coordinate local services, and streamline access to services. The initiative shall  
49 eliminate fragmentation and barriers to information and services; provide a seamless  
50 connection among State agencies and local entities, regardless of funding sources; and  
51 allow consumers to efficiently and effectively navigate among long-term care services.

52 **SECTION 6.11.(b)** The Department shall submit an interim report on the  
53 pilot project for local long-term care coordination to the North Carolina Study  
54 Commission on Aging by October 1, 2004, and a final report by October 1, 2005.

1 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
2 Owens, Wright

3 **JOINT COMMITTEE ON EXECUTIVE BUDGET ACT REVISIONS**

4 **SECTION 6.12.(a)** There is created a Joint Committee on Executive Budget  
5 Act Revisions. The Committee shall be composed of 12 members, six of whom shall be  
6 Representatives appointed by the Speaker of the House of Representatives and six of  
7 whom shall be Senators appointed by the President Pro Tempore of the Senate. The  
8 Speaker of the House of Representatives shall designate one member as cochair and the  
9 President Pro Tempore of the Senate shall designate one member as cochair. The  
10 Committee shall meet upon call of the cochairs.

11 **SECTION 6.12.(b)** The Committee shall consider contemporary financial  
12 management practices in reviewing the current budget process. The Committee shall  
13 recommend any changes to the Executive Budget Act that are needed to modernize and  
14 improve the processes of budget preparation, budget adoption, budget execution, and  
15 program evaluation. The Committee shall report its recommendations to the 2003  
16 General Assembly on or before April 1, 2004.

17 **SECTION 6.12.(c)** The Legislative Services Office shall assign professional  
18 and clerical staff to assist the Committee in its work. Members of the Committee shall  
19 receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1,  
20 138-5, or 138-6, as appropriate.

21  
22 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
23 Owens, Wright

24 **ISSUE REQUEST FOR INFORMATION/ENERGY MANAGEMENT**

25 **SECTION 6.13.** The Department of Administration (Department) shall issue  
26 a Request for Information (RFI) to identify companies interested in providing, and  
27 qualified to provide, comprehensive energy management services to State departments,  
28 agencies, and institutions. The Department shall evaluate information collected through  
29 the RFI to determine the:

- 30 (1) Number of qualified companies interested in doing energy  
31 management business with State government.
- 32 (2) Types of energy management services available and applicable to  
33 State-owned facilities.
- 34 (3) Long-term cost savings potentially available to the State from the  
35 implementation of various energy management services.
- 36 (4) Modifications to State law or regulations that may be necessary to  
37 acquire and utilize successfully energy management services.

38 By March 1, 2004, the Department shall report its findings, conclusions, and  
39 recommendations to the Chairs of the Senate and House of Representatives  
40 Appropriations Committees.

41  
42 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
43 Owens, Wright

44 **BLUE RIBBON COMMISSION ON MEDICAID REFORM**

45 **SECTION 6.14.(a)** There is established the North Carolina Blue Ribbon  
46 Commission on Medicaid Reform (Commission). The Commission shall examine the  
47 State's Medicaid program and make comprehensive recommendations for fundamental  
48 reform. The Commission shall consider:

- 49 (1) Methods to responsibly restrain the growth in Medicaid spending.
- 50 (2) Best practices in both the public and private sectors in managing and  
51 administering health care.
- 52 (3) Options for maximizing existing resources while controlling Medicaid  
53 program costs.

- 1 (4) Current array of services available within the State Medicaid program  
2 to determine the appropriateness of the type, frequency, and duration  
3 of those services.  
4 (5) Opportunities for long-term, systemic change in the Medicaid program  
5 through the use of federal waivers and other management tools.  
6 (6) Any other matter relating to reform of the State Medicaid program.

7 **SECTION 6.14.(b)** The Commission shall consist of 12 members appointed  
8 as follows:

- 9 (1) Six members appointed by the Speaker of the House of  
10 Representatives, including one member who shall be designated as  
11 House Cochair. No more than three may be legislators.  
12 (2) Six members appointed by the President Pro Tempore of the Senate,  
13 including one member who shall be designated as Senate Cochair. No  
14 more than three may be legislators.

15 The appointing officer shall fill vacancies. The Commission shall meet at the  
16 call of the Cochairs. Members of the Commission shall receive per diem, subsistence,  
17 and travel expenses as provided in G.S. 120-3.1, G.S. 138-5, or G.S. 138-6, as  
18 appropriate. The Commission may contract for consultant services as provided in G.S.  
19 120-32.02. Upon approval of the Legislative Services Commission, the Legislative  
20 Services Officer shall assign professional staff to assist the Commission in its work.  
21 Clerical staff shall be furnished to the Commission through the offices of the House of  
22 Representatives and Senate Directors of Legislative Assistants. The Commission may  
23 meet in the Legislative Building or the Legislative Office Building. The Commission  
24 may exercise all of the powers provided under G.S. 120-19 through G.S. 120-19.4 while  
25 in the discharge of its official duties.

26 **SECTION 6.14.(c)** By April 1, 2004, the Commission shall make an interim  
27 report to the 2003 General Assembly. The Commission shall make its final report to the  
28 2005 General Assembly by February 1, 2005, and shall expire upon submitting that  
29 report.

30  
31 Requested by: Representatives Howard, Crawford, Sherrill, Baker

### 32 **COMPETITIVELY BID BEVERAGES CONTRACTS**

33 **SECTION 6.15.(a)** Article 3 of Chapter 143 of the General Statutes is  
34 amended by adding the following new section to read:

#### 35 **"§ 143-64. Beverages contracts.**

36 Notwithstanding any other provision of law, local school administrative units,  
37 community colleges, and constituent institutions of The University of North Carolina  
38 shall competitively bid contracts that involve the sale of juice or bottled water. The local  
39 school administrative units, community colleges, and constituent institutions may set  
40 quality standards for these beverages, and these standards may be used to accept or  
41 reject a bid."

42 **SECTION 6.15.(b)** This section is effective when it becomes law and  
43 applies to contracts bid on or after that date.

44  
45 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
46 Owens, Wright

### 47 **DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND**

48 **SECTION 6.16.(a)** G.S. 116-41.15 reads as rewritten:

#### 49 **"§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation; 50 administration.**

51 (a) As used in this Part, "focused growth institution" means Elizabeth City State  
52 University, Fayetteville State University, North Carolina Agricultural and Technical  
53 University, North Carolina Central University, the University of North Carolina at  
54 Pembroke, Western Carolina University, and Winston-Salem State University. As used

1 in this Part, "special needs institution" means the North Carolina School of the Arts and  
2 the University of North Carolina at Asheville.

3 (b) For constituent institutions other than focused growth institutions and special  
4 needs institutions, ~~The~~the amount appropriated to the trust shall be allocated by the  
5 Board as follows:

- 6 (1) On the basis of one three hundred thirty-four thousand dollar  
7 (\$334,000) challenge grant for each six hundred sixty-six thousand  
8 dollars (\$666,000) raised from private sources; or  
9 (2) On the basis of one one hundred sixty-seven thousand dollar  
10 (\$167,000) challenge grant for each three hundred thirty-three  
11 thousand dollars (\$333,000) raised from private sources.

12 If an institution chooses to pursue the use of the allocated challenge grant funds  
13 described in either subdivision (1) or subdivision (2) of this ~~section~~,subsection, the  
14 funds shall be matched on a two-to-one basis.

15 (c) For focused growth institutions and special needs institutions, subsection (b)  
16 of this section shall be applied such that the amount appropriated to the trust shall be  
17 allocated by the Board on a one-to-one basis instead of a one-to-two basis.

18 (d) Matching funds shall come from contributions made after July 1, 1985, and  
19 pledged for the purposes specified by G.S. 116-41.14. Each participating constituent  
20 institution's board of trustees shall establish its own Distinguished Professors  
21 Endowment Trust Fund, and shall maintain it pursuant to the provision of G.S. 116-36  
22 to function as a depository for private contributions and for the State matching funds for  
23 the challenge grants. The State matching funds shall be transferred to the constituent  
24 institution's Endowment Fund upon notification that the institution has received and  
25 deposited the appropriate amount required by this section in its own Distinguished  
26 Professors Endowment Trust Fund. Only the net income from that account shall be  
27 expended in support of the distinguished professorship thereby created."

28 **SECTION 6.16.(b)** G.S. 116-41.16 reads as rewritten:

29 **"§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution**  
30 **commitments.**

31 (a) For constituent institutions other than focused growth institutions and special  
32 needs institutions, ~~Contributions~~contributions may also be eligible for matching if there  
33 is:

- 34 (1) A commitment to make a donation of at least six hundred sixty-six  
35 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an  
36 initial payment of one hundred eleven thousand dollars (\$111,000) to  
37 receive a grant described in G.S. 116-41.15(b)(1); or  
38 (2) A commitment to make a donation of at least three hundred  
39 thirty-three thousand dollars (\$333,000), as prescribed by G.S.  
40 143-31.4, and an initial payment of fifty-five thousand five hundred  
41 dollars (\$55,500) to receive a grant described in G.S. 116-41.15(b)(2);

42 and if the initial payment is accompanied by a written pledge to provide the balance  
43 within five years after the date of the initial payment. Each payment on the balance shall  
44 be no less than the amount of the initial payment and shall be made on or before the  
45 anniversary date of the initial payment. Pledged contributions may not be matched prior  
46 to the actual collection of the total funds. Once the income from the institution's  
47 Distinguished Professors Endowment Trust Fund can be effectively used pursuant to  
48 G.S. 116-41.17, the institution shall proceed to implement plans for establishing an  
49 endowed chair.

50 (b) For focused growth institutions and special needs institutions, subsection (a)  
51 of this section is modified such that contributions may be eligible for matching based on  
52 a schedule to be adopted by the Board of Governors such that at least one-sixth of the  
53 commitment will be donated each year."

54 Requested by: Representatives Wainwright, Lucas, Culpepper  
55



**ECONOMIC INCENTIVES RESERVE ALLOCATIONS**

**SECTION 6.17.** Of the funds appropriated by this act to the Economic Incentives Reserve in Section 2.1 of this act, the sum of nine hundred twenty-eight thousand two hundred sixty-four dollars (\$928,264) for the 2003-2004 fiscal year shall be allocated by the Office of State Budget and Management as follows:

Opportunities Industrialization Centers	\$ 9,500
Rural Economic Development Center	
for new and emerging CDCs	56,410
Commerce State-Aid Non-profits	222,354
Coalition of Farm & Rural Families	50,000
North Carolina State Bar	590,000.

Requested by: Representatives Wainwright, Culpepper

**NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY MATCHING FUNDS**

**SECTION 6.18.** Of the funds appropriated by this act from the General Fund to the Board of Governors of The University of North Carolina, the sum of three million eighty-nine thousand seven hundred forty dollars (\$3,089,740) for the 2003-2004 fiscal year shall be allocated to North Carolina Agricultural and Technical State University to match federal funds to conduct agricultural research and Cooperative Extension Service work.

**PART VII. PUBLIC SCHOOLS**

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

**TEACHER SALARY SCHEDULES**

**SECTION 7.1.(a)** Effective for the 2003-2004 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2003-2004 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 and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2003, 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. The longevity payment shall be paid in a lump sum once a year.

**SECTION 7.1.(b)** For the 2003-2004 school year, the following monthly salary schedules shall apply to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

**2003-2004 MONTHLY SALARY SCHEDULE**

**"A" TEACHERS**

Years of Experience	"A" Teachers	NBPTS Certification
0	\$2,525	N/A
1	\$2,567	N/A
2	\$2,611	N/A
3	\$2,764	\$3,096
4	\$2,904	\$3,252
5	\$3,036	\$3,400
6	\$3,164	\$3,544
7	\$3,266	\$3,658

1	8	\$3,314	\$3,712
2	9	\$3,362	\$3,765
3	10	\$3,412	\$3,821
4	11	\$3,461	\$3,876
5	12	\$3,511	\$3,932
6	13	\$3,561	\$3,988
7	14	\$3,614	\$4,048
8	15	\$3,667	\$4,107
9	16	\$3,722	\$4,169
10	17	\$3,777	\$4,230
11	18	\$3,834	\$4,294
12	19	\$3,892	\$4,359
13	20	\$3,950	\$4,424
14	21	\$4,011	\$4,492
15	22	\$4,072	\$4,561
16	23	\$4,136	\$4,632
17	24	\$4,200	\$4,704
18	25	\$4,264	\$4,776
19	26	\$4,330	\$4,850
20	27	\$4,398	\$4,926
21	28	\$4,467	\$5,003
22	29	\$4,538	\$5,083
23	30+	\$4,538	\$5,083

2003-2004 MONTHLY SALARY SCHEDULE

"M" TEACHERS

Years of Experience	"M" Teachers	NBPTS Certification
0	\$2,778	N/A
1	\$2,824	N/A
2	\$2,872	N/A
3	\$3,040	\$3,405
4	\$3,194	\$3,577
5	\$3,340	\$3,741
6	\$3,480	\$3,898
7	\$3,593	\$4,024
8	\$3,645	\$4,082
9	\$3,698	\$4,142
10	\$3,753	\$4,203
11	\$3,807	\$4,264
12	\$3,862	\$4,325
13	\$3,917	\$4,387
14	\$3,975	\$4,452
15	\$4,034	\$4,518
16	\$4,094	\$4,585
17	\$4,155	\$4,654
18	\$4,217	\$4,723
19	\$4,281	\$4,795
20	\$4,345	\$4,866
21	\$4,412	\$4,941
22	\$4,479	\$5,016
23	\$4,550	\$5,096
24	\$4,620	\$5,174
25	\$4,690	\$5,253
26	\$4,763	\$5,335

1	27	\$4,838	\$5,419
2	28	\$4,914	\$5,504
3	29	\$4,992	\$5,591
4	30+	\$4,992	\$5,591

5       **SECTION 7.1.(c)** Certified public school teachers with certification based  
6 on academic preparation at the six-year degree level shall receive a salary supplement of  
7 one hundred twenty-six dollars (\$126.00) per month in addition to the compensation  
8 provided for certified personnel of the public schools who are classified as "M"  
9 teachers. Certified public school teachers with certification based on academic  
10 preparation at the doctoral degree level shall receive a salary supplement of two  
11 hundred fifty-three dollars (\$253.00) per month in addition to the compensation  
12 provided for certified personnel of the public schools who are classified as "M"  
13 teachers.

14       **SECTION 7.1.(d)** Effective for the 2003-2004 school year, the first step of  
15 the salary schedule for school psychologists shall be equivalent to Step 5, corresponding  
16 to five years of experience, on the salary schedule established in this section for  
17 certified personnel of the public schools who are classified as "M" teachers. Certified  
18 psychologists shall be placed on the salary schedule at an appropriate step based on their  
19 years of experience. Certified psychologists shall receive longevity payments based on  
20 years of State service in the same manner as teachers.

21       Certified psychologists with certification based on academic preparation at  
22 the six-year degree level shall receive a salary supplement of one hundred twenty-six  
23 dollars (\$126.00) per month in addition to the compensation provided for certified  
24 psychologists. Certified psychologists with certification based on academic preparation  
25 at the doctoral degree level shall receive a salary supplement of two hundred fifty-three  
26 dollars (\$253.00) per month in addition to the compensation provided for certified  
27 psychologists.

28       **SECTION 7.1.(e)** Effective for the 2003-2004 school year, speech  
29 pathologists who are certified as speech pathologists at the masters degree level and  
30 audiologists who are certified as audiologists at the masters degree level and who are  
31 employed in the public schools as speech and language specialists and audiologists shall  
32 be paid on the school psychologist salary schedule.

33       Speech pathologists and audiologists with certification based on academic  
34 preparation at the six-year degree level shall receive a salary supplement of one hundred  
35 twenty-six dollars (\$126.00) per month in addition to the compensation provided for  
36 speech pathologists and audiologists. Speech pathologists and audiologists with  
37 certification based on academic preparation at the doctoral degree level shall receive a  
38 salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to  
39 the compensation provided for speech pathologists and audiologists.

40       **SECTION 7.1.(f)** Certified school nurses who are employed in the public  
41 schools as nurses shall be paid on the "M" salary schedule.

42       **SECTION 7.1.(g)** As used in this section, the term "teacher" shall also  
43 include instructional support personnel.  
44

45 Requested by:       Representatives L. Johnson, Preston, Tolson, Yongue

46 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

47       **SECTION 7.2.(a)** Effective for the 2003-2004 school year, the Director of  
48 the Budget shall transfer from Reserve for Experience Step Salary Increase for Teachers  
49 and Principals in Public Schools for the 2003-2004 fiscal year funds necessary to  
50 implement the salary schedule for school-based administrators as provided in this  
51 section. These funds shall be used for State-paid employees only.

52       **SECTION 7.2.(b)** The base salary schedule for school-based administrators  
53 shall apply only to principals and assistant principals. The base salary schedule for the  
54 2003-2004 fiscal year, commencing July 1, 2003, is as follows:

2003-2004

PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES

CLASSIFICATION

Yrs of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,226	-	-	-	-
5	\$3,373	-	-	-	-
6	\$3,515	-	-	-	-
7	\$3,629	-	-	-	-
8	\$3,681	\$3,681	-	-	-
9	\$3,735	\$3,735	-	-	-
10	\$3,791	\$3,791	\$3,845	-	-
11	\$3,845	\$3,845	\$3,901	-	-
12	\$3,901	\$3,901	\$3,956	\$4,015	-
13	\$3,956	\$3,956	\$4,015	\$4,074	\$4,135
14	\$4,015	\$4,015	\$4,074	\$4,135	\$4,197
15	\$4,074	\$4,074	\$4,135	\$4,197	\$4,259
16	\$4,135	\$4,135	\$4,197	\$4,259	\$4,324
17	\$4,197	\$4,197	\$4,259	\$4,324	\$4,388
18	\$4,259	\$4,259	\$4,324	\$4,388	\$4,456
19	\$4,324	\$4,324	\$4,388	\$4,456	\$4,524
20	\$4,388	\$4,388	\$4,456	\$4,524	\$4,596
21	\$4,456	\$4,456	\$4,524	\$4,596	\$4,666
22	\$4,524	\$4,524	\$4,596	\$4,666	\$4,737
23	\$4,596	\$4,596	\$4,666	\$4,737	\$4,811
24	\$4,666	\$4,666	\$4,737	\$4,811	\$4,886
25	\$4,737	\$4,737	\$4,811	\$4,886	\$4,963
26	\$4,811	\$4,811	\$4,886	\$4,963	\$5,042
27	\$4,886	\$4,886	\$4,963	\$5,042	\$5,143
28	\$4,963	\$4,963	\$5,042	\$5,143	\$5,246
29	\$5,042	\$5,042	\$5,143	\$5,246	\$5,351
30	\$5,143	\$5,143	\$5,246	\$5,351	\$5,458
31	\$5,246	\$5,246	\$5,351	\$5,458	\$5,567
32	-	\$5,351	\$5,458	\$5,567	\$5,678
33	-	-	\$5,567	\$5,678	\$5,792
34	-	-	\$5,678	\$5,792	\$5,908
35	-	-	-	\$5,908	\$6,026
36	-	-	-	\$6,026	\$6,147
37	-	-	-	-	\$6,270

2003-2004

PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES

CLASSIFICATION

Yrs of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
14	\$4,259	-	-	-
15	\$4,324	-	-	-
16	\$4,388	\$4,456	-	-
17	\$4,456	\$4,524	\$4,666	-
18	\$4,524	\$4,596	\$4,737	\$4,811
19	\$4,596	\$4,666	\$4,811	\$4,886
20	\$4,666	\$4,737	\$4,886	\$4,963
21	\$4,737	\$4,811	\$4,963	\$5,042
22	\$4,811	\$4,886	\$5,042	\$5,143

1	23	\$4,886	\$4,963	\$5,143	\$5,246
2	24	\$4,963	\$5,042	\$5,246	\$5,351
3	25	\$5,042	\$5,143	\$5,351	\$5,458
4	26	\$5,143	\$5,246	\$5,458	\$5,567
5	27	\$5,246	\$5,351	\$5,567	\$5,678
6	28	\$5,351	\$5,458	\$5,678	\$5,792
7	29	\$5,458	\$5,567	\$5,792	\$5,908
8	30	\$5,567	\$5,678	\$5,908	\$6,026
9	31	\$5,678	\$5,792	\$6,026	\$6,147
10	32	\$5,792	\$5,908	\$6,147	\$6,270
11	33	\$5,908	\$6,026	\$6,270	\$6,395
12	34	\$6,026	\$6,147	\$6,395	\$6,523
13	35	\$6,147	\$6,270	\$6,523	\$6,653
14	36	\$6,270	\$6,395	\$6,653	\$6,786
15	37	\$6,395	\$6,523	\$6,786	\$6,922
16	38	\$6,523	\$6,653	\$6,922	\$7,060
17	39	-	\$6,786	\$7,060	\$7,201
18	40	-	\$6,922	\$7,201	\$7,345
19	41	-	-	\$7,345	\$7,492

**SECTION 7.2.(c)** The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer 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	66-100 Teachers
Principal VIII	More than 100 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.

The beginning classification for principals in alternative schools shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

**SECTION 7.2.(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. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and the 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

**SECTION 7.2.(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.

**SECTION 7.2.(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

1 by a local school administrative unit for the 1992-1993 fiscal year received because of  
 2 that requirement shall not be reduced because of this subsection for subsequent fiscal  
 3 years that the superintendent is employed by that local school administrative unit so  
 4 long as the superintendent is entitled to at least that amount of additional State-paid  
 5 salary under the rules in effect for the 1992-1993 fiscal year.

6 **SECTION 7.2.(g)** Longevity pay for principals and assistant principals shall  
 7 be as provided for State employees under the State Personnel Act.

8 **SECTION 7.2.(h)**

9 (1) If a principal is reassigned to a higher job classification because the  
 10 principal is transferred to a school within a local school administrative  
 11 unit with a larger number of State-allotted teachers, the principal shall  
 12 be placed on the salary schedule as if the principal had served the  
 13 principal's entire career as a principal at the higher job classification.

14 (2) If a principal is reassigned to a lower job classification because the  
 15 principal is transferred to a school within a local school administrative  
 16 unit with a smaller number of State-allotted teachers, the principal  
 17 shall be placed on the salary schedule as if the principal had served the  
 18 principal's entire career as a principal at the lower job classification.

19 This subsection applies to all transfers on or after the effective date of this  
 20 section, except transfers in school systems that have been created, or will be created, by  
 21 merging two or more school systems. Transfers in these merged systems are exempt  
 22 from the provisions of this subsection for one calendar year following the date of the  
 23 merger.

24 **SECTION. 7.2.(i)** Participants in an approved full-time masters in school  
 25 administration program shall receive up to a 10-month stipend at the beginning salary of  
 26 an assistant principal during the internship period of the masters program. The stipend  
 27 shall not exceed the difference between the beginning salary of an assistant principal  
 28 and any fellowship funds received by the intern as a full-time student, including awards  
 29 of the Principal Fellows Program. The Principal Fellows Program or the school of  
 30 education where the intern participates in a full-time masters in school administration  
 31 program shall supply the Department of Public Instruction with certification of eligible  
 32 full-time interns.

33 **SECTION 7.2.(j)** During the 2003-2004 fiscal year, the placement on the  
 34 salary schedule of an administrator with a one-year provisional assistant principal's  
 35 certificate shall be at the entry-level salary for an assistant principal or the appropriate  
 36 step on the teacher salary schedule, whichever is higher.

37  
 38 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

39 **CENTRAL OFFICE SALARIES**

40 **SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant  
 41 superintendents, associate superintendents, directors/coordinators, supervisors, and  
 42 finance officers for the 2003-2004 fiscal year, beginning July 1, 2003. The top of these  
 43 ranges shall be increased by one and sixth-tenths percent (1.6%) annually for full-time  
 44 employees.

45	School Administrator I	\$2,932	\$5,266
46	School Administrator II	\$3,112	\$5,586
47	School Administrator III	\$3,303	\$5,925
48	School Administrator IV	\$3,436	\$6,162
49	School Administrator V	\$3,574	\$6,410
50	School Administrator VI	\$3,792	\$6,799
51	School Administrator VII	\$3,945	\$7,072

52 The local board of education shall determine the appropriate category and  
 53 placement for each assistant superintendent, associate superintendent,  
 54 director/coordinator, supervisor, or finance officer within the salary ranges and within  
 55 funds appropriated by the General Assembly for central office administrators and

1 superintendents. The category in which an employee is placed shall be included in the  
2 contract of any employee hired on or after July 1, 2003.

3 **SECTION 7.3.(b)** The monthly salary ranges that follow apply to public  
4 school superintendents for the 2003-2004 fiscal year, beginning July 1, 2003. The top  
5 of these ranges shall be increased by one and sixth-tenths percent (1.6%) annually for  
6 full-time employees.

7	Superintendent I	\$4,187	\$7,503
8	Superintendent II	\$4,445	\$7,956
9	Superintendent III	\$4,716	\$8,441
10	Superintendent IV	\$5,005	\$8,953
11	Superintendent V	\$5,312	\$9,499

12 The local board of education shall determine the appropriate category and  
13 placement for the superintendent based on the average daily membership of the local  
14 school administrative unit and within funds appropriated by the General Assembly for  
15 central office administrators and superintendents.

16 Notwithstanding the provisions of this subsection, a local board of education  
17 may pay an amount in excess of the applicable range to a superintendent who is entitled  
18 to receive the higher amount under Section 7.2.(f) of this act.

19 **SECTION 7.3.(c)** Longevity pay for superintendents, assistant  
20 superintendents, associate superintendents, directors/coordinators, supervisors, and  
21 finance officers shall be as provided for State employees under the State Personnel Act.

22 **SECTION 7.3.(d)** Superintendents, assistant superintendents, associate  
23 superintendents, directors/coordinators, supervisors, and finance officers with  
24 certification based on academic preparation at the six-year degree level shall receive a  
25 salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to  
26 the compensation provided pursuant to this section. Superintendents, assistant  
27 superintendents, associate superintendents, directors/coordinators, supervisors, and  
28 finance officers with certification based on academic preparation at the doctoral degree  
29 level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per  
30 month in addition to the compensation provided for under this section.

31 **SECTION 7.3.(e)**. The State Board of Education shall not permit local  
32 school administrative units to transfer State funds from other funding categories for  
33 salaries for public school central office administrators.

34 **SECTION 7.3.(f)**. The Director of the Budget shall transfer from the  
35 Reserve for Compensation Increases created in this act for fiscal year 2003-2004,  
36 beginning July 1, 2003, funds necessary to provide an average annual salary increase of  
37 one and six-tenths percent (1.6%), including funds for the employer's retirement and  
38 social security contributions, commencing July 1, 2003, for all permanent full-time  
39 personnel paid from the Central Office Allotment. The State Board of Education shall  
40 allocate these funds to local school administrative units. The local boards of education  
41 shall establish guidelines for providing their salary increases to these personnel.  
42

43 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

44 **NONCERTIFIED PERSONNEL**

45 **SECTION 7.4.(a)** The Director of the Budget shall transfer from the  
46 Reserve for Compensation Increases created in this act for fiscal year 2003-2004,  
47 commencing July 1, 2003, funds necessary to provide a salary increase of one and  
48 six-tenths percent (1.6%), including funds for the employer's retirement and social  
49 security contribution, commencing July 1, 2003, for all noncertified public school  
50 employees whose salaries are supported from the State's General Fund.

51 **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay  
52 for all such employees who were employed for all or part of fiscal year 2002-2003 and  
53 who continue their employment for fiscal year 2003-2004 by at least one and six-tenths  
54 percent (1.6%), commencing July 1, 2003. For part-time employees, the pay increase  
55 shall be pro rata based on the number of hours worked.

1           **SECTION 7.4.(c)** These funds shall not be used for any purpose other than  
2 for the salary increases and necessary employer contributions provided by this section.

3           **SECTION 7.4.(d)** The State Board of Education may adopt salary ranges for  
4 noncertified personnel to support increases of one and six-tenths percent (1.6%) for the  
5 2003-2004 school year.

6  
7 Requested by:           Representatives L. Johnson, Preston, Tolson, Yongue

8 **RESERVE FOR EXPERIENCE STEP INCREASE FOR TEACHERS AND**  
9 **PRINCIPALS IN PUBLIC SCHOOLS**

10           **SECTION 7.5.(a)** Funds in the Reserve for Experience Step Increase for  
11 Teachers and Principals in Public Schools shall be used for experience step increases for  
12 employees of schools operated by a local board of education, the Department of Health  
13 and Human Services, the Department of Correction, or the Department of Juvenile  
14 Justice and Delinquency Prevention, who are paid on the teacher salary schedule or the  
15 principal and assistant principal salary schedule.

16           **SECTION 7.5.(b)** Effective July 1, 2003, any permanent certified personnel  
17 employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of  
18 experience shall receive a one-time bonus equivalent to the average increase of the 26 to  
19 29 year steps. Effective July 1, 2003, any permanent personnel employed on July 1,  
20 2003, and paid at the top of the principal and assistant principal salary schedule shall  
21 receive a one-time bonus equivalent to two percent (2%). For permanent part-time  
22 personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under G.S.  
23 115C-325(a)(5a) are not eligible to receive the bonus.

24  
25 Requested by:           Representatives L. Johnson, Preston, Tolson, Yongue

26 **SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

27           **SECTION 7.6.(a)** Funds for Supplemental Funding. – The General  
28 Assembly finds that it is appropriate to provide supplemental funds in low-wealth  
29 counties to allow those counties to enhance the instructional program and student  
30 achievement. Therefore, funds are appropriated to State Aid to Local School  
31 Administrative Units for the 2003-2004 fiscal year and the 2004-2005 fiscal year to be  
32 used for supplemental funds for the schools.

33           **SECTION 7.6.(b)** Use of Funds for Supplemental Funding. – All funds  
34 received pursuant to this section shall be used only: (i) to provide instructional  
35 positions, instructional support positions, teacher assistant positions, clerical positions,  
36 school computer technicians, instructional supplies and equipment, staff development,  
37 and textbooks; (ii) for salary supplements for instructional personnel and instructional  
38 support personnel; and (iii) to pay an amount not to exceed ten thousand dollars  
39 (\$10,000) of the plant operation contract cost charged by the Department of Public  
40 Instruction for services.

41           Local boards of education are encouraged to use at least twenty-five percent  
42 (25%) of the funds received pursuant to this section to improve the academic  
43 performance of children who are performing at Level I or II on either reading or  
44 mathematics end-of-grade tests in grades 3-8 and children who are performing at Level  
45 I or II on the writing tests in grades 4 and 7. Local boards of education shall report to  
46 the State Board of Education on an annual basis on funds used for this purpose, and the  
47 State Board shall report this information to the Joint Legislative Education Oversight  
48 Committee. These reports shall specify how these funds were targeted and used to  
49 implement specific improvement strategies of each local school administrative unit and  
50 its schools, such as teacher recruitment, closing the achievement gap, improving student  
51 accountability, addressing the needs of at-risk students, and establishing and  
52 maintaining safe schools.

53           **SECTION 7.6.(c)** Definitions. – As used in this section:



- 1 (1) "Anticipated county property tax revenue availability" means the  
2 county-adjusted property tax base multiplied by the effective State  
3 average tax rate.
- 4 (2) "Anticipated total county revenue availability" means the sum of the:  
5 a. Anticipated county property tax revenue availability,  
6 b. Local sales and use taxes received by the county that are levied  
7 under Chapter 1096 of the 1967 Session Laws or under  
8 Subchapter VIII of Chapter 105 of the General Statutes,  
9 c. Food stamp exemption reimbursement received by the county  
10 under G.S. 105-164.44C,  
11 d. Homestead exemption reimbursement received by the county  
12 under G.S. 105-277.1A,  
13 e. Inventory tax reimbursement received by the county under G.S.  
14 105-275.1 and G.S. 105-277.001,  
15 f. Intangibles tax distribution and reimbursement received by the  
16 county under G.S. 105-275.2, and  
17 g. Fines and forfeitures deposited in the county school fund for the  
18 most recent year for which data are available.
- 19 (3) "Anticipated total county revenue availability per student" means the  
20 anticipated total county revenue availability for the county divided by  
21 the average daily membership of the county.
- 22 (4) "Anticipated State average revenue availability per student" means the  
23 sum of all anticipated total county revenue availability divided by the  
24 average daily membership for the State.
- 25 (5) "Average daily membership" means average daily membership as  
26 defined in the North Carolina Public Schools Allotment Policy  
27 Manual, adopted by the State Board of Education. If a county contains  
28 only part of a local school administrative unit, the average daily  
29 membership of that county includes all students who reside within the  
30 county and attend that local school administrative unit.
- 31 (6) "County-adjusted property tax base" shall be computed as follows:  
32 a. Subtract the present-use value of agricultural land, horticultural  
33 land, and forestland in the county, as defined in G.S. 105-277.2,  
34 from the total assessed real property valuation of the county,  
35 b. Adjust the resulting amount by multiplying by a weighted  
36 average of the three most recent annual sales assessment ratio  
37 studies,  
38 c. Add to the resulting amount the:  
39 1. Present-use value of agricultural land, horticultural land,  
40 and forestland, as defined in G.S. 105-277.2,  
41 2. Value of property of public service companies,  
42 determined in accordance with Article 23 of Chapter 105  
43 of the General Statutes, and  
44 3. Personal property value for the county.
- 45 (7) "County-adjusted property tax base per square mile" means the  
46 county-adjusted property tax base divided by the number of square  
47 miles of land area in the county.
- 48 (8) "County wealth as a percentage of State average wealth" shall be  
49 computed as follows:  
50 a. Compute the percentage that the county per capita income is of  
51 the State per capita income and weight the resulting percentage  
52 by a factor of five-tenths,  
53 b. Compute the percentage that the anticipated total county  
54 revenue availability per student is of the anticipated State

- 1 average revenue availability per student and weight the  
2 resulting percentage by a factor of four-tenths,  
3 c. Compute the percentage that the county-adjusted property tax  
4 base per square mile is of the State-adjusted property tax base  
5 per square mile and weight the resulting percentage by a factor  
6 of one-tenth,  
7 d. Add the three weighted percentages to derive the county wealth  
8 as a percentage of the State average wealth.

- 9 (9) "Effective county tax rate" means the actual county tax rate multiplied  
10 by a weighted average of the three most recent annual sales assessment  
11 ratio studies.  
12 (10) "Effective State average tax rate" means the average of effective  
13 county tax rates for all counties.  
14 (10a) "Local current expense funds" means the most recent county current  
15 expense appropriations to public schools, as reported by local boards  
16 of education in the audit report filed with the Secretary of the Local  
17 Government Commission pursuant to G.S. 115C-447.  
18 (11) "Per capita income" means the average for the most recent three years  
19 for which data are available of the per capita income according to the  
20 most recent report of the United States Department of Commerce,  
21 Bureau of Economic Analysis, including any reported modifications  
22 for prior years as outlined in the most recent report.  
23 (12) "Sales assessment ratio studies" means sales assessment ratio studies  
24 performed by the Department of Revenue under G.S. 105-289(h).  
25 (13) "State average current expense appropriations per student" means the  
26 most recent State total of county current expense appropriations to  
27 public schools, as reported by local boards of education in the audit  
28 report filed with the Secretary of the Local Government Commission  
29 pursuant to G.S. 115C-447.  
30 (14) "State average adjusted property tax base per square mile" means the  
31 sum of the county-adjusted property tax bases for all counties divided  
32 by the number of square miles of land area in the State.  
33 (14a) "Supplant" means to decrease local per student current expense  
34 appropriations from one fiscal year to the next fiscal year.  
35 (15) "Weighted average of the three most recent annual sales assessment  
36 ratio studies" means the weighted average of the three most recent  
37 annual sales assessment ratio studies in the most recent years for which  
38 county current expense appropriations and adjusted property tax  
39 valuations are available. If real property in a county has been revalued  
40 one year prior to the most recent sales assessment ratio study, a  
41 weighted average of the two most recent sales assessment ratios shall  
42 be used. If property has been revalued the year of the most recent sales  
43 assessment ratio study, the sales assessment ratio for the year of  
44 revaluation shall be used.

45 **SECTION 7.6.(d)** Eligibility for Funds. – Except as provided in subsection  
46 (h) of this section, the State Board of Education shall allocate these funds to local school  
47 administrative units located in whole or in part in counties in which the county wealth  
48 as a percentage of the State average wealth is less than one hundred percent (100%).

49 **SECTION 7.6.(e)** Allocation of Funds. – Except as provided in subsection  
50 (g) of this section, the amount received per average daily membership for a county shall  
51 be the difference between the State average current expense appropriations per student  
52 and the current expense appropriations per student that the county could provide given  
53 the county's wealth and an average effort to fund public schools. (To derive the current  
54 expense appropriations per student that the county could be able to provide given the  
55 county's wealth and an average effort to fund public schools, multiply the county wealth

1 as a percentage of State average wealth by the State average current expense  
2 appropriations per student.)

3 The funds for the local school administrative units located in whole or in part  
4 in the county shall be allocated to each local school administrative unit located in whole  
5 or in part in the county based on the average daily membership of the county's students  
6 in the school units.

7 If the funds appropriated for supplemental funding are not adequate to fund  
8 the formula fully, each local school administrative unit shall receive a pro rata share of  
9 the funds appropriated for supplemental funding.

10 **SECTION 7.6.(f)** Formula for Distribution of Supplemental Funding  
11 Pursuant to This Section Only. – The formula in this section is solely a basis for  
12 distribution of supplemental funding for low-wealth counties and is not intended to  
13 reflect any measure of the adequacy of the educational program or funding for public  
14 schools. The formula is also not intended to reflect any commitment by the General  
15 Assembly to appropriate any additional supplemental funds for low-wealth counties.

16 **SECTION 7.6.(g)** Minimum Effort Required. – Counties that had effective  
17 tax rates in the 1996-1997 fiscal year that were above the State average effective tax  
18 rate but that had effective rates below the State average in the 1997-1998 fiscal year or  
19 thereafter shall receive reduced funding under this section. This reduction in funding  
20 shall be determined by subtracting the amount that the county would have received  
21 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount  
22 that the county would have received if qualified for full funding and multiplying the  
23 difference by ten percent (10%). This method of calculating reduced funding shall  
24 apply one time only.

25 This method of calculating reduced funding shall not apply in cases in which  
26 the effective tax rate fell below the statewide average effective tax rate as a result of a  
27 reduction in the actual property tax rate. In these cases, the minimum effort required  
28 shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995  
29 Session Laws.

30 If the county documents that it has increased the per student appropriation to  
31 the school current expense fund in the current fiscal year, the State Board of Education  
32 shall include this additional per pupil appropriation when calculating minimum effort  
33 pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

34 **SECTION 7.6.(h)** Nonsupplant Requirement. – A county in which a local  
35 school administrative unit receives funds under this section shall use the funds to  
36 supplement local current expense funds and shall not supplant local current expense  
37 funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not  
38 allocate funds under this section to a county found to have used these funds to supplant  
39 local per student current expense funds. The State Board of Education shall make a  
40 finding that a county has used these funds to supplant local current expense funds in the  
41 prior year, or the year for which the most recent data are available, if:

- 42 (1) The current expense appropriation per student of the county for the  
43 current year is less than ninety-five percent (95%) of the average of the  
44 local current expense appropriations per student for the three prior  
45 fiscal years; and
- 46 (2) The county cannot show: (i) that it has remedied the deficiency in  
47 funding, or (ii) that extraordinary circumstances caused the county to  
48 supplant local current expense funds with funds allocated under this  
49 section.

50 The State Board of Education shall adopt rules to implement this section.

51 **SECTION 7.6.(i)** Reports. – The State Board of Education shall report to the  
52 Joint Legislative Education Oversight Committee prior to May 1, 2004, if it determines  
53 that counties have supplanted funds.

54 **SECTION 7.6.(j)** Department of Revenue Reports. – The Department of  
55 Revenue shall provide to the Department of Public Instruction a preliminary report for

1 the current fiscal year of the assessed value of the property tax base for each county  
2 prior to March 1 of each year and a final report prior to May 1 of each year. The reports  
3 shall include for each county the annual sales assessment ratio and the taxable values of  
4 (i) total real property, (ii) the portion of total real property represented by the  
5 present-use value of agricultural land, horticultural land, and forestland as defined in  
6 G.S. 105-277.2, (iii) property of public service companies determined in accordance  
7 with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.  
8

9 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

10 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

11 **SECTION 7.7.(a)** Funds for Small School Systems. – Except as provided in  
12 subsection (b) of this section, the State Board of Education shall allocate funds  
13 appropriated for small school system supplemental funding (i) to each county school  
14 administrative unit with an average daily membership of fewer than 3,175 students and  
15 (ii) to each county school administrative unit with an average daily membership from  
16 3,175 to 4,000 students if the county in which the local school administrative unit is  
17 located has a county-adjusted property tax base per student that is below the  
18 State-adjusted property tax base per student and if the total average daily membership of  
19 all local school administrative units located within the county is from 3,175 to 4,000  
20 students. The allocation formula shall:

- 21 (1) Round all fractions of positions to the next whole position.
- 22 (2) Provide five and one-half additional regular classroom teachers in  
23 counties in which the average daily membership per square mile is  
24 greater than four, and seven additional regular classroom teachers in  
25 counties in which the average daily membership per square mile is  
26 four or fewer.
- 27 (3) Provide additional program enhancement teachers adequate to offer  
28 the standard course of study.
- 29 (4) Change the duty-free period allocation to one teacher assistant per 400  
30 average daily membership.
- 31 (5) Provide a base for the consolidated funds allotment of at least five  
32 hundred seventy-seven thousand one hundred eleven dollars  
33 (\$577,111), excluding textbooks.
- 34 (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

35 If funds appropriated for each fiscal year for small school system  
36 supplemental funding are not adequate to fund fully the program, the State Board of  
37 Education shall reduce the amount allocated to each county school administrative unit  
38 on a pro rata basis. This formula is solely a basis for distribution of supplemental  
39 funding for certain county school administrative units and is not intended to reflect any  
40 measure of the adequacy of the educational program or funding for public schools. The  
41 formula is also not intended to reflect any commitment by the General Assembly to  
42 appropriate any additional supplemental funds for such county administrative units.

43 **SECTION 7.7.(b)** Nonsupplant Requirement. – A county in which a local  
44 school administrative unit receives funds under this section shall use the funds to  
45 supplement local current expense funds and shall not supplant local current expense  
46 funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not  
47 allocate funds under this section to a county found to have used these funds to supplant  
48 local per student current expense funds. The State Board of Education shall make a  
49 finding that a county has used these funds to supplant local current expense funds in the  
50 prior year, or the year for which the most recent data are available, if:

- 51 (1) The current expense appropriation per student of the county for the  
52 current year is less than ninety-five percent (95%) of the average of the  
53 local current expense appropriations per student for the three prior  
54 fiscal years; and

- 1 (2) The county cannot show: (i) that it has remedied the deficiency in  
2 funding, or (ii) that extraordinary circumstances caused the county to  
3 supplant local current expense funds with funds allocated under this  
4 section.

5 The State Board of Education shall adopt rules to implement this section.

6 **SECTION 7.7.(c)** Phase-Out Provisions. – If a local school administrative  
7 unit becomes ineligible for funding under this formula solely because of an increase in  
8 the county-adjusted property tax base per student of the county in which the local school  
9 administrative unit is located, funding for that unit shall be phased out over a two-year  
10 period. For the first year of ineligibility, the unit shall receive the same amount it  
11 received for the prior fiscal year. For the second year of ineligibility, it shall receive  
12 one-half of that amount.

13 If a local school administrative unit becomes ineligible for funding under this  
14 formula solely because of an increase in the population of the county in which the local  
15 school administrative unit is located, funding for that unit shall be continued for five  
16 years after the unit becomes ineligible.

17 **SECTION 7.7.(d)** Definitions. – As used in this section:

- 18 (1) "Average daily membership" means within two percent (2%) of the  
19 average daily membership as defined in the North Carolina Public  
20 Schools Allotment Policy Manual, adopted by the State Board of  
21 Education.
- 22 (2) "County-adjusted property tax base per student" means the total  
23 assessed property valuation for each county, adjusted using a weighted  
24 average of the three most recent annual sales assessment ratio studies,  
25 divided by the total number of students in average daily membership  
26 who reside within the county.
- 27 (2a) "Local current expense funds" means the most recent county current  
28 expense appropriations to public schools, as reported by local boards  
29 of education in the audit report filed with the Secretary of the Local  
30 Government Commission pursuant to G.S. 115C-447.
- 31 (3) "Sales assessment ratio studies" means sales assessment ratio studies  
32 performed by the Department of Revenue under G.S. 105-289(h).
- 33 (4) "State-adjusted property tax base per student" means the sum of all  
34 county adjusted property tax bases divided by the total number of  
35 students in average daily membership who reside within the State.
- 36 (4a) "Supplant" means to decrease local per student current expense  
37 appropriations from one fiscal year to the next fiscal year.
- 38 (5) "Weighted average of the three most recent annual sales assessment  
39 ratio studies" means the weighted average of the three most recent  
40 annual sales assessment ratio studies in the most recent years for which  
41 county current expense appropriations and adjusted property tax  
42 valuations are available. If real property in a county has been revalued  
43 one year prior to the most recent sales assessment ratio study, a  
44 weighted average of the two most recent sales assessment ratios shall  
45 be used. If property has been revalued during the year of the most  
46 recent sales assessment ratio study, the sales assessment ratio for the  
47 year of revaluation shall be used.

48 **SECTION 7.7.(e)** Reports. – The State Board of Education shall report to  
49 the Joint Legislative Education Oversight Committee prior to May 1, 2004, if it  
50 determines that counties have supplanted funds.

51 **SECTION 7.7.(f)** Use of Funds. – Local boards of education are encouraged  
52 to use at least twenty percent (20%) of the funds they receive pursuant to this section to  
53 improve the academic performance of children who are performing at Level I or II on  
54 either reading or mathematics end-of-grade tests in grades 3-8 and children who are  
55 performing at Level I or II on the writing tests in grades 4 and 7. Local boards of

1 education shall report to the State Board of Education on an annual basis on funds used  
2 for this purpose and the State Board shall report this information to the Joint Legislative  
3 Education Oversight Committee. These reports shall specify how these funds were  
4 targeted and used to implement specific improvement strategies of each local school  
5 administrative unit and its schools such as teacher recruitment, closing the achievement  
6 gap, improving student accountability, addressing the needs of at-risk students, and  
7 establishing and maintaining safe schools.  
8

9 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

#### 10 **APPROPRIATIONS FOR CONTINUALLY LOW-PERFORMING SCHOOLS**

11 **SECTION 7.8.** Of funds appropriated from the General Fund to State Aid to  
12 Local School Administrative Units, the sum of one million nine hundred fifty-six  
13 thousand one hundred fifteen dollars (\$1,956,115) for the 2003-2004 and 2004-2005  
14 fiscal years shall be used to provide the State's chronically low-performing schools with  
15 tools needed to dramatically improve student achievement. These funds shall be used to  
16 implement any of the following strategies at the schools that have not previously been  
17 implemented with State or other funds:

- 18 (1) The sum of one million six hundred fifty-seven thousand three  
19 hundred forty-five dollars (\$1,657,345) for the 2003-2004 and  
20 2004-2005 fiscal years shall be used to reduce class size at a  
21 continually low-performing school to ensure that the number of  
22 teachers allotted for students in grades four and five is one for every 17  
23 students, and that the number of teachers allotted in grades six through  
24 eight is one for every 17 students, and that the number of teachers  
25 allotted in grades nine through twelve is one for every 20 students; and
- 26 (2) The sum of two hundred ninety-eight thousand seven hundred seventy  
27 dollars (\$298,770) for the 2003-2004 and 2004-2005 fiscal years shall  
28 be used to extend teachers' contracts for a total of 10 days, including  
29 five days of additional instruction with related costs for other than  
30 teachers' salaries for the 2003-2004 and 2004-2005 school years.

31 Notwithstanding any other provision of law, the State Board of Education  
32 may implement intervention strategies for the 2003-2004 and 2004-2005 school years  
33 that it deems appropriate.  
34

35 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

#### 36 **IMMEDIATE ASSISTANCE TO THE HIGHEST PRIORITY ELEMENTARY** 37 **SCHOOLS**

38 **SECTION 7.9.** Of funds appropriated from the General Fund to State Aid to  
39 Local School Administrative Units, the sum of ten million one hundred thirty-four  
40 thousand six hundred seven dollars (\$10,134,607) for the 2003-2004 and 2004-2005  
41 fiscal years shall be budgeted to provide the State's lowest performing elementary  
42 schools with the tools needed to dramatically improve student achievement. These  
43 funds shall be used for the 37 elementary schools at which, for the 1999-2000 school  
44 year over eighty percent (80%) of the students qualified for free or reduced-price  
45 lunches, and no more than fifty-five percent (55%) of the students performed at or  
46 above grade level. Of these funds:

- 47 (1) The sum of six million ninety-three thousand one hundred eighty-one  
48 dollars (\$6,093,181) for the 2003-2004 and 2004-2005 fiscal years  
49 shall be used to reduce class size at each of these schools to ensure that  
50 no class kindergarten through third grade has more than 15 students;
- 51 (2) The sum of two million two hundred sixty-six thousand twenty-six  
52 dollars (\$2,266,026) for the 2003-2004 and 2004-2005 fiscal years  
53 shall be used to extend all teachers' contracts at these schools for a  
54 total of 10 days, with five days for staff development, including staff  
55 development on methods to individualize instruction in smaller

1 classes, and preparation for the 2003-2004 and 2004-2005 school  
2 years, and five additional days of instruction with related costs for  
3 other than teachers' salaries; and

- 4 (3) The sum of one million seven hundred seventy-five thousand four  
5 hundred dollars (\$1,775,400) for the 2003-2004 and 2004-2005 fiscal  
6 years shall be used to provide one additional instructional support  
7 position at each priority school.

8 No funds from the teacher assistant allotment category may be allotted to the  
9 local school administrative units for students assigned to these schools. Any teacher  
10 assistants displaced from jobs in these high-priority elementary schools shall be given  
11 preferential consideration for vacant teacher assistant positions at other schools,  
12 provided their job performance has been satisfactory. Nothing in this section prevents  
13 the local school administrative unit from placing teacher assistants in these schools.

14  
15 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

16 **EVALUATION OF INITIATIVES TO ASSIST HIGH-PRIORITY SCHOOLS**

17 **SECTION 7.10.(a)** In order for the high-priority schools identified in  
18 Section 7.9 of this act to remain eligible for the additional resources provided in this  
19 section, the schools must meet the expected growth for each year and must achieve high  
20 growth for at least two out of three years based on the State Board of Education's annual  
21 performance standards set for each school. No adjustment in the allotment of resources  
22 based on performance shall be made until the 2004-2005 school year.

23 **SECTION 7.10.(b)** All teaching positions allotted for students in  
24 high-priority schools and continually low-performing schools in those grades targeted  
25 for smaller class sizes shall be assigned to and teach in those grades and in those  
26 schools. The maximum class size in grades K-3 in high-priority schools and in grades  
27 K-5 in continually low-performing schools shall be no more than one student above the  
28 allotment ratio in that grade. The Department of Public Instruction shall monitor class  
29 sizes at these schools at the end of the first month of school and report to the State  
30 Board of Education on the actual class sizes at these schools. If the local school  
31 administrative unit notifies the State Board of Education that they do not have sufficient  
32 resources to adhere to the class size maximum requirements and requests additional  
33 teaching positions, the State Board shall verify the need for additional positions. If the  
34 additional resources are determined necessary, the State Board of Education may  
35 allocate additional teaching positions to the unit from the Reserve for Average Daily  
36 Membership adjustments.

37 **SECTION 7.10.(c)** Of funds appropriated from the General Fund to State  
38 Aid to Local School Administrative Units, the sum of five hundred thousand dollars  
39 (\$500,000) for fiscal year 2003-2004 and the sum of five hundred thousand dollars  
40 (\$500,000) for fiscal year 2004-2005 shall be used by the State Board of Education to  
41 contract with an outside organization to evaluate the initiatives set forth in this section.  
42 The evaluation shall include:

- 43 (1) An assessment of the overall impact these initiatives have had on  
44 student achievement;
- 45 (2) An assessment of the effectiveness of each individual initiative set for  
46 this section in improving student achievement;
- 47 (3) An identification of changes in staffing patterns, instructional methods,  
48 staff development, and parental involvement as a result of these  
49 initiatives;
- 50 (4) An accounting of how funds and personnel resources made available  
51 for these schools were utilized and the impact of varying patterns of  
52 utilization on changes in student achievement;
- 53 (5) An assessment of the impact of bonuses for mathematics, science, and  
54 special education teachers on (i) the retention of these teachers in the  
55 targeted schools, (ii) the recruitment of teachers in these specialties

1 into targeted schools, (iii) the recruitment of teachers certified in these  
2 disciplines, and (iv) student achievement in schools at which these  
3 teachers receive these bonuses; and

- 4 (6) Recommendations for the continuance and improvement of these  
5 initiatives.

6 The State Board of Education shall make a report to the Joint Legislative  
7 Education Oversight Committee regarding the results of this evaluation by December 1  
8 of each year. The State Board of Education shall submit its recommendations for  
9 changes to these initiatives to the Committee at anytime.

10  
11 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

12 **AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS**

13 **SECTION 7.11.** The State Board of Education may use up to two hundred  
14 thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student  
15 allotment each year for the 2003-2004 fiscal year and for the 2004-2005 fiscal year to  
16 implement G.S. 115C-12(24).

17  
18 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

19 **ADDITIONAL TEACHER POSITIONS FOR SECOND GRADE**

20 **SECTION 7.12.(a)** The maximum class size limits for second grade  
21 established by the State Board of Education for the 2003-2004 school year shall be  
22 reduced by two from the 2002-2003 limits, based on an allotment ratio of one teacher  
23 for every 18 students.

24 **SECTION 7.12.(b)** For the 2003-2004 school year, local school  
25 administrative units shall use these additional teacher positions to reduce class size in  
26 second grade.

27  
28 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

29 **CHILDREN WITH DISABILITIES**

30 **SECTION 7.13.** The State Board of Education shall allocate funds for  
31 children with disabilities on the basis of two thousand six hundred seventy dollars and  
32 twenty-eight cents (\$2,670.28) per child for a maximum of 165,266 children for the  
33 2003-2004 school year. Each local school administrative unit shall receive funds for the  
34 lesser of (i) all children who are identified as children with disabilities or (ii) twelve and  
35 five-tenths percent (12.5%) of the 2003-2004 allocated average daily membership in the  
36 local school administrative unit.

37 The dollar amounts allocated under this section for children with disabilities  
38 shall also adjust in accordance with legislative salary increments, retirement rate  
39 adjustments, and health benefit adjustments for personnel who serve children with  
40 disabilities.

41  
42 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

43 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

44 **SECTION 7.14.** The State Board of Education shall allocate funds for  
45 academically or intellectually gifted children on the basis of eight hundred eighty-four  
46 dollars and fifty-five cents (\$884.55) per child. A local school administrative unit shall  
47 receive funds for a maximum of four percent (4%) of its 2003-2004 allocated average  
48 daily membership, regardless of the number of children identified as academically or  
49 intellectually gifted in the unit. The State Board shall allocate funds for no more than  
50 53,712 children for the 2003-2004 school year.

51 The dollar amounts allocated under this section for academically or  
52 intellectually gifted children shall also adjust in accordance with legislative salary  
53 increments, retirement rate adjustments, and health benefit adjustments for personnel  
54 who serve academically or intellectually gifted children.



1 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

2 **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

3 **SECTION 7.15.(a)** The State Board of Education shall develop guidelines  
4 for identifying and providing services to students with limited proficiency in the English  
5 language.

6 The State Board shall allocate these funds to local school administrative units  
7 and to charter schools under a formula that takes into account the average percentage of  
8 students in the units or the charters over the past three years who have limited English  
9 proficiency. The State Board shall allocate funds to a unit or a charter school only if (i)  
10 average daily membership of the unit or the charter school includes at least 20 students  
11 with limited English proficiency or (ii) students with limited English proficiency  
12 comprise at least two and one-half percent (2.5%) of the average daily membership of  
13 the unit or charter school. For the portion of the funds that is allocated on the basis of  
14 the number of identified students, the maximum number of identified students for whom  
15 a unit or charter school receives funds shall not exceed 10 and six-tenths percent  
16 (10.6%) of its average daily membership.

17 Local school administrative units shall use funds allocated to them to pay for  
18 classroom teachers, teacher assistants, tutors, textbooks, classroom  
19 materials/instructional supplies/equipment, transportation costs, and staff development  
20 of teachers for students with limited English proficiency.

21 A county in which a local school administrative unit receives funds under this  
22 section shall use the funds to supplement local current expense funds and shall not  
23 supplant local current expense funds.

24 **SECTION 7.15.(b)** The Department of Public Instruction shall prepare a  
25 current head count of the number of students classified with limited English proficiency  
26 by December 1 of each year.

27 Students in the head count shall be assessed at least once every three years to  
28 determine their level of English proficiency. A student who scores "superior" on the  
29 standard English language proficiency assessment instrument used in this State shall not  
30 be included in the head count of students with limited English proficiency.

31 **SECTION 7.15.(c)** The State Board of Education shall review the allotment  
32 formula for funding for students with limited English proficiency. In its review, the  
33 Board shall consider whether the proportion of funds allotted on the basis of  
34 concentration of students with limited English proficiency in a local school  
35 administrative unit is at the proper level or should be revised. The Board shall report  
36 the results of its review and its recommendations to the Joint Legislative Education  
37 Oversight Committee by November 15, 2003.

38  
39 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

40 **FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION**

41 **SECTION 7.16.(a)** The State Board of Education shall use funds  
42 appropriated for State Aid to Local School Administrative Units for the 2003-2004  
43 fiscal year to provide incentive funding for schools that met or exceeded the projected  
44 levels of improvement in student performance during the 2002-2003 school year, in  
45 accordance with the ABCs of Public Education Program. In accordance with State  
46 Board of Education policy:

- 47 (1) Incentive awards in schools that achieve higher than expected  
48 improvements may be up to:  
49 a. One thousand five hundred dollars (\$1,500) for each teacher  
50 and for certified personnel; and  
51 b. Five hundred dollars (\$500.00) for each teacher assistant.  
52 (2) Incentive awards in schools that meet the expected improvements may  
53 be up to:  
54 a. Seven hundred fifty dollars (\$750.00) for each teacher and for  
55 certified personnel; and

1           b.     Three hundred seventy-five dollars (\$375.00) for each teacher  
2                     assistant.

3           **SECTION 7.16.(b)** The State Board of Education may use funds  
4 appropriated to State Aid to Local School Administrative Units for assistance teams to  
5 low-performing schools.  
6

7 Requested by:       Representatives L. Johnson, Preston, Tolson, Yongue

8 **LEA ASSISTANCE PROGRAM**

9           **SECTION 7.17.** Of funds appropriated from the General Fund to State Aid  
10 to Local School Administrative Units, the sum of five hundred thousand dollars  
11 (\$500,000) for fiscal year 2003-2004 shall be used to provide assistance to the State's  
12 low-performing Local School Administrative Units (LEAs) and to assist schools in  
13 meeting adequate yearly progress in each subgroup identified in the No Child Left  
14 Behind Act of 2001. The State Board of Education shall report to the Office of State  
15 Budget and Management, the Fiscal Research Division, and the Joint Legislative  
16 Education Oversight Committee on the expenditure of these funds by May 15, 2004,  
17 and by December 15, 2005. The report shall contain: (1) the criteria for selecting LEAs  
18 and schools to receive assistance, (2) measurable goals and objectives for the assistance  
19 program, (3) an explanation of the assistance provided, (4) findings from the assistance  
20 program, (5) actual expenditures by category, (6) recommendations for the continuance  
21 of this program, and (7) any other information the State Board deems necessary.  
22

23 Requested by:       Representatives L. Johnson, Preston, Tolson, Yongue

24 **EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY**

25           **SECTION 7.18.(a)** Funds appropriated for the 2003-2004 and 2004-2005  
26 fiscal years for Student Accountability Standards shall be used to assist students to  
27 perform at or above grade level in reading and mathematics in grades 3-8 as measured  
28 by the State's end-of-grade tests. The SBE shall allocate these funds to LEAs based on  
29 the number of students who score at Level I or Level II on either reading or  
30 mathematics end-of-grade tests in grades 3-8. Funds in the allocation category shall be  
31 used to improve the academic performance of (i) students who are performing at Level I  
32 or II on either reading or mathematics end-of-grade tests in grades 3-8 or (ii) students  
33 who are performing at Level I or II on the writing tests in grades 4 and 7. These funds  
34 may also be used to improve the academic performance of students who are performing  
35 at Level I or II on the high school end-of-course tests. These funds shall not be  
36 transferred to other allocation categories or otherwise used for other purposes. Except  
37 as otherwise provided by law, local boards of education may transfer other funds  
38 available to them into this allocation category.

39           The principal of a school receiving these funds, in consultation with the  
40 faculty and the site-based management team, shall implement plans for expending these  
41 funds to improve the performance of students.

42           Local boards of education are encouraged to use federal funds such as Title I  
43 Comprehensive School Reform Development Funds and to examine the use of State  
44 funds to ensure that every student is performing at or above grade level in reading and  
45 mathematics.

46           These funds shall be allocated to local school administrative units for the  
47 2003-2004 fiscal year within 30 days of the date this act becomes law.

48           **SECTION 7.18.(b)** Funds appropriated for Student Accountability  
49 Standards shall not revert at the end of each fiscal year but shall remain available for  
50 expenditure until August 31 of the subsequent fiscal year.  
51

52 Requested by:       Representatives L. Johnson, Preston, Tolson, Yongue

53 **FUNDS FOR TEACHER RECRUITMENT INITIATIVES**

54           **SECTION 7.19.** The State Board of Education may use up to two hundred  
55 thousand dollars (\$200,000) of the funds appropriated for State Aid to Local School

1 Administrative Units each year for the 2003-2004 fiscal year and for the 2004-2005  
2 fiscal year to enable teachers who have received NBPTS certification or who have  
3 otherwise received special recognition to advise the State Board of Education on teacher  
4 recruitment and other strategic priorities of the State Board.  
5

6 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

7 **RECRUITMENT AND RETENTION INITIATIVE TO ADDRESS TEACHER**  
8 **SHORTAGE**

9 **SECTION 7.20.(a)** Of the funds appropriated from the General Fund to  
10 State Aid to Local School Administrative Units, the sum of two million eight hundred  
11 ninety thousand dollars (\$2,890,000) for the 2003-2004 and 2004-2005 fiscal years shall  
12 be used to provide annual bonuses of one thousand eight hundred dollars (\$1,800) to  
13 teachers certified in and teaching in the fields of mathematics, science, or special  
14 education in grades 6 through 12 at middle and high schools with eighty percent (80%)  
15 or more of the students eligible for free or reduced lunch or with fifty percent (50%)  
16 or more of students performing below grade level in Algebra I and Biology. The bonus  
17 shall be paid monthly with matching benefits. Teachers shall remain eligible for the  
18 bonuses so long as they continue to teach in one of these disciplines at a school that was  
19 eligible for the bonus program when the teacher first received this bonus.

20 **SECTION 7.20.(b)** In accordance with G.S. 115C-325 and by way of  
21 clarification, it shall not constitute a demotion as that term is defined in G.S.  
22 115C-325(a)(4) if:

- 23 (1) A teacher who receives a bonus pursuant to this section is reassigned  
24 to a school at which there is no such bonus;
- 25 (2) A teacher who receives a bonus pursuant to this section is reassigned  
26 to teach in a field for which there is no such bonus; or
- 27 (3) A teacher receives a bonus pursuant to this section and the bonus is  
28 subsequently discontinued or reduced.  
29

30 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

31 **FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW**  
32 **STUDENT INFORMATION SYSTEM**

33 **SECTION 7.21.(a)** The State Board of Education may transfer up to one  
34 million dollars (\$1,000,000) in funds appropriated for the Uniform Education Reporting  
35 System for the 2003-2004 fiscal year and up to one million dollars (\$1,000,000) in  
36 funds appropriated for the Uniform Education Reporting System for the 2004-2005  
37 fiscal year to the Department of Public Instruction to lease or purchase equipment  
38 necessary for the testing and implementation of NC WISE, the new student information  
39 system in the public schools.

40 Testing shall include an emphasis on the security of the system.

41 **SECTION 7.21.(b)** Funds appropriated for the Uniform Education  
42 Reporting System shall not revert at the end of the 2003-2004 and 2004-2005 fiscal  
43 years, but shall remain available until expended.

44 **SECTION 7.21.(c)** This section becomes effective June 30, 2003.  
45

46 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

47 **LITIGATION RESERVE FUNDS**

48 **SECTION 7.22.** The State Board of Education may expend up to five  
49 hundred thousand dollars (\$500,000) each year for the 2003-2004 and 2004-2005 fiscal  
50 years from unexpended funds for certified employees' salaries to pay expenses related to  
51 pending litigation.  
52

53 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

54 **LOCAL EDUCATION AGENCY FLEXIBILITY**

1           **SECTION 7.23.** Within 14 days of the date this act becomes law, the State  
2 Board of Education shall notify each local school administrative unit of the amount the  
3 unit must reduce from State General Fund appropriations. The State Board shall  
4 determine the amount of the reduction for each unit on the basis of average daily  
5 membership.

6           Each unit shall report to the Department of Public Instruction on the  
7 discretionary budget reductions it has identified for the unit within 30 days of the date  
8 this act becomes law. No later than December 31, 2003, the State Board of Education  
9 shall make a summary report to the Office of State Budget and Management and the  
10 Fiscal Research Division on all reductions made by the LEAs to achieve this reduction.

11           For fiscal year 2003-2004, the Governor urges local school administrators to  
12 make every effort to reduce spending whenever and wherever such budget reductions  
13 are appropriate as long as the targeted reductions do not directly impact classroom  
14 services or any services for students at risk or children with special needs, including  
15 those services or supports that are called for in students' Personal Education Plans (PEP)  
16 and/or Individual Education Plans (IEP). If reductions to the allotment categories listed  
17 in this paragraph are necessary in order to meet the reduction target, the local board of  
18 education shall submit an explanation of the anticipated impact of the reductions to  
19 student services along with the budget reductions to the Department of Public  
20 Instruction. By February 15, 2004, for fiscal year 2004-2005, the State Board of  
21 Education will determine the changes to the allotment categories to make such  
22 reductions permanent.

23  
24 Requested by:           Representatives L. Johnson, Preston, Tolson, Yongue  
25 **BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC**  
26 **INSTRUCTION**

27           **SECTION 7.24.** Notwithstanding any other provision of law, the  
28 Department of Public Instruction may use salary reserve funds and other funds, and may  
29 transfer funds within the Department's continuation budget to implement budget  
30 reductions for the 2003-2004 fiscal year.

31  
32 Requested by:           Representatives L. Johnson, Preston, Tolson, Yongue  
33 **REPLACEMENT SCHOOL BUSES FUNDS**

34           **SECTION 7.25.(a)** Of the funds appropriated to the State Board of  
35 Education, the Board may use up to fifteen million dollars (\$15,000,000) for the  
36 2003-2004 fiscal year and up to forty-seven million seven hundred fifty-two thousand  
37 eight hundred thirteen dollars (\$47,752,813) for the 2004-2005 fiscal year for allotments  
38 to local boards of education for replacement school buses under G.S. 115C-249(c) and  
39 (d). In making these allotments, the State Board of Education may impose any of the  
40 following conditions:

- 41           (1) The local board of education must use the funds only to make the first  
42 or second year's payment on a financing contract entered into pursuant  
43 to G.S. 115C-528.
- 44           (2) The term of a financing contract entered into under this section shall  
45 not exceed three years.
- 46           (3) The local board of education must purchase the buses only from  
47 vendors selected by the State Board of Education and on terms  
48 approved by the State Board of Education.
- 49           (4) The State Board of Education shall solicit bids for the direct purchase  
50 of buses and for the purchasing of buses through financing. The State  
51 Board of Education may solicit separate bids for financing if the Board  
52 determines that multiple financing options are more cost-efficient.
- 53           (5) A bus financed pursuant to this section must meet all federal motor  
54 vehicle safety regulations for school buses.

1 (6) Any other condition the State Board of Education considers  
2 appropriate.

3 **SECTION 7.25.(b)** Any term contract for the purchase or lease-purchase of  
4 school buses or school activity buses shall not require vendor payment of the electronic  
5 procurement transaction fee of the North Carolina E-Procurement Service.  
6

7 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

8 **EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES**

9 **SECTION 7.26.** The State Board of Education may use funds appropriated  
10 for drivers education for the 2003-2004 fiscal year and for the 2004-2005 fiscal year for  
11 driving eligibility certificates.  
12

13 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

14 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

15 **SECTION 7.27.(a)** If the State Board of Education does not have sufficient  
16 resources in the ADM Contingency Reserve line item to make allotment adjustments in  
17 accordance with the Allotment Adjustments for ADM Growth provisions of the North  
18 Carolina Public Schools Allotment Policy Manual, the State Board of Education may  
19 use funds appropriated to State Aid for Public Schools for this purpose.  
20

21 **SECTION 7.27.(b)** If the higher of the first or second month average daily  
22 membership in a local school administrative unit is at least two percent (2%) or 100  
23 students lower than the anticipated average daily membership used for allotments for  
24 the unit, the State Board of Education shall reduce allotments for the unit. The reduced  
25 allotments shall be based on the higher of the first or second month average daily  
26 membership plus one-half of the number of students overestimated in the anticipated  
27 average daily membership.

28 The allotments reduced pursuant to this subsection shall include only those  
29 allotments that may be increased pursuant to the Allotment Adjustments for ADM  
30 Growth provisions of the North Carolina Public Schools Allotment Policy Manual.

31 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

32 **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL**  
33 **EVALUATION**

34 **SECTION 7.28.** The State Board of Education may spend up to fifty  
35 thousand dollars (\$50,000) a year from the State Aid to Local School Administrative  
36 Units for the 2003-2004 and 2004-2005 fiscal years to continue support of a charter  
37 school advisory committee and to continue to evaluate charter schools.  
38

39 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

40 **STUDY OF ISSUES RELATED TO RAPID GROWTH IN STUDENT**  
41 **POPULATION**

42 **SECTION 7.29.** The Joint Legislative Education Oversight Committee shall  
43 study the effects of rapid growth in student population on local school administrative  
44 units. In the course of the study, the Committee shall consider issues related to rapid  
45 growth and strategies for addressing these issues. The Committee shall report to the  
46 2004 Regular Session of the General Assembly on its findings and recommendations.  
47

48 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

49 **MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS**

50 **SECTION 7.30.(a)** The State Board of Education shall grant flexibility to a  
51 local board of education regarding the use of mentor funds to provide mentoring  
52 support, provided the local board submits a detailed plan on the use of the funds to the  
53 State Board and the State Board approves that plan. The plan shall include information  
54 on how all mentors in the local school administrative unit have been or will be  
55 adequately trained to provide mentoring support.

1 Local boards of education shall use funds allocated for mentor teachers to  
2 provide mentoring support to all State-paid newly certified teachers, second-year  
3 teachers who were assigned mentors during the prior school year, and entry-level  
4 instructional support personnel who have not previously been teachers.

5 **SECTION 7.30.(b)** The State Board of Education, after consultation with  
6 the Professional Teaching Standards Commission, shall adopt standards for mentor  
7 training.

8 **SECTION 7.30.(c)** Each local board of education with a plan approved  
9 pursuant to subsection (a) of this section shall report to the State Board of Education on  
10 the impact of its mentor program on teacher retention. The State Board of Education  
11 shall report to the Joint Legislative Education Oversight Committee by October 1, 2004,  
12 on the characteristics of mentor programs that are most effective in retaining teachers.  
13

14 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

15 **EXPLORNET AUDIT**

16 **SECTION 7.31.** No State funds appropriated for distribution to ExplorNet,  
17 Incorporated, shall be disbursed until the State Auditor and the Office of State Budget  
18 and Management certify that ExplorNet, Incorporated, has received an audit report for  
19 the 2001-2002 fiscal year that is free of audit exceptions. A copy of the certification by  
20 the State Auditor and the Office of State Budget and Management shall be sent to the  
21 Joint Legislative Education Oversight Committee and to the Joint Legislative  
22 Commission on Governmental Operations.  
23

24 **PART VIII. COMMUNITY COLLEGES**

25  
26 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

27 **COMMUNITY COLLEGE FUNDING FLEXIBILITY**

28 **SECTION 8.1.** A local community college may use all State funds allocated  
29 to it, except for Literacy Funds and Funds for New and Expanding Industries, for any  
30 authorized purpose that is consistent with the college's Institutional Effectiveness Plan.  
31 Each local community college shall include in its Institutional Effectiveness Plan a  
32 section on how funding flexibility allows the college to meet the demands of the local  
33 community and to maintain a presence in all previously funded categorical programs.

34 No more than two percent (2%) systemwide shall be transferred from faculty  
35 salaries without the approval of the State Board of Community Colleges. The State  
36 Board shall report on any such transfers above two percent (2%) systemwide to the  
37 Office of State Budget and Management and the Joint Legislative Commission on  
38 Governmental Operations at its next meeting.  
39

40 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

41 **FLEXIBILITY TO IMPLEMENT BUDGET REDUCTIONS**

42 **SECTION 8.2.** Notwithstanding G.S. 143-23 or any other provision of law,  
43 the State Board of Community Colleges may use salary reserve funds and other funds,  
44 and may transfer funds within the Community College System Office continuation  
45 budget to the extent necessary to implement budget reductions for the 2003-2004 fiscal  
46 year.  
47

48 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

49 **STATE BOARD OF COMMUNITY COLLEGE MANAGEMENT**  
50 **FLEXIBILITY**

51 **SECTION 8.3.** Within 30 days of the date this act becomes law, the State  
52 Board of Community Colleges shall notify each college of the amount the college must  
53 reduce from State General Fund appropriations. The State Board shall determine the  
54 amount of the reduction for each unit on the basis of FTE or another method that  
55 accounts for the unique needs of specific colleges.

1 Each college shall report to the State Board of Community Colleges on the  
2 discretionary budget reductions it has identified for the college within 60 days of the  
3 date this act becomes law. No later than December 31, 2003, the State Board of  
4 Community Colleges shall make a summary report to the Office of State Budget and  
5 Management and the Fiscal Research Division on all reductions made by the colleges to  
6 achieve this reduction.

7 For fiscal year 2003-2004, the General Assembly urges local college  
8 administrators to make every effort to reduce spending whenever and wherever such  
9 budget reductions are appropriate and as long as the targeted reductions do not directly  
10 impact classroom services or those services that are identified in this act as a high-need  
11 area for the State. If reductions to the allotment categories listed in this paragraph are  
12 necessary in order to meet the reduction target, the local college administration shall  
13 submit an explanation of the anticipated impact of the reductions to student services  
14 along with the budget reductions to the State Board of Community Colleges.

15 By February 15, 2004, for fiscal year 2004-2005, the State Board of  
16 Community Colleges will determine the changes to the allotment categories to make  
17 such reductions permanent.

18  
19 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

20 **REGISTRATION FEES FOR OCCUPATIONAL CONTINUING EDUCATION**  
21 **OR FOCUSED INDUSTRIAL TRAINING**

22 **SECTION 8.4.** Of the funds appropriated to the North Carolina Community  
23 College System for the 2003-2005 biennium, the State Board of Community Colleges  
24 may use up to one hundred thousand dollars (\$100,000) each year to pay registration  
25 fees and material costs for Occupational Continuing Education or Focused Industrial  
26 Training safety courses provided to companies that (i) are eligible to participate in the  
27 Focused Industrial Training Program, (ii) have less than 150 employees, and (iii) are  
28 found by community college representatives and regional customized training directors  
29 to face challenges in paying these fees and costs. These funds shall not be expended  
30 without the prior approval of the North Carolina Community College System Office,  
31 Division of Economic and Workforce Development.

32  
33 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

34 **SUMMER SCHOOL FUNDING**

35 **SECTION 8.5.** The General Assembly encourages the North Carolina  
36 Community Colleges System to use funds appropriated to support summer term  
37 curriculum FTE to address issues associated with worker shortages in high-needs  
38 industries such as (i) Business Technology, (ii) Health Sciences, (iii) Child Care  
39 Training, and (iv) Public Service Technologies including law enforcement, fire  
40 protection, and education.

41  
42 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

43 **CARRY FORWARD FOR EQUIPMENT**

44 **SECTION 8.6.(a)** Subject to cash availability, the North Carolina  
45 Community Colleges System may carry forward an amount not to exceed fifteen million  
46 dollars (\$15,000,000) of the operating funds held in reserve that were not reverted in  
47 fiscal year 2002-2003 to be reallocated to the State Board of Community Colleges'  
48 Equipment Reserve Fund. These funds should be distributed to colleges consistent with  
49 G.S. 115D-31.

50 **SECTION 8.6.(b)** This section becomes effective June 30, 2003.

51  
52 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

53 **HOSIERY CENTER FUNDS**

54 **SECTION 8.7.** Notwithstanding any other provision of law, all fees  
55 collected by the Hosiery Technology Center of Catawba Valley Community College for

1 the testing of hosiery products shall be retained by the Center and used for the  
2 operations of the Center. Purchases made by the Center using these funds are not  
3 subject to the provisions of Article 3 of Chapter 143 of the General Statutes.

4  
5 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

6 **SCHOLARSHIPS FOR PROSPECTIVE TEACHERS**

7 **SECTION 8.8.** Of the funds appropriated in this act to the State Board of  
8 Community Colleges, the State Board may use up to one million dollars (\$1,000,000)  
9 for a nonrecurring grant to the North Carolina Community College Foundation. These  
10 funds shall be used to match the Glaxo Smith Kline Foundation challenge grant  
11 establishing a two million dollar (\$2,000,000) endowment for the creation of a new  
12 scholarship program for prospective teachers enrolled in baccalaureate completion  
13 programs at State community college campuses and for the development of teacher  
14 preparation courses.

15 This provision is contingent upon receipt of one million dollars (\$1,000,000)  
16 for this purpose from the Glaxo Smith Kline Foundation and applies only to the  
17 2003-2004 fiscal year.

18  
19 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

20 **MANAGEMENT INFORMATION SYSTEM FUNDS**

21 **SECTION 8.9.(a)** Funds appropriated for the Community Colleges System  
22 Office Management Information System shall not revert at the end of the 2002-2003  
23 and 2003-2004 fiscal years but shall remain available until expended.

24 **SECTION 8.9.(b)** This section becomes effective June 30, 2003.

25  
26 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

27 **USE OF LITERACY FUNDS FOR LITERACY LABS**

28 **SECTION 8.10.** Notwithstanding any other provision of law, a local  
29 community college may use up to five percent (5%) of the Literacy Funds allocated to it  
30 by the State Board of Community Colleges to procure computers for literacy labs.

31  
32 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
33 Owens, Wright

34 **FACULTY AND PROFESSIONAL STAFF SALARIES**

35 **SECTION 8.11.** Three million two hundred fifty thousand dollars  
36 (\$3,250,000) in the Reserve for Compensation Increases in Section 2.1 of this act shall  
37 be used to increase faculty and professional staff salaries by an average of one-half  
38 percent (0.5%). These increases are in addition to the one and six-tenths percent (1.6%)  
39 provided by Section 30.11 of this act. Colleges may provide additional increases from  
40 funds available.

41 The State Board of Community Colleges shall adopt rules to ensure that these  
42 funds are used only to move faculty and professional staff to the respective national  
43 averages. The funds shall not be transferred by the State Board or used for any other  
44 budget purpose by the community colleges.

45  
46 Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

47 **EVALUATION OF THE COMPREHENSIVE ARTICULATION AGREEMENT**

48 **SECTION 8.12.(a)** The General Assembly finds that (i) there is a general  
49 sentiment expressed by students that the Comprehensive Articulation Agreement  
50 adopted by the Board of Governors of The University of North Carolina and the State  
51 Board of Community Colleges should be improved and (ii) over the past five years,  
52 there have been many suggestions for improving the Comprehensive Articulation  
53 Agreement as well as recommendations for new directions in which the Comprehensive  
54 Articulation Agreement should be developed.



1           **SECTION 8.12.(b)** The Joint Legislative Education Oversight Committee  
2 shall contract with a credible independent source, individual, or organization, to study  
3 the Comprehensive Articulation Agreement. The contractor shall not be (i) a current  
4 employee of The University of North Carolina, Office of the President, the North  
5 Carolina Community College System, or any of the North Carolina independent  
6 schools/colleges participating in the Comprehensive Articulation Agreement or (ii) a  
7 current or past member of the Transfer Advisory Committee.

8           **SECTION 8.12.(c)** The study by the contractor shall:

- 9           (1) Be consistent with the standards of Southern Association of Colleges  
10           and Schools, Commission on Colleges, on educational quality and  
11           institutional effectiveness;
- 12           (2) Be designed to provide an accurate and credible assessment of the  
13           effectiveness of the Comprehensive Articulation Agreement during its  
14           initial five years of existence relative to the intent of its authorizing  
15           legislation;
- 16           (3) Be based on qualitative as well as quantitative information and data;
- 17           (4) Take no more than four months from initiation to completion.
- 18           (5) Include input from college transfer students, counselors, faculty, and  
19           administration from both systems.

20           **SECTION 8.12.(d)** The contractor's report shall:

- 21           (1) Adequately reflect the study's methodology, sources of information,  
22           purpose and scope, analyses, evaluative assessments,  
23           recommendations, and conclusions;
- 24           (2) State any known deficiencies or limitations of the study;
- 25           (3) Be presented in both a printed form and an electronic version; and
- 26           (4) Provide recommendations for improving the Comprehensive  
27           Articulation Agreement.

28           **SECTION 8.12.(e)** The contractor shall submit a written progress report  
29 every four weeks to the vice-president of academic affairs of The University of North  
30 Carolina, Office of the President, the vice-president of academic affairs of the North  
31 Carolina Community College System Office, and the cochairs of the Transfer Advisory  
32 Committee. The contractor shall complete the report within four months. At the  
33 completion of the study, the contractor shall submit a draft of the report document to the  
34 vice-president of academic affairs of The University of North Carolina, Office of the  
35 President, the vice-president of academic affairs of the North Carolina Community  
36 College System Office, and the cochairs of the Transfer Advisory Committee for  
37 review.

38           **SECTION 8.12.(f)** The vice-president of academic affairs of The University  
39 of North Carolina, Office of the President, the vice-president of academic affairs of the  
40 North Carolina Community College System Office, and the cochairs of the Transfer  
41 Advisory Committee shall respond to the draft report within 30 days of receiving the  
42 draft.

43           **SECTION 8.12.(g)** Within 60 days of completing the study, the contractor  
44 shall submit a final report to the vice-president of academic affairs of The University of  
45 North Carolina, Office of the President, the vice-president of academic affairs of the  
46 North Carolina Community College System Office, and the cochairs of the Transfer  
47 Advisory Committee. The vice-president of academic affairs of The University of North  
48 Carolina, Office of the President, and the vice-president of academic affairs of the North  
49 Carolina Community College System Office may, in their discretion, schedule a formal  
50 presentation of the report when it is submitted.

51           **SECTION 8.12.(h)** Designees of the vice-president of academic affairs of  
52 The University of North Carolina, Office of the President, and the vice-president of  
53 academic affairs of the North Carolina Community College System Office shall be the  
54 liaisons for matters related to the execution of the study.

1           **SECTION 8.12.(i)** The University of North Carolina, Office of the  
2 President, and the North Carolina Community College System shall provide the  
3 contractor with access and use of information databases to the extent that such access  
4 and use is necessary for the study and does not violate legal and ethical codes or create  
5 disruptions of normal operations.

6           **SECTION 8.12.(j)** The University of North Carolina, Office of the  
7 President, and the North Carolina Community College System shall each transfer  
8 thirty-five thousand dollars (\$35,000) to the Joint Legislative Education Oversight  
9 Committee to carry out this study.

10  
11 Requested by:           Representatives L. Johnson, Preston, Tolson, Yongue

12 **AUTOMOTIVE TRAINING INCENTIVE**

13           **SECTION 8.13.** Of the funds appropriated in this act for the State Board of  
14 Community Colleges for the 2003-2004 fiscal year, the sum of one hundred twenty-five  
15 thousand dollars (\$125,000) shall be used for a nonrecurring grant to the North Carolina  
16 Community College Foundation provided that a like amount is provided by the North  
17 Carolina Automotive Dealers Association to match these funds on a dollar-for-dollar  
18 basis. The North Carolina Community College Foundation shall use these funds to  
19 provide incentive programming at the colleges that offer Automotive Systems  
20 Technology. The funds shall be used to:

- 21           (1) Increase awareness of careers available in the franchised automobile  
22           and truck industry in North Carolina;
- 23           (2) Increase awareness within North Carolina's middle school and high  
24           school guidance counselors and workforce development coordinators;
- 25           (3) Increase public awareness of teaching opportunities in North  
26           Carolina's high schools and community colleges in the area of  
27           automotive technology;
- 28           (4) Increase opportunities in continuing education for automotive  
29           technology high school and community college instructors;
- 30           (5) Provide a program coordinator to work with the franchised car and  
31           truck dealers and with community college and high school automotive  
32           professionals to ensure that the automotive curriculum is uniform and  
33           appropriate; and
- 34           (6) Increase resources to assist high schools and community colleges in  
35           gaining and maintaining certification for their respective automotive  
36           technology programs.

37  
38 **PART IX. UNIVERSITIES**

39  
40 Requested by:           Representatives L. Johnson, Preston, Tolson, Yongue

41 **UNC FLEXIBILITY GUIDELINES**

42           **SECTION 9.1.** The Chancellor of each constituent institution shall report to  
43 the Board of Governors of The University of North Carolina on the reductions made to  
44 the General Fund budget codes in order to meet the reduction reserve amounts for that  
45 institution. The President of The University of North Carolina shall report to the Board  
46 of Governors of The University of North Carolina on the reductions made to the  
47 General Fund budget codes controlled by the Board in order to meet the reduction  
48 reserve amounts for those entities. The Board of Governors shall make a summary  
49 report to the Office of State Budget and Management and the Fiscal Research Division  
50 by December 31, 2003, on all reductions made by these entities and constituent  
51 institutions in order to reduce the budgets by the targeted amounts.

52  
53 Requested by:           Representatives L. Johnson, Preston, Tolson, Yongue

54 **ESCHEAT FUNDS**

1           **SECTION 9.2.(a)** There is appropriated from the Escheat Fund income to  
2 the Board of Governors of The University of North Carolina the sum of eighteen million  
3 six hundred seven thousand two hundred ninety-three dollars (\$18,607,293) for each  
4 year of the 2003-2005 fiscal biennium and to the State Board of Community Colleges  
5 the sum of seven million sixty-two thousand eight hundred six dollars (\$7,062,806) for  
6 each year of the 2003-2005 fiscal biennium. These funds shall be allocated by the State  
7 Educational Assistance Authority for need-based student financial aid in accordance  
8 with G.S. 116B-7.

9           **SECTION 9.2.(b)** The Director of the Budget shall include General Fund  
10 appropriations in the amounts provided in subsection (a) of this section in the proposed  
11 2005-2007 fiscal biennium continuation budget for the purposes provided in G.S.  
12 116B-7.

13           **SECTION 9.2.(c)** The State Education Assistance Authority (SEAA) shall  
14 perform all of the administrative functions necessary to implement the program of  
15 financial aid. The SEAA shall conduct periodic evaluations of expenditures of the  
16 scholarship programs to determine if allocations are utilized to ensure access to  
17 institutions of higher learning and to meet the goals of the respective programs. The  
18 SEAA may make recommendations for redistribution of funds to The University of  
19 North Carolina and the President of the Community College System regarding their  
20 respective scholarship programs, who then may authorize redistribution of unutilized  
21 funds for a particular fiscal year.

22           **SECTION 9.2.(d)** All obligations to students for uses of the funds set out in  
23 subsection (a) of this section that were made prior to the effective date of this section  
24 shall be fulfilled as to students who remain eligible under the provisions of the  
25 respective programs.

26  
27 Requested by:           Representatives L. Johnson, Preston, Tolson, Yongue

#### 28 **UNC BOND PROJECT MODIFICATIONS**

29           **SECTION 9.3.(a)** Pursuant to Section 2(b) of S.L. 2000-3, the General  
30 Assembly finds that it is in the best interest of the State to respond to current  
31 educational and research program requirements at Elizabeth City State University by  
32 substituting a project entitled "Campus Infrastructure Improvements" for "Doles  
33 Residence Hall – Comprehensive Renovation" as contained in Section 2(a) of S.L.  
34 2000-3, as a residence hall that has been provided for from housing receipts and campus  
35 infrastructure improvements will allow energy conservation and savings. Section 2(a) of  
36 S.L. 2000-3 is therefore amended in the portion under Elizabeth City State University  
37 by deleting "Doles Residence Hall – Comprehensive Renovation...\$1,722,500" and by  
38 substituting "Campus Infrastructure Improvements...\$1,722,500".

39           **SECTION 9.3.(b)** Pursuant to Section 2(b) of S.L. 2000-3, the General  
40 Assembly finds that it is in the best interest of the State to respond to current  
41 educational and research program requirements at North Carolina Central University,  
42 due to increasing enrollment growth, by substituting a project entitled "Pearson  
43 Cafeteria – Expansion" for "Pearson Cafeteria – Comprehensive Renovation" as  
44 contained in Section 2(a) of S.L. 2000-3, by deleting a project entitled "Old Senior  
45 Dorm – Conversion to Academic Use" as contained in Section 2(a) of S.L. 2000-3 and  
46 by transferring the funds of two million one hundred thirty thousand seven hundred  
47 dollars (\$2,130,700) from the project entitled "Old Senior Dorm – Conversion to  
48 Academic Use", as contained in Section 2(a) of S.L. 2000-3, and by transferring a  
49 portion of the funds from a project entitled "Farrison-Newton Building –  
50 Comprehensive Renovation of Classroom Building", as contained in Section 2(a) of  
51 S.L. 2000-3, to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended  
52 as follows:

- 53           (1) In the portion entitled "Pearson Cafeteria – Comprehensive  
54           Renovation" under North Carolina Central University, by deleting  
55           "Comprehensive Renovation" and by substituting "Expansion" and by

1 adding \$7,730,700 for the project so that it reads "Pearson Cafeteria –  
2 Expansion...\$8,994,300".

3 (2) In the portion under North Carolina Central University, by deleting  
4 "Old Senior Dorm – Conversion to Academic Use...\$2,130,700".

5 (3) In the portion entitled "Farrison-Newton Building – Comprehensive  
6 Renovation of Classroom Building" under North Carolina Central  
7 University, by decreasing by \$5,600,000 the \$7,048,700 for the project  
8 so that it reads "Farrison-Newton Building – Comprehensive  
9 Renovation of Classroom Building...\$1,448,700".

10 **SECTION 9.3.(c)** Pursuant to Section 2(b) of S.L. 2000-3, the General  
11 Assembly finds that it is in the best interest of the State to respond to current  
12 educational and research program requirements at the University of North Carolina at  
13 Asheville by substituting a project entitled "Carmichael Hall Classroom Building –  
14 Demolition and New Construction" for "Carmichael Hall Classroom Building –  
15 Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as it has been  
16 determined that it is more cost-effective to replace this facility than to renovate it.  
17 Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of  
18 North Carolina at Asheville by deleting "Carmichael Hall Classroom Building –  
19 Comprehensive Renovation" and by adding "Carmichael Hall Classroom Building –  
20 Demolition and New Construction".

21 **SECTION 9.3.(d)** Pursuant to Section 2(b) of S.L. 2000-3, the General  
22 Assembly finds that it is in the best interest of the State to respond to current  
23 educational and research program requirements at the University of North Carolina at  
24 Pembroke, due to enrollment growth higher than projected, by adding a project entitled  
25 "General Purpose Classroom Building" to Section 2(a) of S.L. 2000-3 and by  
26 transferring a portion of the funds from the project entitled "Residence/Dining Hall –  
27 Replacement of Jacobs & Wellons Halls", as contained in Section 2(a) of S.L. 2000-3,  
28 to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended in the portion  
29 under the University of North Carolina at Pembroke by substituting "Residence/Dining  
30 Hall – Replacement of Jacobs & Wellons Halls...\$325,300" and by adding "General  
31 Purpose Classroom Building...\$7,375,000".

32 **SECTION 9.3.(e)** Pursuant to Section 2(b) of S.L. 2000-3, the General  
33 Assembly finds that it is in the best interest of the State to respond to current  
34 educational and research program requirements at Winston-Salem State University by  
35 substituting a project entitled "Anderson Center – Comprehensive Renovation" for  
36 "Anderson Center – Comprehensive Renovation & Change of Use for Early  
37 Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, by  
38 adding a project entitled "Coltrane Hall – Renovation to House Gerontology", by  
39 transferring a portion of the funds from the project entitled "Anderson Center –  
40 Comprehensive Renovation & Change of Use for Early Childhood/Gerontology  
41 Programs", as contained in Section 2(a) of S.L. 2000-3, to the new project entitled  
42 "Coltrane Hall – Renovation to House Gerontology", by adding a project entitled "New  
43 Facility for the Early Childhood Program", and by transferring a portion of the funds  
44 from the project entitled "Anderson Center – Comprehensive Renovation & Change of  
45 Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L.  
46 2000-3, to the new project entitled "New Facility for the Early Childhood Program".  
47 Section 2(a) of S.L. 2000-3 is therefore amended as follows:

48 (1) In the portion entitled "Anderson Center – Comprehensive Renovation  
49 & Change of Use for Early Childhood/Gerontology Programs" under  
50 Winston-Salem State University, by deleting "& Change of Use for  
51 Early Childhood/Gerontology Programs" and by decreasing by \$1.9  
52 million the \$6,917,900 for the project so that it reads "Anderson  
53 Center – Comprehensive Renovation...\$5,017,900".

1 (2) In the portion under Winston-Salem State University, by adding a new  
2 project "Coltrane Hall – Renovation to House  
3 Gerontology...\$400,000".

4 (3) In the portion under Winston-Salem State University, by adding a new  
5 project "New Facility for the Early Childhood Program...\$1,500,000".

6 **SECTION 9.3.(f)** Pursuant to Section 2(b) of S.L. 2000-3, the General  
7 Assembly finds that it is in the best interest of the State to respond to current  
8 educational and research program requirements at Winston-Salem State University by  
9 substituting a project entitled "New Student Health Center" for "Health Center Bldg. &  
10 Old Nursing Bldg. – Comprehensive Renovation for Student Health", as contained in  
11 Section 2(a) of S.L. 2000-3, and by using the existing project budget for a new health  
12 facility, as it has been determined that the two existing buildings are in poor condition  
13 and have been recommended for future demolition. Section 2(a) of S.L. 2000-3 is  
14 therefore amended in the portion under Winston-Salem State University by deleting  
15 "Health Center Bldg. and Old Nursing Bldg. – Comprehensive Renovation for Student  
16 Health" and by substituting "New Student Health Center".

17 **SECTION 9.3.(g)** Nothing in this section is intended to supersede any other  
18 requirement of law or policy for approval of the substituted capital improvement  
19 projects.  
20

## 21 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### 22 **SUBPART 1. ADMINISTRATION**

23 Requested by: Representatives Barnhart, Nye

#### 24 **PETROLEUM OVERCHARGE FUNDS ALLOCATION**

25 **SECTION 10.1.(a)** There is appropriated from funds and interest thereon  
26 received from the case of United States v. Exxon that remain in the Special Reserve for  
27 Oil Overcharge Funds to the Department of Health and Human Services the sum of one  
28 million dollars (\$1,000,000) for the 2003-2004 fiscal year to be allocated for the  
29 Weatherization Assistance Program.  
30

31 **SECTION 10.1.(b)** Any funds remaining in the Special Reserve for Oil  
32 Overcharge Funds after the allocation made pursuant to subsection (a) of this section  
33 may be expended only as authorized by the General Assembly. All interest or income  
34 accruing from all deposits or investments of cash balances shall be credited to the  
35 Special Reserve for Oil Overcharge Funds.  
36

37 Requested by: Representatives Barnhart, Nye

#### 38 **OFFICE OF POLICY AND PLANNING**

39 **SECTION 10.2.(a)** To promote coordinated policy development and  
40 strategic planning for the State's health and human services systems, the Secretary of  
41 Health and Human Services shall establish an Office of Policy and Planning from  
42 existing resources across the Department. The Director of the Office of Policy and  
43 Planning shall report directly to the Secretary and shall have the following  
44 responsibilities:  
45

- 46 (1) Coordinate the development of departmental policies, plans, and rules,  
47 in consultation with the Divisions of the Department.
- 48 (2) Development of a departmental process for the development and  
49 implementation of new policies, plans, and rules.
- 50 (3) Development of a departmental process for the review of existing  
51 policies, plans, and rules to ensure that departmental policies, plans,  
52 and rules are relevant.
- 53 (4) Coordination and review of all departmental policies before  
54 dissemination to ensure that all policies are well-coordinated within  
55 and across all programs.

(5) Implementation of ongoing strategic planning that integrates budget, personnel, and resources with the mission and operational goals of the Department.

(6) Review, disseminate, monitor, and evaluate best practice models.

**SECTION 10.2.(b)** Under the direction of the Secretary of Health and Human Services, the Director of the Office of Policy and Planning shall have the authority to direct Divisions, offices, and programs within the Department to conduct periodic reviews of policies, plans, and rules and shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend, and repeal departmental policies, plans, and rules. All policy and management positions within the Office of Policy and Planning are exempt positions as that term is defined in G.S. 126-5.

Requested by: Representatives Barnhart, Nye  
**WEATHERIZATION ASSISTANCE PROGRAM**

**SECTION 10.3.** Article 2 of Chapter 108A of the General Statutes is amended by adding the following new Part to read:

"Part 9. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.

**"§ 108A-70.30. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.**

The Department may administer the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program functions. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program."

Requested by: Representatives Barnhart, Nye  
**NONMEDICAID REIMBURSEMENT CHANGES**

**SECTION 10.4.** Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services 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 nonmedicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services 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 nonmedicaid 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>Rehabilitation Except DSB Over 55 Grant</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	7,821	18,648	7,900

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

4 The eligibility level for children in the Medical Eye Care Program in the  
 5 Division of Services for the Blind shall be one hundred percent (100%) of the federal  
 6 poverty guidelines, as revised annually by the United States Department of Health and  
 7 Human Services and in effect on July 1 of each fiscal year. The eligibility level for  
 8 adults 55 years of age or older who qualify for services through the Division of Services  
 9 for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent  
 10 (200%) of the federal poverty guidelines, as revised annually by the United States  
 11 Department of Health and Human Services and in effect on July 1 of each fiscal year.  
 12 The eligibility level for adults in the Atypical Antipsychotic Medication Program in the  
 13 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services  
 14 shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised  
 15 annually by the United States Department of Health and Human Services and in effect  
 16 on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical  
 17 Antipsychotic Medication Program who become gainfully employed may continue to be  
 18 eligible to receive State support, in decreasing amounts for the purchase of atypical  
 19 antipsychotic medication and related services up to three hundred percent (300%) of the  
 20 poverty level.

21 State financial participation in the Atypical Antipsychotic Medication  
 22 Program for those enrollees who become gainfully employed is as follows:

23	<u>Income</u>	<u>State Participation</u>	<u>Client Participation</u>
24	(% of poverty)		
25	0-150%	100%	0%
26	151-200%	75%	25%
27	201-250%	50%	50%
28	251-300%	25%	75%
29	300% and over	0%	100%

30 The Department of Health and Human Services shall contract at, or as close  
 31 as possible to, Medicaid rates for medical services provided to residents of State  
 32 facilities of the Department.  
 33

34 Requested by: Representatives Barnhart, Nye  
 35 **SENIOR CARES PROGRAM ADMINISTRATION**

36 **SECTION 10.5.** The Department of Health and Human Services may  
 37 administer the "Senior Cares" prescription drug access program approved by the Health  
 38 and Wellness Trust Fund Commission and funded from the Health and Wellness Trust  
 39 Fund.  
 40

41 Requested by: Representatives Barnhart, Nye  
 42 **PHYSICIAN SERVICES**

43 **SECTION 10.6.** With the approval of the Office of State Budget and  
 44 Management, the Department of Health and Human Services may use funds  
 45 appropriated in this act for across-the-board salary increases and performance pay to  
 46 offset similar increases in the costs of contracting with private and independent  
 47 universities for the provision of physician services to clients in facilities operated by the  
 48 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.  
 49 This offsetting shall be done in the same manner as is currently done with the  
 50 constituent institutions of The University of North Carolina.  
 51

52 Requested by: Representatives Barnhart, Nye  
 53 **LIABILITY INSURANCE**

54 **SECTION 10.7.(a)** The Secretary of the Department of Health and Human  
 55 Services, the Secretary of the Department of Environment and Natural Resources, and

1 the Secretary of the Department of Correction may provide medical liability coverage  
2 not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of  
3 the Departments licensed to practice medicine or dentistry, all licensed physicians who  
4 are faculty members of The University of North Carolina who work on contract for the  
5 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services  
6 for incidents that occur in Division programs, and on behalf of physicians in all  
7 residency training programs from The University of North Carolina who are in training  
8 at institutions operated by the Department of Health and Human Services. This  
9 coverage may include commercial insurance or self-insurance and shall cover these  
10 individuals for their acts or omissions only while they are engaged in providing medical  
11 and dental services pursuant to their State employment or training.

12 **SECTION 10.7.(b)** The coverage provided under this section shall not cover  
13 any individual for any act or omission that the individual knows or reasonably should  
14 know constitutes a violation of the applicable criminal laws of any state or the United  
15 States, or that arises out of any sexual, fraudulent, criminal, or malicious act, or out of  
16 any act amounting to willful or wanton negligence.

17 **SECTION 10.7.(c)** The coverage provided pursuant to this section shall not  
18 require any additional appropriations and shall not apply to any individual providing  
19 contractual service to the Department of Health and Human Services, the Department of  
20 Environment and Natural Resources, or the Department of Correction, with the  
21 exception that coverage may include physicians in all residency training programs from  
22 The University of North Carolina who are in training at institutions operated by the  
23 Department of Health and Human Services and licensed physicians who are faculty  
24 members of The University of North Carolina who work for the Division of Mental  
25 Health, Developmental Disabilities, and Substance Abuse Services.

26  
27 Requested by: Representatives Barnhart, Nye  
28 **BUTNER COMMUNITY LAND RESERVATION**

29 **SECTION 10.8.** The Department of Health and Human Services shall  
30 reserve and dedicate the following described land for the construction of a community  
31 building and related facilities to serve the Butner Reservation:

32 "Approximately 2 acres, on the east side it borders Central Avenue with a line  
33 running along the Wallace Bradshur property on the north back to the tree line next to  
34 the ADATC. From there it follows the tree line south and west to and including the  
35 softball field. From the softball field it turns east to the State Employees Credit Union  
36 and follows the Credit Union property on the south side back to Central Avenue."

37 This land shall be reserved and dedicated for the project which shall be  
38 funded with contributions from Granville County, contributions from the residents of  
39 the Butner Reservation, the use of cablevision franchise rebate funds received by the  
40 Department of Health and Human Services on behalf of the Butner Reservation, and  
41 other public and private sources.

42  
43 **SUBPART 2. DIVISION OF MENTAL HEALTH, DEVELOPMENTAL**  
44 **DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

45  
46 Requested by: Representatives Barnhart, Nye  
47 **MENTAL HEALTH, DEVELOPMENTAL DISABILITY, AND SUBSTANCE**  
48 **ABUSE SERVICES TRUST FUND FOR SYSTEM REFORM BRIDGE AND**  
49 **CAPITAL FUNDING NEEDS AND OLMSTEAD**

50 **SECTION 10.9.** Moneys in the Trust Fund established pursuant to G.S.  
51 143-15.3D shall be used to establish or expand community-based services only if  
52 sufficient recurring funds can be identified within the Department of Health and Human  
53 Services from funds currently budgeted for mental health, developmental disabilities,  
54 and substance abuse services, area mental health programs or county programs, or local  
55 government.



1  
2 Requested by: Representatives Barnhart, Nye

3 **EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM**  
4 **CONTINGENT UPON FUNDS APPROPRIATED BY THE 2005 GENERAL**  
5 **ASSEMBLY**

6 **SECTION 10.10.** Section 4 of S.L. 2001-437, as amended by Section 10.30  
7 of S.L. 2002-126, reads as rewritten:

8 "SECTION 4. Sections 1.1 through 1.21(b) of this act become effective July 1,  
9 2002. Section 2 of this act becomes effective only if funds are appropriated by the ~~2003~~  
10 2005 General Assembly for that purpose. Section 2 of this act becomes effective July 1  
11 of the fiscal year for which funds are appropriated by the ~~2003-2005~~ General Assembly  
12 for that purpose. The remainder of this act is effective when it becomes law."  
13

14 Requested by: Representatives Barnhart, Nye

15 **SUBSTANCE ABUSE PREVENTION SERVICES REPORTING**

16 **SECTION 10.11.** The Department of Health and Human Services shall  
17 report on its activities under Section 10.24 of S.L. 2002-126 to the House of  
18 Representatives Appropriations Subcommittee on Health and Human Services, the  
19 Senate Appropriations Committee on Health and Human Services, and the Fiscal  
20 Research Division not later than December 1, 2003.  
21

22 Requested by: Representatives Barnhart, Nye

23 **DOROTHEA DIX HOSPITAL**

24 **SECTION 10.12.(a)** In keeping with the United States Supreme Court  
25 decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services  
26 to clients in the least restrictive and most appropriate environment, the Department of  
27 Health and Human Services shall develop and implement a plan for the construction of  
28 a replacement facility for Dorothea Dix Hospital and for the transition of patients to the  
29 community or to other long-term care facilities, as appropriate. The goal is to develop  
30 mechanisms and identify resources needed to enable patients and their families to  
31 receive the necessary services and supports based on the following guiding principles:

- 32 (1) Individuals shall be provided acute psychiatric care in non-State  
33 facilities when appropriate.
- 34 (2) Individuals shall be provided acute psychiatric care in State facilities  
35 only when non-State facilities are unavailable.
- 36 (3) Individuals shall receive evidenced-based psychiatric services and care  
37 that are cost-efficient.
- 38 (4) The State shall minimize cost shifting to other State and local facilities  
39 or institutions.

40 **SECTION 10.12.(b)** The Department of Health and Human Services shall  
41 conduct an analysis of the individual patient service needs and shall develop and  
42 implement an individual transition plan, as appropriate, for patients in each hospital.  
43 The State shall ensure that each individual transition plan, as appropriate, shall take into  
44 consideration the availability of appropriate alternative placements based on the needs  
45 of the patient and within resources available for the mental health, developmental  
46 disabilities, and substance abuse services system. In developing each plan, the  
47 Department shall consult with the patient and the patient's family or other legal  
48 representative.

49 **SECTION 10.12.(c)** In accordance with the plan established in subsections  
50 (a) and (b) of this section, any nonrecurring savings in State appropriations that result  
51 from reductions in beds or services shall be placed in the Trust Fund for Mental Health,  
52 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.  
53 These funds shall be used to facilitate the transition of clients into appropriate  
54 community-based services and supports in accordance with G.S. 143-15.3D. Recurring  
55 savings realized through implementation of this section shall be retained by the

1 Department of Health and Human Services, Division of Mental Health, Developmental  
2 Disabilities, and Substance Abuse Services (i) for implementation of subsections (a) and  
3 (b) of this section, and (ii) to support the recurring costs of additional community-based  
4 placements from Division facilities in accordance with Olmstead vs. L.C. & E.W.

5 **SECTION 10.12.(e)** The Department of Health and Human Services shall  
6 submit reports on the status of implementation of this section to the Joint Legislative  
7 Commission on Governmental Operations, the Senate Appropriations Committee on  
8 Health and Human Services, the House of Representatives Appropriations  
9 Subcommittee on Health and Human Services, and the Fiscal Research Division. These  
10 reports shall be submitted on December 1, 2003, and May 1, 2004.

11  
12 Requested by: Representatives Barnhart, Nye

13 **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

14 **SECTION 10.13.** The Department of Health and Human Services shall  
15 report on its continuing implementation of the Comprehensive Treatment Services  
16 Program established pursuant to Section 21.60 of S.L. 2001-424. The Department shall  
17 submit an interim report on December 1, 2003, and a final report not later than April 1,  
18 2004, to the House of Representatives Appropriations Subcommittee on Health and  
19 Human Services, the Senate Appropriations Committee on Health and Human Services,  
20 and the Fiscal Research Division.

21  
22 Requested by: Representatives Barnhart, Nye

23 **MENTAL RETARDATION CENTER DOWNSIZING**

24 **SECTION 10.14.(a)** In accordance with the Department of Health and  
25 Human Services' plan for downsizing the State's regional mental retardation facilities by  
26 four percent (4%) each year, the Department shall implement cost-containment and  
27 reduction strategies to ensure the corresponding financial and staff downsizing of each  
28 facility. The Department shall manage the client population of the mental retardation  
29 centers in order to ensure that placements for ICF/MR level of care shall be made in  
30 non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last  
31 resort and only upon approval of the Department. The corresponding budgets for each  
32 of the State mental retardation centers shall be reduced, and positions shall be  
33 eliminated as the census of each facility decreases. At no time shall mental retardation  
34 center positions be transferred to other units within a facility or assigned nondirect care  
35 activities such as outreach.

36 **SECTION 10.14.(b)** Any savings in State appropriations in each year of the  
37 2003-2005 fiscal biennium that result from reductions in beds or services shall be  
38 applied as follows:

- 39 (1) Nonrecurring savings shall be placed in the Trust Fund for Mental  
40 Health, Developmental Disabilities, and Substance Abuse Services and  
41 Bridge Funding Needs and shall be used to facilitate the transition of  
42 clients into appropriate community-based services and support in  
43 accordance with G.S. 143-15.3D, and  
44 (2) Recurring savings realized through implementation of this section  
45 shall be retained by the Department of Health and Human Services,  
46 Division of Mental Health, Developmental Disabilities, and Substance  
47 Abuse Services to support the recurring costs of additional  
48 community-based placements from Division facilities in accordance  
49 with Olmstead vs. L.C. & E.W. In determining the savings in this  
50 section, savings shall include all savings realized from the downsizing  
51 of the State mental retardation centers including both the savings in  
52 direct State appropriations in the budgets of the State mental  
53 retardation centers as well as the savings in the State matching portion  
54 of reduced Medicaid payments associated with downsizing.

1           **SECTION 10.14.(c)** The Department of Health and Human Services shall  
2 report on its progress in complying with this section to the Senate Appropriations  
3 Committee on Health and Human Services, the House of Representatives  
4 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research  
5 Division. The progress report shall be submitted not later than January 15, 2004, and a  
6 final report submitted not later than May 1, 2004.

7           **SECTION 10.14.(d)** Downsizing of mental retardation centers which occurs  
8 in the 2003-2004 fiscal year shall be maintained for the 2004-2005 fiscal year. Effective  
9 July 1, 2003, downsizing shall be accomplished in accordance with this section and the  
10 State Plan for Mental Health, Developmental Disabilities, and Substance Abuse  
11 Services. All savings resulting from downsizing occurring on and after July 1, 2003,  
12 shall be utilized as set forth in subsection (b) of this section.

13  
14 Requested by:           Representatives Barnhart, Nye

15 **MENTAL RETARDATION CENTER OUTREACH PLAN**

16           **SECTION 10.15.(a)** The Department of Health and Human Services shall  
17 develop and implement a plan for the reorganization of outreach services performed by  
18 the State mental retardation centers. The plan shall include the following:

- 19           (1) The elimination of all activities in the State mental retardation centers  
20 centered on the identification and referral of persons in the community  
21 in need of specialized services to the mental retardation centers.
- 22           (2) The transfer of responsibility to area and county mental health  
23 programs for all community referral functions for specialized services  
24 at the mental retardation centers.
- 25           (3) The method for allocating savings in State appropriations from the  
26 mental retardation centers across the area and county mental health  
27 programs.
- 28           (4) The retention in the mental retardation centers of community transition  
29 activities currently performed as part of outreach. These activities  
30 include coordinating for transition of residents from the mental  
31 retardation centers to the area and county mental health programs and  
32 technical assistance for community service providers and families who  
33 will care for the transitioned residents.

34           **SECTION 10.15.(b)** In accordance with the plan established in subsection  
35 (a) of this section, any recurring and nonrecurring savings in State appropriations in  
36 excess of five hundred thirty-seven thousand three hundred twenty-eight dollars  
37 (\$537,328) in each year of the 2003-2005 fiscal biennium that result from reductions in  
38 outreach activities in the mental retardation centers shall be transferred from the  
39 Division of Mental Health, Developmental Disabilities, and Substance Abuse Services  
40 to area and county mental health programs for the purpose of performing community  
41 referral activities designated in subsection (a) of this section.

42           **SECTION 10.15.(c)** The Department of Health and Human Services shall  
43 report on the implementation of this section to the Senate Appropriations Committee on  
44 Health and Human Services, the House of Representatives Appropriations  
45 Subcommittee on Health and Human Services, and the Fiscal Research Division. This  
46 report shall be submitted on February 1, 2004.

47  
48 Requested by:           Representatives Barnhart, Nye

49 **SERVICES TO MULTIPLY-DIAGNOSED ADULTS**

50           **SECTION 10.16.(a)** In order to ensure that multiply-diagnosed adults are  
51 appropriately served by the mental health, developmental disabilities, and substance  
52 abuse services system, the Department of Health and Human Services, Division of  
53 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the  
54 following with respect to services provided to these adults:

- 1 (1) Implement the following guiding principles for the provision of  
2 services:  
3 a. Service delivery system must be outcome oriented and  
4 evaluation based.  
5 b. Services should be delivered as close as possible to the  
6 consumer's home.  
7 c. Services selected should be those that are most efficient in  
8 terms of cost and effectiveness.  
9 d. Services should not be provided solely for the convenience of  
10 the provider or the client.  
11 e. Families and consumers should be involved in decision making  
12 throughout treatment planning and delivery; and

13 (2) Provide those treatment services that are medically necessary.

14 (3) Implement utilization review of services provided.

15 **SECTION 10.16.(b)** The Department of Health and Human Services shall  
16 implement all of the following cost-reduction strategies:

17 (1) Preauthorization for all services except emergency services.

18 (2) Criteria for determining medical necessity.

19 (3) Clinically appropriate services.

20 (4) Not later than May 1, 2004, conduct a State review of (i)  
21 individualized service plans for former Thomas S. class members and  
22 for adults whose service plan exceeds one hundred thousand dollars  
23 (\$100,000) to ensure that service plans focus on delivery of  
24 appropriate services rather than optimal treatment and habilitation  
25 plans, and (ii) staffing patterns of residential services.

26 **SECTION 10.16.(c)** No State funds shall be used for the purchase of  
27 single-family or other residential dwellings to house multiply-diagnosed adults.

28 **SECTION 10.16.(d)** The Department shall submit a progress report on  
29 implementation of this section not later than February 1, 2004, and a final report not  
30 later than May 1, 2004, to the Senate Appropriations Committee on Health and Human  
31 Services, the House of Representatives Appropriations Subcommittee on Health and  
32 Human Services, and the Fiscal Research Division.

33  
34 Requested by: Representatives Barnhart, Nye

### 35 **AREA MENTAL HEALTH ADMINISTRATIVE COSTS**

36 **SECTION 10.17.(a)** Area mental health, developmental disabilities, and  
37 substance abuse authorities or counties administering mental health, developmental  
38 disabilities, and substance abuse services shall develop and implement plans to reduce  
39 local administrative costs. The plans shall be developed in accordance with guidelines  
40 adopted by the Secretary, in consultation with the Local Government Commission and  
41 the North Carolina Association of County Commissioners, and in accordance with the  
42 following:

43 (1) Administrative costs for area mental health, developmental disabilities,  
44 and substance abuse services programs shall not exceed thirteen  
45 percent (13%).

46 (2) Administrative costs for counties administering mental health,  
47 developmental disabilities, and substance abuse services through a  
48 county program shall not exceed thirteen percent (13%).

49 **SECTION 10.17.(b)** The Department of Health and Human Services shall  
50 report its progress in complying with this section not later than January 1, 2004, and  
51 April 15, 2004. The reports shall be submitted to the Senate Appropriations Committee  
52 on Health and Human Services, the House of Representatives Appropriations  
53 Subcommittee on Health and Human Services, and the Fiscal Research Division and  
54 shall include:

- 1 (1) A description of the process used and the participants involved in
- 2 complying with subsection (a) of this section.
- 3 (2) The guidelines developed under subsection (a) of this section.
- 4 (3) A description of local compliance initiatives and efforts including
- 5 program or function consolidation.
- 6 (4) A list of area programs at or below the targeted thirteen percent (13%)
- 7 for the 2003-2004 fiscal year.
- 8 (5) Projected savings in administrative costs as a result of implementation
- 9 of the targeted limits required under this section.

10 **SECTION 10.17.(c)** The Department may implement alternative approaches  
11 to establish reasonable administrative cost limitations for Local Management Entities  
12 (LMEs), including both county programs and area authority models, and service  
13 providers in accordance with system reform and changes in system funding structures.  
14

15 Requested by: Representatives Barnhart, Nye

#### 16 **PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT**

17 **SECTION 10.18.(a)** To ensure uniformity in rates charged to area programs  
18 and funded with State-allocated resources, the Division of Mental Health,  
19 Developmental Disabilities, and Substance Abuse Services of the Department of Health  
20 and Human Services may require a private agency that provides services under contract  
21 with an area program or county program, except for hospital services that have an  
22 established Medicaid rate, to complete an agency-wide uniform cost finding in  
23 accordance with G.S.122C-147.2. The resulting cost shall be the maximum included for  
24 the private agency in the contracting area program's unit cost finding.

25 **SECTION 10.18.(b)** If a private agency fails to timely and accurately  
26 complete the required agency-wide uniform cost finding in a manner acceptable to the  
27 Department's controller's office, the Department may suspend all Department funding  
28 and payment to the private agency until such time as an acceptable cost finding has been  
29 completed by the private agency and approved by the Department's controller's office.  
30

### 31 **SUBPART 3. DIVISION OF MEDICAL ASSISTANCE**

32  
33 Requested by: Representatives Barnhart, Nye

#### 34 **MEDICAID**

35 **SECTION 10.19.(a)** Funds appropriated in this act for services provided in  
36 accordance with Title XIX of the Social Security Act (Medicaid) are for both the  
37 categorically needy and the medically needy. Funds appropriated for these services shall  
38 be expended in accordance with the following schedule of services and payment bases.  
39 All services and payments are subject to the language at the end of this subsection.

40 Services and payment bases:

- 41 (1) Hospital-Inpatient. – Payment for hospital inpatient services will be
- 42 prescribed in the State Plan as established by the Department of Health
- 43 and Human Services.
- 44 (2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a
- 45 prospective reimbursement plan as established by the Department of
- 46 Health and Human Services.
- 47 (3) Nursing Facilities. – Payment for nursing facility services will be
- 48 prescribed in the State Plan as established by the Department of Health
- 49 and Human Services. Nursing facilities providing services to Medicaid
- 50 recipients who also qualify for Medicare must be enrolled in the
- 51 Medicare program as a condition of participation in the Medicaid
- 52 program. State facilities are not subject to the requirement to enroll in
- 53 the Medicare program. Residents of nursing facilities who are eligible
- 54 for Medicare coverage of nursing facility services must be placed in a
- 55 Medicare certified bed. Medicaid shall cover facility services only

1 after the appropriate services have been billed to Medicare. The  
2 Division of Medical Assistance shall allow nursing facility providers  
3 sufficient time from the effective date of this act to certify additional  
4 Medicare beds if necessary. In determining the date that the  
5 requirements of this subdivision become effective, the Division of  
6 Medical Assistance shall consider the regulations governing  
7 certification of Medicare beds and the length of time required for this  
8 process to be completed.

- 9 (4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed  
10 in the State Plan as established by the Department of Health and  
11 Human Services.
- 12 (5) Drugs. – Drug costs as allowed by federal regulations plus a  
13 professional services fee per month excluding refills for the same drug  
14 or generic equivalent during the same month. Reimbursement shall be  
15 available for up to six prescriptions per recipient, per month, including  
16 refills. Payments for drugs are subject to the provisions of subsection  
17 (h) of this section and to the provisions at the end of subsection (a) of  
18 this section, or in accordance with the State Plan adopted by the  
19 Department of Health and Human Services consistent with federal  
20 reimbursement regulations. Payment of the professional services fee  
21 shall be made in accordance with the State Plan adopted by the  
22 Department of Health and Human Services, consistent with federal  
23 reimbursement regulations. The professional services fee shall be five  
24 dollars and sixty cents (\$5.60) per prescription for generic drugs and  
25 four dollars (\$4.00) per prescription for brand name drugs.  
26 Adjustments to the professional services fee shall be established by the  
27 General Assembly.
- 28 (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified  
29 Nurse Midwife Services, Nurse Practitioners. – Fee schedules as  
30 developed by the Department of Health and Human Services.  
31 Payments for dental services are subject to the provisions of subsection  
32 (g) of this section.
- 33 (7) Community Alternative Program, EPSDT Screens. – Payment to be  
34 made in accordance with rate schedule developed by the Department  
35 of Health and Human Services.
- 36 (8) Home Health and Related Services, Private Duty Nursing, Clinic  
37 Services, Prepaid Health Plans, Durable Medical Equipment. –  
38 Payment to be made according to reimbursement plans developed by  
39 the Department of Health and Human Services.
- 40 (9) Medicare Buy-In. – Social Security Administration premium.
- 41 (10) Ambulance Services. – Uniform fee schedules as developed by the  
42 Department of Health and Human Services. Public ambulance  
43 providers will be reimbursed at cost.
- 44 (11) Hearing Aids. – Actual cost plus a dispensing fee.
- 45 (12) Rural Health Clinic Services. – Provider-based, reasonable cost;  
46 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 47 (13) Family Planning. – Negotiated rate for local health departments. For  
48 other providers, see specific services, for instance, hospitals,  
49 physicians.
- 50 (14) Independent Laboratory and X-Ray Services. – Uniform fee schedules  
51 as developed by the Department of Health and Human Services.
- 52 (15) Optical Supplies. – One hundred percent (100%) of reasonable  
53 wholesale cost of materials.

- 1 (16) Ambulatory Surgical Centers. – Payment as prescribed in the  
2 reimbursement plan established by the Department of Health and  
3 Human Services.
- 4 (17) Medicare Crossover Claims. – An amount up to the actual coinsurance  
5 or deductible or both, in accordance with the State Plan, as approved  
6 by the Department of Health and Human Services.
- 7 (18) Physical Therapy and Speech Therapy. – Services limited to EPSDT  
8 eligible children. Payments are to be made only to qualified providers  
9 at rates negotiated by the Department of Health and Human Services.  
10 Physical therapy (including occupational therapy) and speech therapy  
11 services are subject to prior approval and utilization review.
- 12 (19) Personal Care Services. – Payment in accordance with the State Plan  
13 approved by the Department of Health and Human Services.
- 14 (20) Case Management Services. – Reimbursement in accordance with the  
15 availability of funds to be transferred within the Department of Health  
16 and Human Services.
- 17 (21) Hospice. – Services may be provided in accordance with the State Plan  
18 developed by the Department of Health and Human Services.
- 19 (22) Other Mental Health Services. – Unless otherwise covered by this  
20 section, coverage is limited to:
- 21 a. Services as defined by the Division of Mental Health,  
22 Developmental Disabilities, and Substance Abuse Services and  
23 approved by the Centers for Medicare and Medicaid Services  
24 (CMS) when provided in agencies meeting the requirements of  
25 the rules established by the Commission for Mental Health,  
26 Developmental Disabilities, and Substance Abuse Services, and  
27 reimbursement is made in accordance with a State Plan  
28 developed by the Department of Health and Human Services  
29 not to exceed the upper limits established in federal regulations,  
30 and
- 31 b. For children eligible for EPSDT services:
- 32 1. Licensed or certified psychologists, licensed clinical  
33 social workers, certified clinical nurse specialists in  
34 psychiatric mental health advanced practice, and nurse  
35 practitioners certified as clinical nurse specialists in  
36 psychiatric mental health advanced practice, when  
37 Medicaid-eligible children are referred by the Carolina  
38 ACCESS primary care physician or the area mental  
39 health program, and
- 40 2. Institutional providers of residential services as defined  
41 by the Division of Mental Health, Developmental  
42 Disabilities, and Substance Abuse Services and approved  
43 by the Centers for Medicare and Medicaid Services  
44 (CMS) for children and Psychiatric Residential  
45 Treatment Facility services that meet federal and State  
46 requirements as defined by the Department.
- 47 Notwithstanding G.S. 150B-121.1(a), the Department of Health and  
48 Human Services may adopt temporary rules in accordance with  
49 Chapter 150B of the General Statutes further defining the  
50 qualifications of providers and referral procedures in order to  
51 implement this subdivision. Coverage policy for services defined by  
52 the Division of Mental Health, Developmental Disabilities, and  
53 Substance Abuse Services under paragraphs a. and b.2 of this  
54 subdivision shall be established by the Division of Medical Assistance.

- 1 (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible
- 2 Children. – Reimbursement in accordance with the State Plan
- 3 approved by the Department of Health and Human Services.
- 4 (24) Health Insurance Premiums. – Payments to be made in accordance
- 5 with the State Plan adopted by the Department of Health and Human
- 6 Services consistent with federal regulations.
- 7 (25) Medical Care/Other Remedial Care. – Services not covered elsewhere
- 8 in this section include related services in schools; health professional
- 9 services provided outside the clinic setting to meet maternal and infant
- 10 health goals; and services to meet federal EPSDT mandates. Services
- 11 addressed by this paragraph are limited to those prescribed in the State
- 12 Plan as established by the Department of Health and Human Services.
- 13 (26) Pregnancy Related Services. – Covered services for pregnant women
- 14 shall include nutritional counseling, psychosocial counseling, and
- 15 predelivery and postpartum home visits by maternity care coordinators
- 16 and public health nurses.

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

19 Payment is limited to Medicaid enrolled providers that purchase a  
20 performance bond in an amount not to exceed one hundred thousand dollars (\$100,000)  
21 naming as beneficiary the Department of Health and Human Services, Division of  
22 Medical Assistance, or provide to the Department a validly executed letter of credit or  
23 other financial instrument issued by a financial institution or agency honoring a demand  
24 for payment in an equivalent amount. The Department may waive or limit the  
25 requirements of this paragraph for one or more classes of Medicaid enrolled providers  
26 based on the provider's dollar amount of monthly billings to Medicaid or the length of  
27 time the provider has been licensed in this State to provide services. In waiving or  
28 limiting requirements of this paragraph the Department shall take into consideration the  
29 potential fiscal impact of the waiver or limitation on the State Medicaid Program. The  
30 Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary  
31 to implement this provision.

32 Reimbursement is available for up to 24 visits per recipient per year to any  
33 one or combination of the following: physicians, clinics, hospital outpatient,  
34 optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children,  
35 emergency rooms, and mental health services subject to independent utilization review  
36 are exempt from the visit limitations contained in this paragraph. Exceptions may be  
37 authorized by the Department of Health and Human Services where the life of the  
38 patient would be threatened without such additional care. Any person who is determined  
39 by the Department to be exempt from the 24-visit limitation may also be exempt from  
40 the six-prescription limitation.

41 **SECTION 10.19.(b)** Allocation of Nonfederal Cost of Medicaid. – The State  
42 shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the  
43 nonfederal costs of all applicable services listed in this section.

44 **SECTION 10.19.(c)** Copayment for Medicaid Services. – The Department  
45 of Health and Human Services may establish copayment up to the maximum permitted  
46 by federal law and regulation.

47 **SECTION 10.19.(d)** Medicaid and Work First Family Assistance, Income  
48 Eligibility Standards. – The maximum net family annual income eligibility standards for  
49 Medicaid and Work First Family Assistance and the Standard of Need for Work First  
50 Family Assistance shall be as follows:

	<u>Categorically Needy</u>	<u>Medically Needy</u>
	<u>WFFA*</u>	
Family	Standard	Families and
<u>Size</u>	<u>of Need</u>	Children Income



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

10 \*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB);  
 11 and Aid to the Disabled (AD).

12  
 13 The payment level for Work First Family Assistance shall be fifty percent (50%) of the  
 14 standard of need.

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

17 **SECTION 10.19.(e)** The Department of Health and Human Services,  
 18 Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind,  
 19 and disabled people who have incomes equal to or less than one hundred percent  
 20 (100%) of the federal poverty guidelines, as revised each April 1.

21 **SECTION 10.19.(f)** ICF and ICF/MR Work Incentive Allowances. – The  
 22 Department of Health and Human Services may provide an incentive allowance to  
 23 Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in  
 24 work activities as part of their developmental plan and for whom retention of additional  
 25 income contributes to their achievement of independence. The State funds required to  
 26 match the federal funds that are required by these allowances shall be provided from  
 27 savings within the Medicaid budget or from other unbudgeted funds available to the  
 28 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 to \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00.

35 **SECTION 10.19.(g)** Dental Coverage Limits. – Dental services shall be  
 36 provided on a restricted basis in accordance with rules adopted by the Department to  
 37 implement this subsection.

38 **SECTION 10.19.(h)** Dispensing of Generic Drugs. – Notwithstanding G.S.  
 39 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical  
 40 Assistance Program (Title XIX of the Social Security Act), and except as otherwise  
 41 provided in this subsection for atypical antipsychotic drugs and drugs listed in the  
 42 narrow therapeutic index, a prescription order for a drug designated by a trade or brand  
 43 name shall be considered to be an order for the drug by its established or generic name,  
 44 except when the prescriber has determined, at the time the drug is prescribed, that the  
 45 brand name drug is medically necessary and has written on the prescription order the  
 46 phrase "medically necessary". An initial prescription order for an atypical antipsychotic  
 47 drug or a drug listed in the narrow therapeutic drug index that does not contain the  
 48 phrase "medically necessary" shall be considered an order for the drug by its established  
 49 or generic name, except that a pharmacy shall not substitute a generic or established  
 50 name prescription drug for subsequent brand or trade name prescription orders of the  
 51 same prescription drug without explicit oral or written approval of the prescriber given  
 52 at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the  
 53 Medical Assistance Program rather than trade or brand name drugs. As used in this  
 54 subsection, "brand name" means the proprietary name the manufacturer places upon a  
 55 drug product or on its container, label, or wrapping at the time of packaging; and

1 "established name" has the same meaning as in section 502(e)(3) of the Federal Food,  
2 Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

3 **SECTION 10.19.(i)** The Department of Health and Human Services shall  
4 not impose prior authorization requirements or other restrictions under the State  
5 Medical Assistance Program on medications prescribed for Medicaid recipients for the  
6 treatment of : (i) mental illness, including, but not limited to, medications for  
7 schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

8 **SECTION 10.19.(j)** Exceptions to Service Limitations, Eligibility  
9 Requirements, and Payments. – Service limitations, eligibility requirements, and  
10 payments bases in this section may be waived by the Department of Health and Human  
11 Services, with the approval of the Director of the Budget, to allow the Department to  
12 carry out pilot programs for prepaid health plans, contracting for services, managed care  
13 plans, or community-based services programs in accordance with plans approved by the  
14 United States Department of Health and Human Services, or when the Department  
15 determines that such a waiver will result in a reduction in the total Medicaid costs for  
16 the recipient. The Department of Health and Human Services may proceed with  
17 planning and development work on the Program of All-Inclusive Care for the Elderly.

18 **SECTION 10.19.(k)** Volume Purchase Plans and Single Source  
19 Procurement. – The Department of Health and Human Services, Division of Medical  
20 Assistance, may, subject to the approval of a change in the State Medicaid Plan,  
21 contract for services, medical equipment, supplies, and appliances by implementation of  
22 volume purchase plans, single source procurement, or other contracting processes in  
23 order to improve cost containment.

24 **SECTION 10.19.(l)** Cost-Containment Programs. – The Department of  
25 Health and Human Services, Division of Medical Assistance, may undertake cost  
26 containment programs in accordance with Section 3 of S.L. 2001-395, including  
27 contracting for services, preadmissions to hospitals, and prior approval for certain  
28 outpatient surgeries before they may be performed in an inpatient setting.

29 **SECTION 10.19.(m)** For all Medicaid eligibility classifications for which  
30 the federal poverty level is used as an income limit for eligibility determination, the  
31 income limits will be updated each April 1 immediately following publication of federal  
32 poverty guidelines.

33 **SECTION 10.19.(n)** The Department of Health and Human Services shall  
34 provide coverage to pregnant women and to children according to the following  
35 schedule:

- 36 (1) Pregnant women with incomes equal to or less than one hundred fifty  
37 percent (150%) of the federal poverty guidelines as revised each April  
38 1 shall be covered for Medicaid benefits. In determining income  
39 eligibility under this subdivision, the income of a minor's parents shall  
40 be counted if the minor is residing in the home.
- 41 (2) Infants under the age of one with family incomes equal to or less than  
42 one hundred fifty percent (150%) of the federal poverty guidelines as  
43 revised each April 1 shall be covered for Medicaid benefits.
- 44 (3) Children aged one through five with family incomes equal to or less  
45 than one hundred thirty-three percent (133%) of the federal poverty  
46 guidelines as revised each April 1 shall be covered for Medicaid  
47 benefits.
- 48 (4) Children aged six through 18 with family incomes equal to or less than  
49 the federal poverty guidelines as revised each April 1 shall be covered  
50 for Medicaid benefits.
- 51 (5) The Department of Health and Human Services shall provide Medicaid  
52 coverage for adoptive children with special or rehabilitative needs  
53 regardless of the adoptive family's income.

54 Services to pregnant women eligible under this subsection continue  
55 throughout the pregnancy but include only those related to pregnancy and to those other

1 conditions determined by the Department as conditions that may complicate pregnancy.  
2 In order to reduce county administrative costs and to expedite the provision of medical  
3 services to pregnant women, to infants, and to children described in subdivisions (3) and  
4 (4) of this subsection, no resources test shall be applied.

5 **SECTION 10.19.(o)** Medicaid enrollment of categorically needy families  
6 with children shall be continuous for one year without regard to changes in income or  
7 assets.

8 **SECTION 10.19.(p)** The Division of Medical Assistance, Department of  
9 Health and Human Services, may provide incentives to counties that successfully  
10 recover fraudulently spent Medicaid funds by sharing State savings with counties  
11 responsible for the recovery of the fraudulently spent funds.

12 **SECTION 10.19.(q)** If first approved by the Office of State Budget and  
13 Management, the Division of Medical Assistance, Department of Health and Human  
14 Services, may use funds that are identified to support the cost of development and  
15 acquisition of equipment and software through contractual means to improve and  
16 enhance information systems that provide management information and claims  
17 processing. The Department of Health and Human Services shall identify adequate  
18 funds to support the implementation and first year's operational costs that exceed the  
19 currently allocated funds for the new contract for the fiscal agent for the Medicaid  
20 Management Information System.

21 **SECTION 10.19.(r)** The Department of Health and Human Services may  
22 adopt temporary rules according to the procedures established in G.S. 150B-21.1 when  
23 it finds that these rules are necessary to maximize receipt of federal funds within  
24 existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and  
25 abuse. Prior to the filing of these temporary rules with the Office of Administrative  
26 Hearings, the Department shall consult with the Office of State Budget and  
27 Management on the possible fiscal impact of the temporary rule and its effect on State  
28 appropriations and local governments.

29 **SECTION 10.19.(s)** The Department shall report to the Fiscal Research  
30 Division of the Legislative Services Office and to the House of Representatives  
31 Appropriations Subcommittee on Health and Human Services and the Senate  
32 Appropriations Committee on Health and Human Services or the Joint Legislative  
33 Health Care Oversight Committee on any change it anticipates making in the Medicaid  
34 program that impacts the type or level of service, reimbursement methods, or waivers,  
35 any of which require a change in the State Plan or other approval by the Centers for  
36 Medicare and Medicaid Services (CMS). The reports shall be provided at the same time  
37 they are submitted to CMS for approval.

38 **SECTION 10.19.(t)** Upon approval of a demonstration waiver by the  
39 Centers for Medicare and Medicaid Services (CMS), the Department of Health and  
40 Human Services may provide Medicaid coverage for family planning services to men  
41 and women of child-bearing age with family incomes equal to or less than one hundred  
42 eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent  
43 upon federal approval of the waiver and shall begin no earlier than January 1, 2001.

44 **SECTION 10.19.(u)** The Department of Health and Human Services,  
45 Division of Medical Assistance, shall use the latest audited cost reporting data available  
46 when establishing Medicaid provider rates or when making changes to the  
47 reimbursement methodology. For hospital services, the division shall use the latest  
48 audited cost reporting data available, supplemented by additional financial information  
49 available to the Division if and to the extent that the Division concludes that the  
50 information is reliable and relevant, when establishing rates or when making changes to  
51 the reimbursement methodology.

52 **SECTION 10.19.(v)** The Department of Health and Human Services,  
53 Division of Medical Assistance, shall implement a new coding system for therapeutic  
54 mental health services as required by the Health Insurance Portability and  
55 Accountability Act of 1996. In implementing the new coding system, the Division shall

1 ensure that the new coding system does not discriminate between providers of  
2 therapeutic mental health services with similar qualifications and training. In meeting  
3 the requirements of this subsection, the Division shall consult with the Division of  
4 Mental Health, Developmental Disabilities, and Substance Abuse Services and the  
5 professional licensing boards responsible for licensing the affected professionals.

6 **SECTION 10.19.(w)** The Department of Health and Human Services may  
7 apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the  
8 Social Security Act, including the attachment of liens, to real property excluded as  
9 "income producing", tenancy-in-common, or as nonhomesite property made "income  
10 producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer  
11 of assets policy shall apply only to an institutionalized individual or the individual's  
12 spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This  
13 subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset  
14 policies and attachment of liens to properties excluded as tenancy-in-common or as  
15 nonhomesite property made "income producing" in accordance with this subsection  
16 shall become effective not earlier than November 1, 2002.

17 **SECTION 10.19.(x)** When implementing the Supplemental Security Income  
18 (SSI) method for considering equity value of income producing property, the  
19 Department shall, to the maximum extent possible, employ procedures to mitigate the  
20 hardship to Medicaid enrollees occurring from application of the Supplemental Security  
21 Income (SSI) method.

22 **SECTION 10.19.(y)** The Department shall not change medical policy  
23 affecting the amount, sufficiency, duration, and scope of health care services and who  
24 may provide services until the Division of Medical Assistance has prepared a five-year  
25 fiscal analysis documenting the increased cost of the proposed change in medical policy  
26 and submitted it for Departmental review. If the fiscal impact indicated by the fiscal  
27 analysis for any proposed medical policy change exceeds three million dollars  
28 (\$3,000,000) in total requirements for a given fiscal year, then the Department shall  
29 submit the proposed policy change with the fiscal analysis to the Office of State Budget  
30 and Management and the Fiscal Research Division. The Department shall not  
31 implement any proposed medical policy change exceeding three million dollars  
32 (\$3,000,000) in total requirements for a given fiscal year unless the source of State  
33 funding is identified and approved by the Office of State Budget and Management. The  
34 Department shall provide the Office of State Budget and Management and the Fiscal  
35 Research Division a quarterly report itemizing all medical policy changes with total  
36 requirements of less than three million dollars (\$3,000,000).

37  
38 Requested by: Representatives Barnhart, Nye

39 **MEDICAID RESERVE FUND TRANSFER**

40 **SECTION 10.20.** Of the funds transferred to the Department of Health and  
41 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of thirty  
42 million dollars (\$30,000,000) for the 2003-2004 fiscal year and the sum of thirty million  
43 dollars (\$30,000,000) for the 2004-2005 fiscal year shall be allocated as prescribed by  
44 G.S. 143-23.2(b) for Medicaid Programs. Notwithstanding the prescription in G.S.  
45 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall  
46 replace the reduction in general revenue funding effected in this act.

47  
48 Requested by: Representatives Barnhart, Nye

49 **DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS**

50 **SECTION 10.21.(a)** Disproportionate share receipts reserved at the end of  
51 the 2003-2004 and 2004-2005 fiscal years shall be deposited with the Department of  
52 State Treasurer as nontax revenue for each of those fiscal years.

53 **SECTION 10.21.(b)** For each year of the 2003-2005 fiscal biennium, as it  
54 receives funds associated with Disproportionate Share Payments from State hospitals,  
55 the Department of Health and Human Services, Division of Medical Assistance, shall

1 deposit up to one hundred million dollars (\$100,000,000) of these Disproportionate  
2 Share Payments to the Department of State Treasurer for deposit as nontax revenue.  
3 Any Disproportionate Share Payments collected in excess of one hundred million  
4 dollars (\$100,000,000) shall be reserved by the State Treasurer for future  
5 appropriations.  
6

7 Requested by: Representatives Barnhart, Nye

8 **COUNTY MEDICAID COST SHARE**

9 **SECTION 10.22.(a)** Effective July 1, 2000, the county share of the cost of  
10 Medicaid services currently and previously provided by area mental health authorities  
11 shall be increased incrementally each fiscal year until the county share reaches fifteen  
12 percent (15%) of the nonfederal share by State fiscal year 2009-2010.

13 **SECTION 10.22.(b)** Effective July 1, 2000, the county share of the cost of  
14 Medicaid Personal Care Services paid to adult care homes shall be decreased  
15 incrementally each fiscal year until the county share reaches fifteen percent (15%) of  
16 the nonfederal share by State fiscal year 2009-2010.  
17

18 Requested by: Representatives Barnhart, Nye

19 **MEDICAID COST CONTAINMENT ACTIVITIES**

20 **SECTION 10.23.** The Department of Health and Human Services may use  
21 not more than three million dollars (\$3,000,000) in each year of the 2003-2005 fiscal  
22 biennium in Medicaid funds budgeted for program services to support the cost of  
23 administrative activities when cost-effectiveness and savings are demonstrated. The  
24 funds shall be used to support activities that will contain the cost of the Medicaid  
25 Program, including contracting for services or hiring additional staff. Medicaid  
26 cost-containment activities may include prospective reimbursement methods,  
27 incentive-based reimbursement methods, service limits, prior authorization of services,  
28 periodic medical necessity reviews, revised medical necessity criteria, service provision  
29 in the least costly settings, and other cost-containment activities. Funds may be  
30 expended under this section only after the Office of State Budget and Management has  
31 approved a proposal for the expenditure submitted by the Department. Proposals for  
32 expenditure of funds under this section shall include the cost of implementing the  
33 cost-containment activity and documentation of the amount of savings expected to be  
34 realized from the cost-containment activity. The Department shall provide a copy of  
35 proposals for expenditures under this section to the Fiscal Research Division.  
36

37 Requested by: Representatives Barnhart, Nye

38 **INCREASES IN FEDERAL MEDICAID FUNDS**

39 **SECTION 10.24.(a)** Notwithstanding any other provision of law to the  
40 contrary, the total amount of State funds that become available to the Department of  
41 Health and Human Services for the 2003-2004 fiscal year due to an increase in federal  
42 Medicaid funds resulting from increases in the Federal Financial Participation rate shall  
43 be used to increase funds appropriated to the Department for the 2003-2004 fiscal year  
44 for the Medicaid program without any reduction in what is otherwise allocated to the  
45 Department from appropriated funds.

46 **SECTION 10.24.(b)** The Department of Health and Human Services,  
47 Division of Medical Assistance, may reinstate eligibility policies changed by this act  
48 when all of the following conditions are met:

- 49 (1) Congress approves enhanced Federal Financial Participation for State  
50 Medicaid programs.
- 51 (2) Receipt of the enhanced Federal Financial Participation is dependent  
52 on a State's maintenance of effort in Medicaid eligibility.
- 53 (3) The Department has concluded that the enacted policy changes render  
54 the State ineligible for the enhanced Federal Financial Participation.

- 1 (4) Enhanced Federal Financial Participation receipts exceed the  
2 anticipated savings in State funds from the enacted policy changes.  
3

4 Requested by: Representatives Barnhart, Nye

5 **PUBLIC ASSISTANCE AND SOCIAL SERVICES APPEALS AND ACCESS TO**  
6 **RECORDS**

7 **SECTION 10.25.** G.S. 108A-79 reads as rewritten:

8 "**§ 108A-79. Appeals.**

9 (a) A public assistance applicant or recipient shall have a right to appeal the  
10 decision of the county board of social services, county department of social services, or  
11 the board of county commissioners granting, denying, terminating, or modifying  
12 assistance, or the failure of the county board of social services or county department of  
13 social services to act within a reasonable time under the rules and regulations of the  
14 Social Services Commission or the Department. Each applicant or recipient shall be  
15 notified in writing of his right to appeal upon denial of his application for assistance and  
16 at the time of any subsequent action on his case.

17 (b) In cases involving termination or modification of assistance, no action shall  
18 become effective until 10 workdays after notice of this action and of the right to appeal  
19 is mailed or delivered by hand to the recipient; provided, however, termination or  
20 modification of assistance may be effective immediately upon the mailing or delivery of  
21 notice in the following circumstances:

22 (1) When the modification is beneficial to the recipient; or

23 (2) When federal regulations permit immediate termination or  
24 modification upon mailing or delivery of notice and the Social  
25 Services Commission or the Department of Health and Human  
26 Services promulgates regulations adopting said federal law or  
27 regulations. When federal and State regulations permit immediate  
28 termination or modification, the recipient shall have no right to  
29 continued assistance at the present level pending a hearing, as would  
30 otherwise be provided by subsection (d) of this section.

31 (c) The notice of action and the right to appeal shall comply with all applicable  
32 federal and State law and regulations; provided, such notice shall, at a minimum contain  
33 a clear statement of:

34 (1) The action which was or is to be taken;

35 (2) The reasons for which this action was or is to be taken;

36 (3) The regulations supporting this action;

37 (4) The applicant's or recipient's right to both a local and State level  
38 hearing, or to a State level hearing in the case of the food stamp  
39 ~~program, program and cases involving disability,~~ on the decision to  
40 take this action and the method for obtaining these hearings;

41 (5) The right to be represented at the hearings by a personal  
42 representative, including an attorney obtained at the applicant's or  
43 recipient's expense;

44 (6) In cases involving termination or modification of assistance, the  
45 recipient's right upon timely request to continue receiving assistance at  
46 the present level pending an appeal hearing and decision on that  
47 hearing.

48 An applicant or recipient may give notice of appeal by written or oral statement to the  
49 county department of social services, which shall record such notice by completing a  
50 form developed by the Department.

51 Such notice of appeal must be given within 60 days from the date of the action, or 90  
52 days from the date of notification in the case of the food stamp program. Failure to give  
53 timely notice of appeal constitutes a waiver of the right to a hearing except that, for  
54 good cause shown, the county department of social services may permit an appeal  
55 notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

1 (d) If there is such timely appeal in cases not involving disability, in the first  
2 instance the hearing shall consist of a local appeal hearing before the county director or  
3 a designated representative of the county director, provided whoever hears the local  
4 appeal shall not have been involved directly in the initial decision giving rise to the  
5 appeal. If there is such timely appeal in cases involving disability, the county director or  
6 a designated representative of the county director shall within five days of the request  
7 for an appeal forward the request to the Department of Health and Human Services, and  
8 the Department shall designate a hearing officer who shall promptly hold a hearing in  
9 the county according to the provisions of subsections (i) and (j) of this section. The  
10 issue of disability determination is governed by federal law as codified in 42 § C.F.R.  
11 435.541. In cases involving termination or modification of assistance (other than cases  
12 of immediate termination or modification of assistance pursuant to subsection (b)(2) of  
13 this section), the recipient shall continue to receive assistance at the present level  
14 pending the decision at the initial hearing, whether that be the local appeal hearing  
15 decision or, in cases involving questions of disability, the Department of Health and  
16 Human Services hearing decision, provided that in order to continue receiving  
17 assistance pending the initial hearing decision the recipient must request a hearing on or  
18 before the effective date of the termination or modification of assistance.

19 (e) The local appeal hearing shall be held not more than five days after the  
20 request for it is received. The recipient may, for good cause shown as defined by rule or  
21 regulation of the Social Services Commission or the Department, petition the county  
22 department of social services, in writing, for a delay, but in no event shall the local  
23 appeal hearing be held more than 15 days after the receipt of the request for hearing. At  
24 the local appeal hearing:

- 25 (1) The appellant and the county department may be represented by  
26 personal representatives, including attorneys, obtained at their  
27 expense.
- 28 (2) The appellant or his personal representative and the county department  
29 shall present such sworn evidence and law or regulations as bear upon  
30 the case. The hearing need not be recorded or transcribed, but the  
31 director or his representative shall summarize in writing the substance  
32 of the hearing.
- 33 (3) The appellant or his personal representative and the county department  
34 may cross-examine witnesses and present closing arguments  
35 summarizing their views of the case and the law.
- 36 (4) Prior to and during the hearing, the appellant or his personal  
37 representative shall have adequate opportunity to examine the contents  
38 of his case file for the matter pending together with those portions of  
39 other public assistance or social services case files which pertain to the  
40 appeal, and all documents and records which the county department of  
41 social services intends to use at the hearing. Those portions of the  
42 public assistance or social services case file which do not pertain to the  
43 appeal or which are required by federal statutes or regulations or by  
44 State statutes or regulations to be held confidential shall not be  
45 released to the appellant or his personal representative. In cases where  
46 the appellant has been denied access to the public assistance or social  
47 services case file the hearing officer shall certify as part of the official  
48 record that the hearing officer has examined the case files and that no  
49 portion of those files pertain to the appeal. Such certification may be  
50 subject to judicial review as provided in subsection (k) of this section.  
51 Nothing in this section is intended to restrict an applicant or recipient  
52 access to information if that access is allowed by rules and regulations  
53 promulgated pursuant to G.S. 108A-80.

54 (f) The director or his designated representative shall make the decision based  
55 upon the evidence presented at the hearing and all applicable regulations, and shall

1 prepare a written statement of his decision citing the regulations and evidence to support  
2 it. This written statement of the decision will be served by certified mail on the  
3 appellant within five days of the local appeal hearing. If the decision terminating or  
4 modifying the appellant's benefits is affirmed, the assistance shall be terminated or  
5 modified, not earlier than the date the decision is mailed, and any assistance received  
6 during the time of the appeal is subject to recovery.

7 (g) If the appellant is dissatisfied with the decision of the local appeal hearing, he  
8 may within 15 days of the mailing notification of the decision take a further appeal to  
9 the Department. However, assistance may not be received pending this further appeal.  
10 Failure to give timely notice of further appeal constitutes a waiver of the right to a  
11 hearing before an official of the Department except that, for good cause shown, the  
12 Department may issue an order permitting a review of the local appeal hearing  
13 notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

14 (h) Subsections (d)-(g) of this section shall not apply to the food stamp program.  
15 The first appeal for a food stamp recipient or his representative shall be to the  
16 Department. Pending hearing, the recipient's assistance shall be continued at the present  
17 level upon timely request.

18 (i) If there is an appeal from the local appeal hearing decision, or from a food  
19 stamp recipient or his representative where there is no local hearing, or if there is an  
20 appeal of a case involving questions of disability the county director shall notify the  
21 Department according to its rules and regulations. The Department shall designate a  
22 hearing officer who shall promptly hold a de novo administrative hearing in the county  
23 after giving reasonable notice of the time and place of such hearing to the appellant and  
24 the county department of social services. Such hearing shall be conducted according to  
25 ~~applicable federal law and regulations and Article 3, Chapter 150B, of the General~~  
26 ~~Statutes of North Carolina; provided the federal law as codified in 42 C.F.R. § 431,~~  
27 Subpart E and Article 3 of Chapter 150B of the General Statutes. Appeals from local  
28 evidentiary hearings shall be de novo. The Department shall adopt rules and regulations  
29 to ensure the following:

- 30 (1) Prior to and during the hearing, the appellant or his personal  
31 representative shall have adequate opportunity to examine his case file  
32 and all documents and records which the county department of social  
33 services intends to use at the hearing together with those portions of  
34 other public assistance or social services case files which pertain to the  
35 appeal. Those portions of the public assistance or social services case  
36 files which do not pertain to the appeal or which are required by  
37 federal statutes or regulations or by State statutes or regulations to be  
38 held confidential shall not be released to the appellant or his personal  
39 representative. In cases where the appellant has been denied access to  
40 portions of the public assistance or social services case file, the hearing  
41 officer shall certify as part of the official record that the hearing officer  
42 has examined the case files and that no portion of those files pertain to  
43 the appeal. Such certification may be subject to judicial review as  
44 provided in subsection (k) of this section. Nothing in this section is  
45 intended to restrict an applicant or recipient access to information if  
46 that access is allowed by rules or regulations promulgated pursuant to  
47 G.S. 108A-80.
- 48 (2) At the appeal hearing, the appellant and personnel of the county  
49 department of social services may present such sworn evidence, law  
50 and regulations as bear upon the case.
- 51 (3) The appellant and county department shall have the right to be  
52 represented by the person of his choice, including an attorney obtained  
53 at his own expense.



- 1 (4) The appellant and county department shall have the right to  
2 cross-examine the other party as well as make a closing argument  
3 summarizing his view of the case and the law.  
4 (5) The appeal hearing shall be recorded; however, no transcript will be  
5 prepared unless a petition for judicial review is filed pursuant to  
6 subsection (k) herein, in which case, the transcript will be made a part  
7 of the official record. In the absence of the filing of a petition for a  
8 judicial review, the recording of the appeal hearing may be erased or  
9 otherwise destroyed 180 days after the final decision is mailed.  
10 (6) Notwithstanding G.S. 150B-28 or any other provision of State law,  
11 discovery shall be no more extensive or formal than that required by  
12 federal law and regulations applicable to such hearings.

13 (j) After the administrative hearing, the hearing officer shall prepare a proposal  
14 for decision, citing pertinent law, regulations, and evidence, which shall be served upon  
15 the appellant and the county department of social services or their personal  
16 representatives. The appellant and the county department of social services shall have  
17 the opportunity to present oral and written arguments in opposition to or in support of  
18 the proposal for decision to the designated official of the Department who is to make the  
19 final decision. The final decision shall be based on, conform to, and set forth in detail  
20 the relevant evidence, pertinent State and federal law and regulations, and matters  
21 officially noticed. The decision shall be rendered not more than 90 days, or 45 days in  
22 the case of the food stamp program, from the date of request for the hearing, unless the  
23 hearing was delayed at the request of the appellant. If the hearing was delayed at the  
24 appellant's request, the decision may only be delayed for the length of time the appellant  
25 requested a delay. The final decision shall be served upon the appellant and upon the  
26 county department of social services by certified mail, with a copy furnished to either  
27 party's attorney of record. In the absence of a petition for judicial review filed pursuant  
28 to subsection (k) herein, the final decision shall be binding upon the appellant, the  
29 county department of social services, the county board of social services, and the board  
30 of county commissioners.

31 (k) Any applicant or recipient who is dissatisfied with the final decision of the  
32 Department may file, within 30 days of the receipt of notice of such decision, a petition  
33 for judicial review in superior court of the county from which the case arose. Failure to  
34 file a petition within the time stated shall operate as a waiver of the right of such party  
35 to review, except that, for good cause shown, a judge of the superior court resident in  
36 the district or holding court in the county from which the case arose may issue an order  
37 permitting a review of the agency decision under this Chapter notwithstanding such  
38 waiver. The hearing shall be conducted according to the provisions of Article 4, Chapter  
39 150B, of the North Carolina General Statutes. The court shall, on request, examine the  
40 evidence excluded at the hearing under G.S. 108A-79(e)(4) or G.S. 108A-79(i)(1) and if  
41 the evidence was improperly excluded, the court shall consider it. Notwithstanding the  
42 foregoing provisions, the court may take testimony and examine into the facts of the  
43 case, including excluded evidence, to determine whether the final decision is in error  
44 under federal and State law, and under the rules and regulations of the Social Services  
45 Commission or the Department of Health and Human Services. Furthermore, the court  
46 shall set the matter for hearing within 15 days from the filing of the record under G.S.  
47 150B-47 and after reasonable written notice to the Department of Health and Human  
48 Services and the applicant or recipient. Nothing in this subsection shall be construed to  
49 abrogate any rights that the county may have under Article 4 of Chapter 150B.

50 (l) In the event of conflict between federal law or regulations and State law or  
51 regulations, the federal law or regulations shall control."  
52

53 Requested by: Representatives Barnhart, Nye  
54 **TRANSFER OF PROPERTY TO QUALIFY FOR MEDICAID**  
55 **SECTION 10.26.** G.S. 108A-58 reads as rewritten:

1 **"§ 108A-58. Transfer of property for purposes of qualifying for medical**  
2 **assistance; periods of ineligibility.**

3 (a) Any person, otherwise eligible, who, either while receiving medical  
4 assistance benefits or ~~within one year prior to the date of applying for medical~~  
5 ~~assistance benefits, unless some other within the~~ time period is mandated by controlling  
6 federal law, sells, gives, assigns or transfers countable real or personal property or an  
7 interest in real or personal property for the purpose of retaining or establishing  
8 eligibility for medical assistance benefits, shall be ineligible to receive medical  
9 assistance benefits as set forth in ~~subsection (e) of this section~~ section 1917(c) of the  
10 Social Security Act. Countable real and personal property includes real property,  
11 excluding a homesite, unless other applicable federal or State law requires the homesite  
12 to be counted for transfer of property purposes, intangible personal property,  
13 nonessential motor and recreational vehicles, nonincome producing business equipment,  
14 boats and motors. The provisions of this act shall not apply to the sale, gift, assignment  
15 or transfer of real or personal property if and to the extent that the person applying for  
16 medical assistance would have been eligible for such assistance notwithstanding  
17 ownership of such property or an interest therein.

18 (b) Any sale, gift, assignment or transfer of real or personal property or an  
19 interest in real or personal property, as provided in subsection (a) of this section, shall  
20 be presumed to have been made for the purpose of retaining or establishing eligibility  
21 for medical assistance benefits unless the person, or the person's legal representative,  
22 who sells, gives, assigns or transfers the property or interest, receives valuable  
23 consideration at least equal to the fair market value, less encumbrances, of the property  
24 or interest.

25 (c) Any person who sells, gives, assigns or transfers real or personal property or  
26 an interest in real or personal property for the purpose of retaining or establishing  
27 eligibility for medical assistance benefits, as provided in subsection (a) of this section,  
28 shall, after the time of transfer, be ineligible to receive these benefits until an amount  
29 equal to the uncompensated value of the property or interest has been expended by or on  
30 behalf of the person for the person's maintenance and support, including medical  
31 expenses, paid or incurred, or shall be ineligible based on the period of time required  
32 under section 1917(c) of the Social Security Act, ~~in accordance with the following~~  
33 ~~schedule, whichever is sooner;~~

- 34 (1) ~~For uncompensated value of at least one thousand dollars (\$1,000) but~~  
35 ~~not more than six thousand dollars (\$6,000), a one year period of~~  
36 ~~ineligibility from date of sale, gift, assignment or transfer;~~  
37 (2) ~~For uncompensated value of more than six thousand dollars (\$6,000)~~  
38 ~~but not more than twelve thousand dollars (\$12,000), a two year~~  
39 ~~period of ineligibility from date of sale, gift, assignment or transfer;~~  
40 (3) ~~For uncompensated value of more than twelve thousand dollars~~  
41 ~~(\$12,000), a two year period of ineligibility from date of sale, gift,~~  
42 ~~assignment or transfer, plus one additional month of ineligibility for~~  
43 ~~each five hundred dollar (\$500.00) increment or portion thereof by~~  
44 ~~which the uncompensated value exceeds twelve thousand dollars~~  
45 ~~(\$12,000), but in no event to exceed three years.~~

46 (d) The sale, gift, assignment or transfer for a consideration less than fair market  
47 value, less encumbrances, of any tangible personal property which was acquired with  
48 the proceeds of sale, assignment or transfer of real or intangible personal property  
49 described in subsection (a) of this section or in exchange for such real or intangible  
50 personal property shall be presumed to have been for the purpose of evading the  
51 provisions of this section if the acquisition and sale, gift, assignment or transfer of the  
52 tangible personal property is by or on behalf of a person receiving medical assistance or  
53 within the time period mandated by controlling federal law one year of making  
54 application for such assistance and the consequences of the sale, gift, assignment of

1 transfer of such tangible personal property shall be determined under the provisions of  
2 subsections (e), (f) and (g) (c) and (f) of this section.

3 (e) The presumptions created by subsections (b) and (d) may be overcome if the  
4 person receiving or applying for medical assistance, or the person's legal representative,  
5 establishes by the greater weight of the evidence that the sale, gift, assignment or  
6 transfer was exclusively for some purpose other than retaining or establishing eligibility  
7 for medical assistance benefits.

8 (f) For the purpose of establishing uncompensated value under subsection (c),  
9 the value of property or an interest therein shall be the fair market value of the property  
10 or interest at the time of the sale, gift, assignment or transfer, less the amount of  
11 compensation, if any, received for the property or interest. There shall be a rebuttable  
12 presumption that the fair market value of real property is the most recent property tax  
13 value of the property, as ascertained according to Subchapter II of Chapter 105 of the  
14 General Statutes. Fair market value for purpose of this subsection shall be such value,  
15 determined as above set out, less any legally enforceable encumbrances to which the  
16 property is subject.

17 ~~(g) In the event that there is more than one sale, gift, assignment or transfer of  
18 property or an interest therein by a person receiving medical assistance or within one  
19 year of the date of an application for medical assistance, unless some other time period  
20 is mandated by controlling federal law, the uncompensated value, for the purposes of  
21 subsection (c), shall be the aggregate uncompensated value of all sales, gifts,  
22 assignments and transfers. The date which is the midpoint between the date of the first  
23 and last sale, gift, assignment or transfer shall be the date from which the period of  
24 ineligibility shall be determined under subsection (c).~~

25 (h) This section shall not apply to applicants for or recipients of Work First  
26 Family Assistance or to persons entitled to medical assistance by virtue of their  
27 eligibility for Work First Family Assistance.

28 (i) This section shall apply only to transfers made before July 1, 1988."  
29

30 Requested by: Representatives Barnhart, Nye

### 31 **MEDICARE ENROLLMENT REQUIRED**

32 **SECTION 10.27.** Part 6 of Article 2 of Chapter 108A of the General  
33 Statutes is amended by adding the following new section to read:

#### 34 **"§ 108A-55.1. Medicare enrollment required.**

35 The Department shall require State Medical Assistance Program recipients who  
36 qualify for Medicare to enroll in Medicare, in accordance with Title XIX of the Social  
37 Security Act, in order to pay medical expenditures that qualify for payment under  
38 Medicare Part B. Failure to enroll in Medicare shall result in nonpayment of these  
39 expenditures under the State Medical Assistance Program. A provider may seek  
40 payment for services from Medicaid enrollees who are eligible for but not enrolled in  
41 Medicare Part B."  
42

43 Requested by: Representatives Barnhart, Nye

### 44 **MEDICAID ASSESSMENT PROGRAM FOR SKILLED NURSING** 45 **FACILITIES**

46 **SECTION 10.28.(a)** The Secretary of Health and Human Services shall  
47 implement a Medicaid assessment program for skilled nursing facilities licensed under  
48 Chapter 131E of the General Statutes. The assessment shall be imposed in a manner  
49 consistent with federal regulations under 42 C.F.R. Part 433, Subpart B. The  
50 Department shall impose the assessment effective October 1, 2003. Funds realized from  
51 assessments imposed shall be used only to draw down federal Medicaid matching funds  
52 for implementing the new reimbursement plan for nursing homes and for increasing  
53 nursing facility rates in accordance with the plan.

1           **SECTION 10.28.(b)** Funds realized from the Medicaid assessment program  
2 established pursuant to subsection (a) of this section shall not be used to supplant State  
3 funds appropriated for nursing facility services.

4           **SECTION 10.28.(c)** Funds realized from the assessment shall be used to pay  
5 one hundred percent (100%) of the nonfederal share for the new reimbursement plan for  
6 nursing homes.

7  
8 Requested by:           Representatives Barnhart, Nye

9 **HEALTH CHOICE**

10           **SECTION 10.29.(a)** G.S. 108A-70.20 reads as rewritten:

11 **"§ 108A-70.20. Program established.**

12           The Health Insurance Program for Children is established. The Program shall be  
13 administered by the Department of Health and Human Services in accordance with this  
14 Part and as required under Title XXI and related federal rules and regulations. Except as  
15 otherwise provided in this section, Administration-administration of Program benefits  
16 and claims processing shall be as provided under Part 5 of Article 3 of Chapter 135 of  
17 the General Statutes. Notwithstanding any other provision of law to the contrary, when  
18 applying Medicaid reimbursement rates to services provided under the Program, the  
19 Department may administer Program benefits and claims processing when the Secretary  
20 determines that Department administration of benefits and claims processing would be  
21 more efficient and cost-effective."

22           **SECTION 10.29.(b)** G.S. 108A-70.21(d) reads as rewritten:

23           "(d) Cost-Sharing. – There shall be no deductibles, copayments, or other  
24 cost-sharing charges for families covered under the Program whose family income is at  
25 or below one hundred fifty percent (150%) of the federal poverty ~~level-level~~, except  
26 that the fees for outpatient prescription drugs described in subdivision (3) of this  
27 subsection shall apply to covered families whose family income is at or below one  
28 hundred fifty percent (150%) of the federal poverty level. Families covered under the  
29 Program whose family income is above one hundred fifty percent (150%) of the federal  
30 poverty level shall be responsible for copayments to providers as follows:

- 31           (1) Five dollars (\$5.00) per child for each visit to a provider, except that  
32 there shall be no copayment required for well-baby, well-child, or  
33 age-appropriate immunization services;
- 34           (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- 35           (3) A six dollar (\$6.00) fee for each outpatient prescription drug  
36 purchased; one dollar (\$1.00) fee for each outpatient generic  
37 prescription drug and for each outpatient brand name prescription drug  
38 for which there is no generic substitution available. The fee for each  
39 outpatient brand name prescription drug for which there is a generic  
40 substitution available is ten dollars (\$10.00).
- 41           (4) Twenty dollars (\$20.00) for each emergency room visit unless:
- 42           a. The child is admitted to the hospital, or
- 43           b. No other reasonable care was available as determined by the  
44 Claims Processing Contractor of the North Carolina Teachers'  
45 and State Employees' Comprehensive Major Medical Plan.

46           Copayments required under this subsection for prescription drugs apply only to  
47 prescription drugs prescribed on an outpatient basis."

48           **SECTION 10.29.(c)** G.S. 108A-70.24 reads as rewritten:

49 **"§ 108A-70.24. Claims processing; payments.**

50           (a) The North Carolina Teachers' and State Employees' Comprehensive Major  
51 Medical Plan shall be responsible for the administration and processing of claims for  
52 benefits under the Program, as provided under Part 5 of Article 3 of Chapter 135 of the  
53 ~~General Statutes.~~ Statutes, except when the Secretary determines that administration and  
54 claims processing should be done by the Department as authorized in G.S. 108A-70.20.

1 (b) The Department shall, from State and federal appropriations, and from any  
2 other funds made available for this purpose, make premium payments to the North  
3 Carolina Teachers' and State Employees' Comprehensive Major Medical Plan as  
4 determined by the Plan for its administration, claims processing, and other services  
5 authorized to provide coverage for acute medical care to children eligible for benefits  
6 under this Part.

7 (c) The North Carolina Teachers' and State Employees' Comprehensive Major  
8 Medical Plan shall also be responsible for the administration and processing of claims  
9 for benefits provided under G.S. 108A-70.23 and not covered by Part 5 of Article 3 of  
10 Chapter 135 of the General Statutes. Such claims payments shall be made against  
11 accounts maintained by the Department."

12 **SECTION 10.29.(d)** The total amount of State funds expended for the  
13 Health Insurance Program for Children (NC Health Choice) in the 2003-2004 fiscal year  
14 and the 2004-2005 fiscal year shall not exceed the amount of State funds appropriated to  
15 match federal funds for the Program for the 2003-2004 fiscal year and the 2004-2005  
16 fiscal year. The Department shall manage Program enrollment in a way that maximizes  
17 the number of children served within existing funds.

#### 18 19 **SUBPART 4. DIVISION OF PUBLIC HEALTH**

20  
21 Requested by: Representatives Barnhart, Nye.

#### 22 **IMMUNIZATION PROGRAM FUNDING**

23 **SECTION 10.30.(a)** Of the funds appropriated in this act to the Department  
24 of Health and Human Services for childhood immunization programs for positions,  
25 operating support, equipment, and pharmaceuticals, the sum of one million dollars  
26 (\$1,000,000) for the 2003-2004 fiscal year and the sum of one million dollars  
27 (\$1,000,000) for the 2004-2005 fiscal year may be used for projects and activities that  
28 are also designed to increase childhood immunization rates in North Carolina. These  
29 projects and activities shall include the following:

- 30 (1) Outreach efforts at the State and local levels to improve service  
31 delivery of vaccines. Outreach efforts may include educational  
32 seminars, media advertising, support services to parents to enable  
33 children to be transported to clinics, longer operating hours for clinics,  
34 and mobile vaccine units.

- 35 (2) Continued development of an automated immunization registry.

36 **SECTION 10.30.(b)** Funds authorized to be used for immunization efforts  
37 under subsection (a) of this section shall not be used to fund additional State positions in  
38 the Department of Health and Human Services or contracts, except for contracts to  
39 develop an automated immunization registry or with local health departments for  
40 outreach.

41  
42 Requested by: Representatives Barnhart, Nye

#### 43 **AIDS DRUG ASSISTANCE PROGRAM (ADAP)**

44 **SECTION 10.31.(a)** For the 2003-2004 fiscal year and for the 2004-2005  
45 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five  
46 percent (125%) of the federal poverty level are eligible for participation in ADAP.  
47 Eligibility for participation in ADAP during the 2003-2005 fiscal biennium shall not be  
48 extended to individuals with incomes above one hundred twenty-five percent (125%) of  
49 the federal poverty level.

50 **SECTION 10.31.(b)** The Department of Health and Human Services shall  
51 make an interim report on ADAP program utilization by January 1, 2004, and a final  
52 report on ADAP program utilization by May 1, 2004, to the Senate Appropriations  
53 Committee on Health and Human Services, the House of Representatives  
54 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research  
55 Division on ADAP. The reports shall include the following:

- 1 (1) ADAP program utilization:  
 2 a. Monthly data on total cumulative AIDS/HIV cases reported in  
 3 North Carolina.  
 4 b. Monthly data on the number of individuals who have applied to  
 5 participate in ADAP that have been determined to be ineligible.  
 6 c. Monthly data on the income level of participants in ADAP and  
 7 of individuals who have applied to participate in ADAP who  
 8 have been determined to be ineligible.  
 9 d. Monthly data on fiscal year-to-date expenditures of ADAP. The  
 10 interim report shall contain monthly data on the calendar  
 11 year-to-date expenditures of ADAP.  
 12 e. An update on the status of the information management system.  
 13 f. Monthly data on ADAP usage patterns and demographics of  
 14 participants in ADAP.  
 15 g. Fiscal year-to-date budget information.  
 16

17 Requested by: Representatives Barnhart, Nye

18 **NEWBORN HEARING SCREENING PROGRAM REPORT**

19 **SECTION 10.32.** The Department of Health and Human Services shall  
 20 report the following information on the newborn hearing screening program:

- 21 (1) Unduplicated number of infants screened.  
 22 (2) Number of infants who failed the second hearing screening.  
 23 (3) Number of infants receiving the diagnostic evaluation.  
 24 (4) Number and types of services provided.  
 25 (5) Number and types of follow-up services provided to children.

26 The Department shall submit the report not later than May 1, 2004, to the Senate  
 27 Appropriations Committee on Health and Human Services, the House of  
 28 Representatives Appropriations Subcommittee on Health and Human Services, and the  
 29 Fiscal Research Division.  
 30

31 Requested by: Representatives Barnhart, Nye

32 **EMPLOYEES EXAMINED FOR ASBESTOSIS OR SILICOSIS UNDER**  
 33 **WORKERS COMPENSATION STATUTE.**

34 **SECTION 10.33.(a)** G.S. 97-61.1 reads as rewritten:

35 **§ 97-61.1. First examination of and report on employee having asbestosis or**  
 36 **silicosis.**

37 When an employee and the Industrial Commission are advised by the Department of  
 38 ~~Health and Human Services~~ that an employee has asbestosis or silicosis, the employer  
 39 shall be notified by the Industrial Commission, and the employee, when ordered by the  
 40 Industrial Commission, shall go to a place designated by the Industrial Commission and  
 41 submit to X rays and a physical examination by the advisory medical committee, at least  
 42 one of whom shall conduct the examination, and the member or members of the  
 43 advisory medical committee conducting the examination shall forward the X rays and  
 44 findings to the member or members of the committee not present for the physical  
 45 examination. The employer shall pay the expenses connected with the examination in  
 46 such amounts as shall be directed by the Industrial Commission. Within 30 days after  
 47 the completion of the examination, the advisory medical committee shall make a written  
 48 report signed by all of its members setting forth:

- 49 (1) The X rays and clinical procedures used by the committee in arriving  
 50 at its findings.  
 51 (2) Whether or not the claimant has contracted asbestosis or silicosis.  
 52 (3) The committee's opinion expressed in percentages of the impairment  
 53 of the employee's ability to perform normal labor in the same or any  
 54 other employment.  
 55 (4) Any other matter deemed pertinent by the committee.

1 When a competent physician certifies to the Industrial Commission that the  
 2 employee's physical condition is such that his movement to the place of examination  
 3 ordered by the Industrial Commission as herein provided in G.S. 97-61.1, 97-61.3 and  
 4 97-61.4 would be harmful or injurious to the health of the employee, the Industrial  
 5 Commission shall cause the examination of the employee to be made by the advisory  
 6 medical committee as herein provided at some place in the vicinity of the residence of  
 7 the employee suitable for the purposes of making such examination."

8 **SECTION 10.33.(b)** G.S. 97-72(b) reads as rewritten:

9 "(b) The members of the advisory medical committee shall be paid one hundred  
 10 dollars (\$100.00) per month plus not more than forty dollars (\$40.00) per film  
 11 examined. The fee per film shall be established by the ~~Secretary of Health and Human~~  
 12 ~~Services, Commissioner of Labor,~~ as guided by the current Medicaid/Medicare  
 13 reimbursement schedules for North Carolina."

14 **SECTION 10.33.(c)** G.S. 97-73(b) reads as rewritten:

15 "(b) The ~~Secretary of Health and Human Services-Commissioner of Labor~~ shall  
 16 establish a schedule of fees for examinations conducted by the Department of Health  
 17 and Human Services pursuant to G.S. 97-60. The fees shall be collected in accordance  
 18 with rules adopted by the ~~Secretary of Health and Human Services-Commissioner of~~  
 19 ~~Labor.~~"

20  
 21 Requested by: Representative Clary

## 22 **ELIMINATE HOME HEALTH PURCHASE OF CARE PROGRAM**

23 **SECTION 10.33A.** The Department of Health and Human Services,  
 24 Division of Public Health, shall eliminate the Home Health Purchase of Care Program  
 25 and transfer three million one thousand two hundred fifty-three dollars (\$3,001,253)  
 26 from the Division of Public Health's budget to the Division of Medical Assistance.  
 27 These funds and any additional administrative funds identified by closing this program  
 28 shall be used only to maximize federal Medicaid matching funds for Home Care  
 29 Personal Care Services. Funds realized from this transfer shall not be used to supplant  
 30 State funds appropriated for Home Care Personal Care Services.

## 31 **SUBPART 5. DIVISION OF CHILD DEVELOPMENT**

32  
 33  
 34 Requested by: Representatives Barnhart, Nye

## 35 **CHILD CARE FUNDS MATCHING REQUIREMENT**

36 **SECTION 10.34.** No local matching funds may be required by the  
 37 Department of Health and Human Services as a condition of any locality's receiving any  
 38 State child care funds appropriated by this act unless federal law requires a match. This  
 39 shall not prohibit any locality from spending local funds for child care services.

40  
 41 Requested by: Representatives Barnhart, Nye

## 42 **CHILD CARE SUBSIDY RATES**

43 **SECTION 10.35.(a)** The maximum gross annual income for initial  
 44 eligibility, adjusted biennially, for subsidized child care services shall be two hundred  
 45 percent (200%) at the federal poverty level, adjusted for family size.

46 **SECTION 10.35.(b)** Fees for families who are required to share in the cost  
 47 of care shall be established based on a percent of gross family income and adjusted for  
 48 family size. Effective October 1, 2003, fees shall be determined as follows:

49 FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
50 1-3	10%
51 4-5	9%
52 6 or more	8%.

53 **SECTION 10.35.(c)** Payments for the purchase of child care services for  
 54 low-income children shall be in accordance with the following requirements:

- 1 (1) Religious-sponsored child care facilities operating pursuant to G.S.  
2 110-106 and licensed child care centers and homes that meet the  
3 minimum licensing standards that are participating in the subsidized  
4 child care program shall be paid the one-star county market rate or the  
5 rate they charge privately paying parents, whichever is lower.  
6 (2) Licensed child care centers and homes with two or more stars shall  
7 receive the market rate for that rated license level for that age group or  
8 the rate they charge privately paying parents, whichever is lower.  
9 (3) Nonlicensed homes shall receive fifty percent (50%) of the county  
10 market rate or the rate they charge privately paying parents, whichever  
11 is lower.  
12 (4) Maximum payment rates shall also be calculated periodically by the  
13 Division of Child Development for transportation to and from child  
14 care provided by the child care provider, individual transporter, or  
15 transportation agency, and for fees charged by providers to parents.  
16 These payment rates shall be based upon information collected by  
17 market rate surveys.

18 **SECTION 10.35.(d)** Provision of payment rates for child care providers in  
19 counties that do not have at least 50 children in each age group for center-based and  
20 home-based care are as follows:

- 21 (1) Payment rates shall be set at the statewide or regional market rate for  
22 licensed child care centers and homes.  
23 (2) If it can be demonstrated that the application of the statewide or  
24 regional market rate to a county with fewer than 50 children in each  
25 age group is lower than the county market rate and would inhibit the  
26 ability of the county to purchase child care for low-income children,  
27 then the county market rate may be applied.

28 **SECTION 10.35.(e)** A market rate shall be calculated for child care centers  
29 and homes at each rated license level for each county and for each age group or age  
30 category of enrollees and shall be representative of fees charged to unsubsidized  
31 privately paying parents for each age group of enrollees within the county. The Division  
32 of Child Development shall also calculate a statewide rate and regional market rates for  
33 each rated license level for each age category.

34 **SECTION 10.35.(f)** Facilities licensed pursuant to Article 7 of Chapter 110  
35 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate  
36 in the program that provides for the purchase of care in child care facilities for minor  
37 children of needy families. No separate licensing requirements shall be used to select  
38 facilities to participate. In addition, child care facilities shall be required to meet any  
39 additional applicable requirements of federal law or regulations. Child care  
40 arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the  
41 General Statutes shall meet the requirements established by other State law and by the  
42 Social Services Commission.

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

47 **SECTION 10.35.(g)** Payment for subsidized child care services provided  
48 with Work First Block Grant funds shall comply with all regulations and policies issued  
49 by the Division of Child Development for the subsidized child care program.

50 **SECTION 10.35.(h)** Noncitizen families who reside in this State legally  
51 shall be eligible for child care subsidies if all other conditions of eligibility are met. If  
52 all other conditions of eligibility are met, noncitizen families who reside in this State  
53 illegally shall be eligible for child care subsidies only if at least one of the following  
54 conditions is met:



- 1 (1) The child for whom a child care subsidy is sought is receiving child
- 2 protective services or foster care services.
- 3 (2) The child for whom a child care subsidy is sought is developmentally
- 4 delayed or at risk of being developmentally delayed.
- 5 (3) The child for whom a child care subsidy is sought is a citizen of the
- 6 United States.
- 7

8 Requested by: Representatives Barnhart, Nye

9 **CHILD CARE ALLOCATION FORMULA**

10 **SECTION 10.36.(a)** The Department of Health and Human Services shall

11 allocate child care subsidy voucher funds to pay the costs of necessary child care for

12 minor children of needy families. The mandatory thirty percent (30%) Smart Start

13 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each

14 county's child care subsidy allocation. The Department of Health and Human Services

15 shall use the following method when allocating federal and State child care funds, not

16 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- 17 (1) Funds shall be allocated based upon the projected cost of serving
- 18 children in a county under age 11 in families with all parents working
- 19 who earn less than two hundred percent (200%) of the federal poverty
- 20 level.
- 21 (2) No county's allocation shall be less than ninety percent (90%) of its
- 22 State Fiscal Year 2001-2002 initial child care subsidy allocation.

23 **SECTION 10.36.(b)** The Department of Health and Human Services may

24 reallocate unused child care subsidy voucher funds in order to meet the child care needs

25 of low-income families. Any reallocation of funds shall be based upon the expenditures

26 of all child care subsidy voucher funding, including Smart Start funds, within a county.

27

28 Requested by: Representatives Barnhart, Nye

29 **CHILD CARE REVOLVING LOAN**

30 **SECTION 10.37.** Notwithstanding any law to the contrary, funds budgeted

31 for the Child Care Revolving Loan Fund may be transferred to and invested by the

32 financial institution contracted to operate the Fund. The principal and any income to the

33 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral

34 for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's

35 cost of administering the program.

36

37 Requested by: Representatives Barnhart, Nye

38 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**

39 **ENHANCEMENTS**

40 **SECTION 10.38.(a)** Administrative costs shall be equivalent to, on an

41 average statewide basis for all local partnerships, not more than seven percent (7%) of

42 the total statewide allocation to all local partnerships. For purposes of this subsection,

43 administrative costs shall include costs associated with partnership oversight, business

44 and financial management, general accounting, human resources, budgeting,

45 purchasing, contracting, and information systems management.

46 **SECTION 10.38.(b)** The North Carolina Partnership for Children, Inc., and

47 all local partnerships shall use competitive bidding practices in contracting for goods

48 and services on contract amounts as follows:

- 49 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures
- 50 specified by a written policy to be developed by the Board of Directors
- 51 of the North Carolina Partnership for Children, Inc.
- 52 (2) For amounts greater than five thousand dollars (\$5,000), but less than
- 53 fifteen thousand dollars (\$15,000), three written quotes.
- 54 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less
- 55 than forty thousand dollars (\$40,000), a request for proposal process.

- 1 (4) For amounts of forty thousand dollars (\$40,000) or more, request for  
2 proposal process and advertising in a major newspaper.

3 **SECTION 10.38.(c)** The North Carolina Partnership for Children, Inc., and  
4 all local partnerships shall, in the aggregate, be required to match no less than fifty  
5 percent (50%) of the total amount budgeted for the program in each fiscal year of the  
6 biennium as follows: contributions of cash equal to at least fifteen percent (15%) and  
7 in-kind donated resources equal to no more than five percent (5%) for a total match  
8 requirement of twenty percent (20%) for each fiscal year. The North Carolina  
9 Partnership for Children, Inc., may carry forward any amount in excess of the required  
10 match for a fiscal year in order to meet the match requirement of the succeeding fiscal  
11 year. Only in-kind contributions that are quantifiable shall be applied to the in-kind  
12 match requirement. Volunteer services may be treated as an in-kind contribution for the  
13 purpose of the match requirement of this subsection. Volunteer services that qualify as  
14 professional services shall be valued at the fair market value of those services. All other  
15 volunteer service hours shall be valued at the statewide average wage rate as calculated  
16 from data compiled by the Employment Security Commission in the Employment and  
17 Wages in North Carolina Annual Report for the most recent period for which data are  
18 available. Expenses, including both those paid by cash and in-kind contributions,  
19 incurred by other participating non-State entities contracting with the North Carolina  
20 Partnership for Children, Inc., or the local partnerships, also may be considered  
21 resources available to meet the required private match. In order to qualify to meet the  
22 required private match, the expenses shall:

- 23 (1) Be verifiable from the contractor's records.  
24 (2) If in-kind, other than volunteer services, be quantifiable in accordance  
25 with generally accepted accounting principles for nonprofit  
26 organizations.  
27 (3) Not include expenses funded by State funds.  
28 (4) Be supplemental to and not supplant preexisting resources for related  
29 program activities.  
30 (5) Be incurred as a direct result of the Early Childhood Initiatives  
31 Program and be necessary and reasonable for the proper and efficient  
32 accomplishment of the Program's objectives.  
33 (6) Be otherwise allowable under federal or State law.  
34 (7) Be required and described in the contractual agreements approved by  
35 the North Carolina Partnership for Children, Inc., or the local  
36 partnership.  
37 (8) Be reported to the North Carolina Partnership for Children, Inc., or the  
38 local partnership by the contractor in the same manner as reimbursable  
39 expenses.

40 Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year  
41 shall result in a dollar-for-dollar reduction in the appropriation for the Program for a  
42 subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be  
43 responsible for compiling information on the private cash and in-kind contributions into  
44 a report that is submitted to the Joint Legislative Commission on Governmental  
45 Operations in a format that allows verification by the Department of Revenue. The same  
46 match requirements shall apply to any expansion funds appropriated by the General  
47 Assembly.

48 **SECTION 10.38.(d)** The Department of Health and Human Services shall  
49 continue to implement the performance-based evaluation system.

50 **SECTION 10.38.(e)** The Department of Health and Human Services and the  
51 North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds  
52 for Early Childhood Education and Development Initiatives for State fiscal years  
53 2003-2004 and 2004-2005 shall be administered and distributed in the following  
54 manner:

- 1 (1) The North Carolina Partnership for Children, Inc., shall develop a  
2 policy to allocate the reduction of funds for Early Childhood  
3 Education and Development Initiatives for the 2003-2004 and  
4 2004-2005 fiscal years.
- 5 (2) Capital expenditures and playground equipment expenditures are  
6 prohibited for fiscal years 2003-2004 and 2004-2005. For the purposes  
7 of this section, "capital expenditures" means expenditures for capital  
8 improvements as defined in G.S. 143-34.40.
- 9 (3) Expenditures of State funds for advertising and promotional activities  
10 are prohibited for fiscal years 2003-2004 and 2004-2005.

11 **SECTION 10.38.(f)** For the 2003-2004 and 2004-2005 fiscal years, the  
12 North Carolina Partnership for Children, Inc., shall not approve local partnership plans  
13 that allocate State funds to child care providers for one-time quality improvement  
14 initiatives in the following circumstances:

- 15 (1) Child care facilities with licensure of four or five stars, unless the  
16 expenditure of funds is to expand capacity for low-income children.
- 17 (2) Child care facilities that do not accept child care subsidy funds.

18 **SECTION 10.38.(g)** The North Carolina Partnership for Children, Inc., shall  
19 not reduce the level of expenditures for subsidies below the State fiscal year 2002-2003  
20 level.

21 **SECTION 10.38.(h)** The eligibility for child care subsidies shall be in  
22 accordance with child care eligibility established in this act, effective January 1, 2004.

23 **SECTION 10.38.(i)** The North Carolina Partnership for Children, Inc., shall  
24 develop a plan to focus on quality day care initiatives and child care subsidies, and shall  
25 study any duplication of health services, family support, and program support activities,  
26 and report same to the House and Senate Appropriations Chairs.

27 **SECTION 10.38.(j)** The North Carolina Partnership for Children, Inc., shall  
28 impose a ten percent (10%) penalty against a local partnership's allocation when the  
29 local partnership's audit is classified as a "needs improvement performance assessment".

30 **SECTION 10.38.(k)** The North Carolina Partnership for Children, Inc., shall  
31 report on activities and directives of this act by March 1, 2004, to the House of  
32 Representatives Appropriations Subcommittee on Health and Human Services, the  
33 Senate Appropriations Committee on Health and Human Services, and the Fiscal  
34 Research Division.

35  
36 Requested by: Representative Barnhart, Nye

37 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**  
38 **EVALUATION**

39 **SECTION 10.39.** The Department of Health and Human Services, Division  
40 of Child Development, may evaluate the Early Childhood Education and Development  
41 Initiatives. The evaluation may include:

- 42 (1) Evaluation of the Early Childhood Education and Development  
43 Initiatives, including the ongoing review of quality child care efforts  
44 and child care providers' progress in preparing children to be ready to  
45 enter school and succeed.
- 46 (2) Continuation of technical assistance to local partnerships in data  
47 collection and evaluation.

48  
49 Requested by: Representatives Barnhart, Nye

50 **MORE AT FOUR PROGRAM**

51 **SECTION 10.40.(a)** Of the funds appropriated to the Department of Health  
52 and Human Services the sum of forty-three million fifty-six thousand five hundred  
53 dollars (\$43,056,500) in the 2003-2004 fiscal year and the sum of forty-one million  
54 eight hundred fifty-six thousand five hundred dollars (\$41,856,500) in the 2004-2005

1 fiscal year shall be used to implement "More At Four", a voluntary prekindergarten  
2 program for at-risk four-year-olds.

3 **SECTION 10.40.(b)** The Department of Health and Human Services and the  
4 Department of Public Instruction, with guidance from the Task Force, shall continue the  
5 implementation of the "More At Four" prekindergarten program for at-risk  
6 four-year-olds who are at risk of failure in kindergarten. The program is available  
7 statewide to all counties that choose to participate, including underserved areas. The  
8 goal of the program is to provide quality prekindergarten services to a greater number of  
9 at-risk children in order to enhance kindergarten readiness for these children. The  
10 program shall be consistent with standards and assessments established jointly by the  
11 Department of Health and Human Services, the Department of Public Instruction, and  
12 the Task Force and may consider the "More At Four" Pre-K Task Force  
13 recommendations. The program shall include:

- 14 (1) A process and system for identifying children at risk of academic  
15 failure.
- 16 (2) A process and system for identifying children who are not being  
17 served first priority in formal early education programs, such as child  
18 care, public or private preschools, Head Start, Early Head Start, early  
19 intervention programs, or other such programs, who demonstrate  
20 educational needs, and who are eligible to enter kindergarten the next  
21 school year, as well as children who are underserved.
- 22 (3) A curriculum or several curricula that are recommended by the Task  
23 Force. The Task Force will identify and approve appropriate  
24 research-based curricula. These curricula shall: (i) focus primarily on  
25 oral language and emergent literacy; (ii) engage children through key  
26 experiences and provide background knowledge requisite for formal  
27 learning and successful reading in the early elementary years; (iii)  
28 involve active learning; (iv) promote measurable kindergarten  
29 language-readiness skills that focus on emergent literacy and  
30 mathematical skills; and (v) develop skills that will prepare children  
31 emotionally and socially for kindergarten.
- 32 (4) An emphasis on ongoing family involvement with the prekindergarten  
33 program.
- 34 (5) Evaluation of child progress through pre- and post-assessment of  
35 children in the statewide evaluation, as well as ongoing assessment of  
36 the children by teachers.
- 37 (6) Guidelines for a system to reimburse local school boards and systems,  
38 private child care providers, and other entities willing to establish and  
39 provide prekindergarten programs to serve at-risk children.
- 40 (7) A system built upon existing local school boards and systems, private  
41 child care providers, and other entities that demonstrate the ability to  
42 establish or expand prekindergarten capacity.
- 43 (8) A quality-control system. Participating providers shall comply with  
44 standards and guidelines as established by the Department of Health  
45 and Human Services, the Department of Public Instruction, and the  
46 Task Force. The Department may use the child care rating system to  
47 assist in determining program participation.
- 48 (9) Standards for minimum teacher qualifications. A portion of the  
49 classroom sites initially funded shall have at least one teacher who is  
50 certified or provisionally certified in birth to kindergarten education.
- 51 (10) A local contribution. Programs must demonstrate that they are  
52 accessing resources other than "More At Four".
- 53 (11) A system of accountability.
- 54 (12) Collaboration with State agencies and other organizations. The  
55 Department of Health and Human Services, the Department of Public

1 Instruction, and the Task Force shall collaborate with State agencies  
2 and other organizations such as the North Carolina Partnership for  
3 Children, Inc., in the design and implementation of the program.

4 (13) Consideration of the reallocation of existing funds. In order to  
5 maximize current funding and resources, the Department of Health and  
6 Human Services, the Department of Public Instruction, and the Task  
7 Force shall consider the reallocation of existing funds from State and  
8 local programs that provide prekindergarten related care and services.

9 (14) Recommendations for long-term organizational placement and  
10 administration of the program.

11 **SECTION 10.40.(c)** During the 2003-2004 fiscal year, the Department of  
12 Health and Human Services shall plan for expansion of the "More At Four" program  
13 within existing resources to include four and five star rated centers, homes, and schools  
14 serving four-year-olds and develop guidelines for these programs. The Department shall  
15 analyze guidelines for use of the "More At Four" funds, State subsidy funds, and Smart  
16 Start subsidy funds and devise a complementary plan for administration of funds for all  
17 four-year-old classrooms. The four and five star centers that choose to become a "More  
18 at Four" program shall, at a minimum, receive curricula and access to training and  
19 workshops for "More at Four" programs and be considered along with other "More at  
20 Four" programs for T.E.A.C.H. funding. The Department shall ensure that no  
21 duplication exists among the T.E.A.C.H., W.A.G.E.S., and T.E.A.C.H. Health Insurance  
22 programs for individual recipients.

23 The Department may use nonobligated "More At Four" funds to reduce the  
24 waiting list for subsidy, with priority given to four-year-olds attending three star or  
25 better centers. If there are funds remaining after the waiting list for four-year-olds has  
26 been satisfied, then the waiting list for other children may be addressed with the  
27 remaining funds.

28 **SECTION 10.40.(d)** The Department of Health and Human Services, the  
29 Department of Public Instruction, and the Task Force shall submit a progress report by  
30 January 1, 2004, and May 1, 2004, to the Joint Legislative Commission on  
31 Governmental Operations, the Joint Legislative Education Oversight Committee, the  
32 Senate Appropriations Committee on Health and Human Services, the House of  
33 Representatives Appropriations Subcommittee on Health and Human Services, and the  
34 Fiscal Research Division. This final report shall include the following:

35 (1) The number of children participating in the program.

36 (2) The number of children participating in the program who have never  
37 been served in other early education programs, such as child care,  
38 public or private preschool, Head Start, Early Head Start, or early  
39 intervention programs.

40 (3) The expected expenditures for the programs and the source of the local  
41 match for each grantee.

42 (4) The location of program sites and the corresponding number of  
43 children participating in the program at each site.

44 (5) Activities involving Child Find in counties.

45 (6) A comprehensive cost analysis of the program, including the cost per  
46 child served by the program.

47 (7) The plan for expansion of "More At Four" through existing resources  
48 as outlined in this section.

## 50 **SUBPART 6. OFFICE OF EDUCATIONAL SERVICES**

51  
52 Requested by: Representatives Barnhart, Nye

### 53 **RESIDENTIAL SCHOOLS REPORTING**

54 **SECTION 10.41.** The Office of Education Services shall report not later  
55 than December 1, 2003, to the Senate Appropriations Committee on Health and Human

1 Services, the House of Representatives Appropriations Subcommittee on Health and  
2 Human Services, and the Fiscal Research Division on the activities of the Eastern North  
3 Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at  
4 Morganton, and the Governor Morehead School for the Blind. The report shall include  
5 enrollment numbers at the schools, the budgets, and the academic status of the schools  
6 as defined under the ABCs program.

## 8 **SUBPART 7. DIVISION OF AGING**

10 Requested by: Representatives Barnhart, Nye

### 11 **SENIOR CENTER OUTREACH**

12 **SECTION 10.42.(a)** Funds appropriated to the Department of Health and  
13 Human Services, Division of Aging, for the 2003-2005 fiscal biennium, shall be used by  
14 the Division of Aging to enhance senior center programs as follows:

15 (1) To expand the outreach capacity of senior centers to reach unserved or  
16 underserved areas; or

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

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

19 **SECTION 10.42.(b)** Prior to funds being allocated pursuant to this section  
20 for start-up funds for a new senior center, the county commissioners of the county in  
21 which the new center will be located shall:

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

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

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

26 **SECTION 10.42.(c)** State funding shall not exceed sixty-five percent (65%)  
27 of reimbursable costs.

## 29 **SUBPART 8. DIVISION OF SOCIAL SERVICES**

31 Requested by: Representatives Barnhart, Nye

### 32 **ADULT CARE HOME MODEL FOR COMMUNITY-BASED SERVICES**

33 **SECTION 10.43.(a)** In keeping with the United States Supreme Court  
34 Decision in Olmstead vs. L.C. & E.W. and with State policy to provide appropriate  
35 services to clients in the least restrictive and most appropriate environment, the  
36 Department of Health and Human Services shall develop a model project for delivering  
37 community-based mental health, developmental disabilities, and substance abuse  
38 housing and services through adult care homes that have excess capacity. The model  
39 shall be designed for implementation on a pilot basis and shall address the following:

40 (1) Services that will be provided by the facility or under contract with the  
41 facility, including assistance with daily medication.

42 (2) Access of clients to mental health, developmental disabilities, and  
43 substance abuse services provided in the community, including  
44 transportation to services outside of the client's residence in the adult  
45 care home facility.

46 (3) Physical plant additions or changes necessary to provide for  
47 independent living of residents.

48 (4) Methods for assuring quality of services, resident safety, and  
49 cost-effectiveness.

50 (5) Consistency with the Department's Olmstead plan, other policies on  
51 community-integration, and disability plans adopted by the State.

52 **SECTION 10.43.(b)** The Department shall submit a final report on the  
53 development of the model to the Senate Appropriations Committee on Health and  
54 Human Services, the House of Representatives Appropriations Subcommittee on Health

1 and Human Services, and the Fiscal Research Division on or before March 1, 2004. The  
2 report shall address the following:

- 3 (1) Proposed time and location for implementation of the pilot.
- 4 (2) Proposed number of residents to be placed and services to be provided  
5 directly by the facility or under contract with the facility.
- 6 (3) Method for evaluating the pilot, including services provided, on a  
7 regular basis.
- 8 (4) A description of the living environment for each resident and a  
9 comparison of how the living environment compares to that of other  
10 residents in the adult care home.
- 11 (5) Changes to State law necessary to implement the pilot.
- 12 (6) Projected cost to the State for pilot and statewide implementation.

13  
14 Requested by: Representatives Barnhart, Nye

15 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

16 **SECTION 10.44.(a)** It is the intent of the General Assembly to increase the  
17 productivity and enhance the performance of child support enforcement offices  
18 statewide.

19 **SECTION 10.44.(b)** The Department of Health and Human Services shall  
20 develop and implement performance standards for each of the State and county child  
21 support enforcement offices across the State. To develop these performance standards,  
22 the Department of Health and Human Services shall evaluate other private and public  
23 child support models and national standards as well as other successful collections  
24 models. These performance standards shall include the following:

- 25 (1) Cost per collections.
- 26 (2) Consumer satisfaction.
- 27 (3) Paternity establishments.
- 28 (4) Administrative costs.
- 29 (5) Orders established.
- 30 (6) Collections on arrearages.
- 31 (7) Location of absent parents.
- 32 (8) Other related performance measures.

33 The Department of Health and Human Services shall monitor the  
34 performance of each office and shall implement a system of reporting that allows each  
35 local office to review its performance as well as the performance of other local offices.  
36 The Department of Health and Human Services shall publish an annual performance  
37 report that shall include the statewide and local office performance of each child support  
38 office.

39 **SECTION 10.44.(c)** The Department of Health and Human Services shall  
40 report on its progress, in compliance with this section, to the Senate Appropriations  
41 Committee on Health and Human Services, the House of Representatives  
42 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research  
43 Division by May 1, 2005.

44  
45 Requested by: Representatives Barnhart, Nye

46 **SPECIAL NEEDS ADOPTIONS INCENTIVE FUND**

47 **SECTION 10.45.** Part 4 of Article 2 of Chapter 108A of the General  
48 Statutes is amended by adding a new section to read:

49 **"§ 108A-50A. Special Needs Adoptions Incentive Fund.**

50 (a) There is created a Special Needs Adoptions Incentive Fund to provide  
51 financial assistance to facilitate the adoption of certain children residing in licensed  
52 foster care homes. These funds shall be used to remove financial barriers to the adoption  
53 of these children and shall be available to foster care families who adopt children with  
54 special needs, as defined by the Social Services Commission. These funds shall be  
55 matched by county funds.

1       **(b)** This program shall not constitute an entitlement and is subject to the  
2 availability of funds.

3       **(c)** The Social Services Commission shall adopt rules to implement the  
4 provisions of this section."

5  
6 Requested by:       Representatives Barnhart, Nye

7 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

8       **SECTION 10.46.(a)** The maximum rates for State participation in the foster  
9 care assistance program are established on a graduated scale as follows:

- 10       (1)     \$415.00 per child per month for children aged birth through 5;  
11       (2)     \$465.00 per child per month for children aged 6 through 12; and  
12       (3)     \$515.00 per child per month for children aged 13 through 18.

13       Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the  
14 child.

15       **SECTION 10.46.(b)** The maximum rates for State participation in the  
16 adoption assistance program are established on a graduated scale as follows:

- 17       (1)     \$415.00 per child per month for children aged birth through 5;  
18       (2)     \$465.00 per child per month for children aged 6 through 12; and  
19       (3)     \$515.00 per child per month for children aged 13 through 18.

20       **SECTION 10.46.(c)** In addition to providing board payments to foster and  
21 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter  
22 324 of the 1995 Session Laws, any additional funds remaining that were appropriated  
23 for this purpose shall be used to provide medical training in avoiding HIV transmission  
24 in the home.

25       **SECTION 10.46.(d)** The maximum rates for the State participation in HIV  
26 foster care and adoption assistance are established on a graduated scale as follows:

- 27       (1)     \$800.00 per month per child with indeterminate HIV status;  
28       (2)     \$1,000 per month per child confirmed HIV-infected, asymptomatic;  
29       (3)     \$1,200 per month per child confirmed HIV-infected, symptomatic; and  
30       (4)     \$1,600 per month per child terminally ill with complex care needs.

31  
32 Requested by:       Representatives Barnhart, Nye

33 **SPECIAL CHILDREN ADOPTION FUND**

34       **SECTION 10.47.(a)** Of the funds appropriated to the Department of Health  
35 and Human Services in this act, the sum of one million one hundred thousand dollars  
36 (\$1,100,000) shall be used to support the Special Children Adoption Fund for each year  
37 of the 2003-2005 fiscal biennium. The Division of Social Services, in consultation with  
38 the North Carolina Association of County Directors of Social Services and  
39 representatives of licensed private adoption agencies, shall develop guidelines for the  
40 awarding of funds to licensed public and private adoption agencies upon the adoption of  
41 children described in G.S. 108A-50 and in foster care. Payments received from the  
42 Special Children Adoption Fund by participating agencies shall be used exclusively to  
43 enhance the adoption services. No local match shall be required as a condition for  
44 receipt of these funds. In accordance with State rules for allowable costs, the Special  
45 Children Adoption Fund may be used for post-adoption services for families whose  
46 income exceed two hundred percent (200%) of the federal poverty level.

47       **SECTION 10.47.(b)** Of the total funds appropriated for the Special Children  
48 Adoption Fund each year, twenty percent (20%) of the total funds available shall be  
49 reserved for payment to participating private adoption agencies. If the funds reserved in  
50 this subsection for payments to private agencies have not been spent on or before March  
51 31, 2004, the Division of Social Services may reallocate those funds, in accordance with  
52 this section, to other participating adoption agencies.

53  
54 Requested by:       Representatives Barnhart, Nye



**INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS**

**SECTION 10.48.(a)** The Department of Health and Human Services shall review the Intensive Family Preservation Services Program (IFPS) to enhance and implement initiatives that focus on increasing the sustainability and effectiveness of the Program.

**SECTION 10.48.(b)** Notwithstanding the provisions of G.S. 143B-150.6, the Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The revised IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

**SECTION 10.48.(c)** The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of Intensive Family Preservation Services shall provide information and data that allows for:

- (1) An established follow-up system with a minimum of six months of follow-up services.
- (2) Detailed information on the specific interventions applied including utilization indicators and performance measurement.
- (3) Cost-benefit data.
- (4) Data on long-term benefits associated with Intensive Family Preservation Services. This data shall be obtained by tracking families through the intervention process.
- (5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
- (6) The number and percentage by race of children who received Intensive Family Preservation Services compared to the ratio of their distribution in the general population involved with Child Protective Services.

**SECTION 10.48.(d)** The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (c) of this section. The amount of funding shall be based on the individual performance of each program.

**SECTION 10.48.(e)** The Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004. The report shall include information and data collected pursuant to subsection (c) of this section.

Requested by: Representatives Barnhart, Nye

**TANF STATE PLAN**

**SECTION 10.49.(a)** The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005", prepared by the Department of Health and Human Services and presented to the General Assembly on May 15, 2003, as revised in accordance with subsection (b) of this section. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2003, through September 30, 2005. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services as amended by this act or any other act of the 2003 General Assembly.

**SECTION 10.49.(b)** The Department of Health and Human Services shall revise the North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005, submitted to the General Assembly for approval on May 15, 2003. The revisions shall be made to the following Plan components:

- 1 (1) Enhanced Employee Assistance Program to reflect changes in funding.
- 2 (2) Services for Families to remove reference to start-up activities.
- 3 (3) Work Responsibility to remove reference to start-up activities.
- 4 (4) Cabarrus County Waiver to reflect changes in the law made by the
- 5 2003 General Assembly.
- 6 (5) Goal number eight to provide that caseload reduction goals are subject
- 7 to economic conditions in the county.

8 **SECTION 10.49.(c)** The counties approved as Electing Counties in North  
9 Carolina's Temporary Assistance for Needy Families State Plan FY 2003-2005 as  
10 approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln,  
11 Macon, McDowell, Sampson, Surry, and Wilkes.

12 **SECTION 10.49.(d)** Counties designated as Electing Counties pursuant to  
13 G.S. 108A-27(d) and who submitted the letter of intent to be redesignated as a standard  
14 county and the accompanying county plan for fiscal years 2003 through 2005, pursuant  
15 to G.S. 108A-27(e), shall operate under the standard county budget requirements  
16 effective July 1, 2003. Counties that submitted the letter of intent to remain as an  
17 electing county or to be redesignated as an electing county and the accompanying  
18 county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall  
19 operate under the electing county budget requirements effective July 1, 2003. For  
20 programmatic purposes, all counties referred to in this subsection shall remain under  
21 their current county designation through September 30, 2003.

22  
23 Requested by: Representatives Barnhart, Nye

24 **ELECTING COUNTY TANF FUNDS REVERT**

25 **SECTION 10.50.** G.S. 108A-27.11(c) reads as rewritten:

26 "(c) Each Electing County's allocation for Work First Family Assistance shall be  
27 computed based on the percentage of each Electing County's total expenditures for cash  
28 assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting  
29 percentage shall be applied to the federal TANF block grant funds appropriated for cash  
30 assistance by the General Assembly each fiscal year. The Department shall transmit the  
31 federal funds contained in the county block grants to Electing Counties as soon as  
32 practicable after they become available to the State and in accordance with federal cash  
33 management laws and regulations. ~~The Department shall transmit one fourth of the~~  
34 ~~State funds contained in county block grants to Electing Counties at the beginning of~~  
35 ~~each quarter."~~

36  
37 Requested by: Representatives Barnhart, Nye

38 **SPECIAL ASSISTANCE DEMONSTRATION PROJECT**

39 **SECTION 10.51.(a)** The Department of Health and Human Services may  
40 use funds from the existing State/County Special Assistance for Adults budget to  
41 provide Special Assistance payments to eligible individuals in in-home living  
42 arrangements. These payments may be made for up to 800 individuals during the  
43 2003-2004 fiscal year and the 2004-2005 fiscal year. These payments may be made for  
44 as long as the individuals who are receiving payments on June 30, 2005, remain  
45 eligible. The standard monthly payment to individuals enrolled in the Special Assistance  
46 demonstration project shall be fifty percent (50%) of the monthly payment the  
47 individual would receive if the individual resided in an adult care home and qualified  
48 for Special Assistance, except if a lesser payment amount is appropriate for the  
49 individual as determined by the local case manager. For State fiscal year 2003-2004,  
50 qualified individuals shall not receive payments at rates less than they would have been  
51 eligible to receive in State fiscal year 2002-2003. The Department shall implement  
52 Special Assistance in-home eligibility policies and procedures to assure that  
53 demonstration project participants are those individuals who need and, but for the  
54 demonstration project, would seek placement in an adult care home facility. The  
55 Department shall make an interim report to the cochairs of the House of Representatives

1 Appropriations Committee, the cochairs of the House of Representatives Appropriations  
2 Subcommittee on Health and Human Services, the cochairs of the Senate  
3 Appropriations Committee, and the cochairs of the Senate Appropriations Committee  
4 on Health and Human Services by May 1, 2004.

5 **SECTION 10.51.(b)** The Department shall report to the cochairs of the  
6 House of Representatives Appropriations Committee, the House of Representatives  
7 Appropriations Subcommittee on Health and Human Services, the cochairs of the  
8 Senate Appropriations Committee, and the cochairs of the Senate Appropriations  
9 Committee on Health and Human Services by April 1, 2004. This report shall include  
10 the following information:

- 11 (1) A description of cost savings that could occur by allowing individuals  
12 eligible for State/County Special Assistance the option of remaining in  
13 the home.
- 14 (2) Which activities of daily living or other need criteria are reliable  
15 indicators for identifying individuals with the greatest need for income  
16 supplements for in-home living arrangements.
- 17 (3) How much case management is needed and which types of individuals  
18 are most in need of case management.
- 19 (4) The geographic location of individuals receiving payments under this  
20 section.
- 21 (5) A description of the services purchased with these payments.
- 22 (6) A description of the income levels of individuals who receive  
23 payments under this section and the impact on the Medicaid program.
- 24 (7) Findings and recommendations as to the feasibility of continuing or  
25 expanding the demonstration program.
- 26 (8) The level and quantity of services (including personal care services)  
27 provided to the demonstration project participants compared to the  
28 level and quantity of services for residents in adult care homes.
- 29 (9) A fiscal analysis and programmatic results of increasing the  
30 demonstration project participant's monthly assistance payment to fifty  
31 percent (50%) of the Special Assistance monthly payment.

32 **SECTION 10.51.(c)** The Department shall incorporate data collection tools  
33 designed to compare quality of life among institutionalized vs. noninstitutionalized  
34 populations (i.e., an individual's perception of his or her own health and well-being,  
35 years of healthy life, and activity limitations). To the extent national standards are  
36 available, the Department shall utilize those standards.

37  
38 Requested by: Representatives Barnhart, Nye

39 **STATE/COUNTY SPECIAL ASSISTANCE**

40 **SECTION 10.52.(a)** The eligibility of Special Assistance recipients residing  
41 in adult care homes on August 1, 1995, shall not be affected by an income reduction in  
42 the Special Assistance eligibility criteria resulting from adoption of the Rate Setting  
43 Methodology Report and Related Services, providing these recipients are otherwise  
44 eligible. The maximum monthly rate for these residents in adult care home facilities  
45 shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

46 **SECTION 10.52.(b)** The maximum monthly rate for residents in adult care  
47 home facilities shall be one thousand ninety-one dollars (\$1,091) per month per resident  
48 through September 30, 2003.

49 **SECTION 10.52.(c)** Effective October 1, 2003, the maximum monthly rate  
50 for residents in adult care home facilities shall be one thousand sixty-six dollars  
51 (\$1,066) per month per resident unless adjusted by the Department in accordance with  
52 subsection (f) of this section.

53 **SECTION 10.52.(d)** The eligibility of Special Assistance recipients who  
54 reside in adult care homes on September 30, 2003, and remain continuously eligible  
55 shall not be affected by an income reduction in the Special Assistance eligibility criteria,

1 providing these recipients are otherwise eligible. The maximum monthly rate for these  
2 residents in adult care home facilities shall be one thousand ninety-one dollars (\$1,091)  
3 per month per resident. The standard of need level for coverage eligibility under  
4 State/County Special Assistance, for individuals not enrolled or recipients of the  
5 program on September 30, 2003, shall be not less than one thousand ninety-one dollars  
6 (\$1,091) per month per individual, but the monthly reimbursement rate for such  
7 individuals shall be the amount established under subsections (c) and (f) of this section.

8 **SECTION 10.52.(e)** The sum of three million one hundred eighty-nine  
9 thousand six hundred seventy-five dollars (\$3,189,675) for the 2003-2004 fiscal year  
10 and the sum of four million four hundred thirty-one thousand eight hundred forty-six  
11 dollars (\$4,431,846) for the 2004-2005 fiscal year appropriated to the Department of  
12 Health and Human Services shall be transferred from the Division of Social Services to  
13 the Division of Medical Assistance and used as State match to draw down federal  
14 matching funds to help pay for Medicaid's personal care services for adult care homes  
15 (ACH-PCS) rather than the State/County Special Assistance Program.

16 **SECTION 10.52.(f)** Notwithstanding any other provision of this section, the  
17 Department of Health and Human Services shall review activities and costs related to  
18 the provision of care in adult care homes and shall determine what costs may be  
19 considered to properly maximize allowable reimbursement available through Medicaid  
20 personal care services for adult care homes (ACH-PCS) under federal law. As  
21 determined, and with any necessary approval from the Centers for Medicare and  
22 Medicaid Services (CMS), and the approval of the Office of State Budget and  
23 Management, the Department may transfer necessary funds from the State/County  
24 Special Assistance program within the Division of Social Services to the Division of  
25 Medical Assistance and may use those funds as State match to draw down federal  
26 matching funds to pay for such activities and costs under Medicaid's personal care  
27 services for adult care homes (ACH-PCS), thus maximizing available federal funds.  
28 The established rate for State/County Special Assistance set forth in subsection (c) of  
29 this section shall be adjusted by the Department to reflect any transfer of funds from the  
30 Division of Social Services to the Division of Medical Assistance, and related transfer  
31 costs and responsibilities from State/County Special Assistance to the Medicaid  
32 personal care services for adult care homes (ACH-PCS). Such rate adjustments to the  
33 Special Assistance rate shall be effective with the effective date of increased  
34 reimbursement under ACH-PCS. In no event shall the reimbursement for services  
35 through the ACH-PCS exceed the average cost of such services as determined by the  
36 Department from review of cost reports as required and submitted by adult care homes.  
37 The Department shall report any transfers of funds and modifications of rates to the  
38 House of Representatives Appropriations Subcommittee on Health and Human  
39 Services, the Senate Appropriations Committee on Health and Human Services, and the  
40 Fiscal Research Division.

41  
42 Requested by: Representatives Barnhart, Nye

#### 43 **STATE/COUNTY SPECIAL ASSISTANCE TRANSFER OF ASSETS**

44 **SECTION 10.53.(a)** Notwithstanding any other provision of law to the  
45 contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and  
46 estate recovery, as prescribed by federal law, shall apply to applicants for State/County  
47 Special Assistance.

48 **SECTION 10.53.(b)** The Department of Health and Human Services shall  
49 continue to review whether policy for State/County Special Assistance should be  
50 changed to permit an assisted living facility to accept from a family member of a  
51 resident who qualifies for State/County Special Assistance payment for the difference in  
52 the monthly rate for room, board, and services available. In reviewing current policy,  
53 the Department shall consider the following conditions on family contributions to the  
54 resident's cost of care:

- 1 (1) Ensuring that the resident meets all income and resource eligibility
- 2 requirements for State/County Special Assistance.
- 3 (2) Not counting payments made by family members to the facility as
- 4 income to the resident or as an in-kind contribution when calculating
- 5 the monthly rate applicable to the resident.
- 6 (3) Ensuring that supplemental payments are made on a voluntary basis as
- 7 specified in the resident agreement.

8 Not later than March 1, 2004, the Department shall report on its activities under this  
9 subsection to the Senate Appropriations Committee on Health and Human Services, the  
10 House of Representatives Appropriations Subcommittee on Health and Human  
11 Services, and the Fiscal Research Division.

12  
13 Requested by: Representatives Nye, Barnhart

#### 14 **LIMITATION ON STATE ABORTION FUNDING**

15 **SECTION 10.54.(a)** No State funds shall be used for the performance of  
16 abortions. However, the Department of Health and Human Services may expend funds  
17 to the extent necessary to comply with federal law and regulations governing Medicaid.

18  
19 Requested by: Representatives Barnhart, Nye

#### 20 **FUNDS FOR FOOD BANKS**

21 **SECTION 10.55.(a)** Of the funds appropriated to the Department of Health  
22 and Human Services in this act, the sum of one million dollars (\$1,000,000) for the  
23 2003-2004 fiscal year shall be allocated equally among the six Second Harvest North  
24 Carolina food banks.

25 **SECTION 10.55.(b)** Each organization shall report to the Department of  
26 Health and Human Services and the Fiscal Research Division on the activities  
27 performed and the impact on local communities directly associated with the funds  
28 allocated in subsection (a) of this section by April 1, 2004. Each organization shall  
29 provide to the Department of Health and Human Services and the Fiscal Research  
30 Division a copy of its annual audited financial statement within 30 days of issuance of  
31 the statement.

32  
33 Requested by: Representative Clary

#### 34 **CHILD WELFARE SYSTEM PILOTS SYSTEM**

35 **SECTION 10.56.(a)** The Department of Health and Human Services,  
36 Division of Social Services, shall continue working with local departments of social  
37 services to implement an alternative response system of child protection in no fewer  
38 than 10 and no more than 33 demonstration areas in this State. The Division of Social  
39 Services may exceed the maximum number of demonstration areas if a county  
40 specifically requests inclusion and the Division determines that resources are available.  
41 The demonstration projects in place in the 2003-2004 fiscal year shall continue. The  
42 alternative response system shall provide for a family-centered approach to child  
43 protective services which local departments of social services utilize family assessment  
44 tools and family support principles when responding to selected reports of suspected  
45 child neglect and dependency.

46 **SECTION 10.56.(b)** The Department of Health and Human Services shall  
47 evaluate the original pilot demonstration areas to determine the impact the alternative  
48 response system to child protective services has had in the following areas:

- 49 (1) Child safety.
- 50 (2) Timeliness of response.
- 51 (3) Timeliness of service.
- 52 (4) Coordination of local human services.

53 **SECTION 10.56.(c)** The Department of Health and Human Services shall  
54 proceed to expand this demonstration project if non-State funds are identified for this  
55 purpose.

1           **SECTION 10.56.(d)** The Department of Health and Human Services shall  
 2 report on the outcome of the evaluation of the original pilot demonstration areas  
 3 pursuant to subsection (b) of this section and the expansion of the demonstration areas.  
 4 The Department shall make recommendations for statewide implementation of an  
 5 alternative response system to child protective services. The report shall include any  
 6 statutory changes required for full implementation. Any recommendations for statutory  
 7 changes contained in the report shall be eligible for consideration by the 2003 General  
 8 Assembly in the 2004 Regular Session. The report shall be submitted to the Senate  
 9 Appropriations Committee on Health and Human Services, the House of  
 10 Representatives Appropriations Subcommittee on Health and Human Services, and the  
 11 Fiscal Research Division not later than April 1, 2004.

12  
 13 **PART XI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

14  
 15 Requested by:           Representatives Fox, West

16 **GRASS ROOTS SCIENCE PROGRAM**

17           **SECTION 11.1.** Of the funds appropriated in this act to the Department of  
 18 Environment and Natural Resources for the Grassroots Science Program, the sum of  
 19 two million six hundred five thousand six hundred thirty-seven dollars (\$2,605,637) for  
 20 fiscal year 2003-2004 and the sum of two million six hundred five thousand six hundred  
 21 thirty-seven dollars (\$2,605,637) for fiscal year 2004-2005 are allocated as grants-in-aid  
 22 for each fiscal year as follows:

	2003-2004	2004-2005
Aurora Fossil Museum	\$56,704	\$56,704
Cape Fear Museum	\$185,762	\$185,762
Catawba Science Center	\$135,096	\$135,096
Colburn Gem and Mineral Museum, Inc.	\$66,894	\$66,894
Discovery Place	\$625,643	\$625,643
Granville County Museum Commission, Inc. - Harris Gallery	\$55,897	\$55,897
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$121,268	\$121,268
Imagination Station	\$85,384	\$85,384
Iredell County Children's Museum	\$56,631	\$56,631
Museum of Coastal Carolina	\$69,352	\$69,352
Natural Science Center of Greensboro	\$183,703	\$183,703
North Carolina Museum of Life and Science	\$389,011	\$389,011
Rocky Mount Children's Museum	\$72,859	\$72,859
Schiele Museum of Natural History	\$234,921	\$234,921
Sci Works Science Center and Environmental Park of Forsyth County	\$147,788	\$147,788
Western North Carolina Nature Center	\$118,726	\$118,726
Total	\$2,605,637	\$2,605,637

49  
 50 Requested by:           Representatives Fox, West

51 **STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUND**

52           **SECTION 11.2.** Of the funds appropriated to the Wildlife Resources Fund  
 53 in this act, the sum of four hundred forty-nine thousand dollars (\$449,000) for the  
 54 2003-2004 fiscal year and the sum of four hundred forty-nine thousand dollars  
 55 (\$449,000) for the 2004-2005 fiscal year shall be used to provide the State share

1 necessary to support the beaver damage control program established in G.S.  
2 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in  
3 federal funds is available each fiscal year of the biennium to provide the federal share.

4  
5 Requested by: Representatives Fox, West

6 **FUNDS FOR CLEANUP OF WARREN COUNTY PCB LANDFILL**

7 **SECTION 11.3.(a)** Notwithstanding the provisions of G.S. 143-215.3A, the  
8 Department of Environment and Natural Resources may use up to five hundred  
9 thousand dollars (\$500,000) for the 2003-2004 fiscal year from the fees collected for  
10 water quality permits under G.S. 143-215.3D and credited to the Water Permits Fund if  
11 both of the following conditions are satisfied:

- 12 (1) The detoxification and remediation of the landfill located in Warren  
13 County cannot be completed without these additional funds.
- 14 (2) All other funds, including all contingency funds, available to the  
15 Department for the detoxification and remediation of the landfill  
16 located in Warren County that contains polychlorinated biphenyl  
17 (PCBs) and dioxin/furan contaminated materials have been spent or  
18 encumbered.

19 **SECTION 11.3.(b)** It is the intent of the General Assembly that the funds  
20 authorized under subsection (a) of this section will be sufficient to complete the  
21 detoxification and remediation of this landfill, based on representations made to the  
22 General Assembly.

23  
24 Requested by: Representatives Fox, West

25 **COMMERCIAL AND NONCOMMERCIAL UNDERGROUND STORAGE**  
26 **TANK FUNDS**

27 **SECTION 11.4.(a)** Section 19 of S.L. 1989-652, Section 67 of S.L.  
28 1991-1044, Section 15(a) and Section 15(b) of S.L. 1995-377, and Section 1 of S.L.  
29 2001-454 are repealed, which has the effect of repealing two million six hundred  
30 twenty-five thousand dollars (\$2,625,000) in appropriations from the Commercial  
31 Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of  
32 Environment and Natural Resources and one million two hundred ninety-five thousand  
33 dollars (\$1,295,000) in appropriations from the Noncommercial Leaking Petroleum  
34 Underground Storage Tank Cleanup Fund to the Department of Environment and  
35 Natural Resources.

36 **SECTION 11.4.(b)** There is appropriated from the Commercial Leaking  
37 Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment  
38 and Natural Resources the sum of two million six hundred twenty-five thousand dollars  
39 (\$2,625,000) for the 2003-2004 fiscal year and the sum of two million six hundred  
40 twenty-five thousand dollars (\$2,625,000) for the 2004-2005 fiscal year to administer  
41 the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter  
42 143 of the General Statutes.

43 **SECTION 11.4.(c)** It is the intent of the General Assembly that the funds  
44 under subsection (b) of this section are recurring funds.

45 **SECTION 11.4.(d)** There is appropriated from the Noncommercial Leaking  
46 Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment  
47 and Natural Resources the sum of one million two hundred ninety-five thousand dollars  
48 (\$1,295,000) for the 2003-2004 fiscal year and the sum of one million two hundred  
49 ninety-five thousand dollars (\$1,295,000) for the 2004-2005 fiscal year to administer  
50 the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter  
51 143 of the General Statutes.

52 **SECTION 11.4.(e)** It is the intent of the General Assembly that the funds  
53 under subsection (c) of this section are recurring funds.

54 **SECTION 11.4.(f)** The Office of State Budget and Management shall certify  
55 the appropriations under subsections (b) and subsection (d) of this section in the budget

1 codes for the Commercial and Noncommercial Leaking Petroleum Underground  
2 Storage Tank Cleanup Funds and in the General Fund budget code for the Department  
3 of Environment and Natural Resources.

4  
5 Requested by: Representatives Fox, West, LaRoque

6 **COST SHARE FUNDS FOR LIMITED RESOURCE/NEW FARMERS**

7 **SECTION 11.6.** G.S. 143-215.74(b) reads as rewritten:

8 "(b) The program shall be subject to the following requirements and limitations:

- 9 (1) The purpose of the program shall be to reduce the input of agricultural  
10 nonpoint source pollution into the water courses of the State.  
11 (2) The program shall initially include the present 16 nutrient sensitive  
12 watershed counties and 17 additional counties.  
13 (3) Subject to subdivision (7) of this subsection, priority designations for  
14 inclusions in the program shall be under the authority of the Soil and  
15 Water Conservation Commission. The Soil and Water Conservation  
16 Commission shall retain the authority to allocate the cost share funds.  
17 (4) Areas shall be included in the program as the funds are appropriated  
18 and the technical assistance becomes available from the local Soil and  
19 Water Conservation District.  
20 (5) Funding may be provided to assist practices including conservation  
21 tillage, diversions, filter strips, field borders, critical area plantings,  
22 sedimentation control structures, sod-based rotations, grassed  
23 waterways, strip-cropping, terraces, cropland conversion to permanent  
24 vegetation, grade control structures, water control structures, closure of  
25 lagoons, emergency spillways, riparian buffers or equivalent controls,  
26 odor control best management practices, insect control best  
27 management practices, and animal waste management systems and  
28 application. Funding for animal waste management shall be allocated  
29 for practices in river basins such that the funds will have the greatest  
30 impact in improving water quality.  
31 (6) Except as provided in subdivision (8) and subdivision (9) of this  
32 subsection, State funding shall be limited to seventy-five percent  
33 (75%) of the average cost for each practice with the assisted farmer  
34 providing twenty-five percent (25%) of the cost, which may include  
35 in-kind support of the practice, with a maximum of seventy-five  
36 thousand dollars (\$75,000) per year to each applicant.  
37 (7) Priority designation for inclusion in the program for State funding  
38 shall be given to projects that improve water quality. To be eligible for  
39 cost share funds under this subdivision, a project shall be evaluated  
40 before funding is awarded and after the project is completed to  
41 determine the impact on water quality.  
42 (8) For practices that are eligible for funding from the federal  
43 Conservation Reserve Enhancement Program, State funding from the  
44 program shall be limited to seventy-five percent (75%) of the average  
45 cost of each practice, with the remainder paid from funding from the  
46 Conservation Reserve Enhancement Program, other available federal  
47 funds, other State funds, or the assisted farmer, whose contribution  
48 may include in-kind support of the practice. This subdivision is subject  
49 to subdivision (9) of this subsection.  
50 (9) When the applicant is either a limited-resource farmer or a beginning  
51 farmer, State funding shall be limited to ninety percent (90%) of the  
52 average cost for each practice with the assisted farmer providing ten  
53 percent (10%) of the cost, which may include in-kind support of the  
54 practice, with a maximum of one hundred thousand dollars (\$100,000)



per year to each applicant. The following definitions apply in this subdivision:

- a. Beginning farmer. – A farmer who has not operated a farm or who has operated a farm for not more than 10 years and who will materially and substantially participate in the operation of the farm.
- b. Limited-resource farmer. – A farmer with direct and indirect gross farm sales that do not exceed one hundred thousand dollars (\$100,000).
- c. Materially and substantially participate. –
  1. In the case of an individual, for the individual, including members of the immediate family of the individual, to provide substantial day-to-day labor and management of the farm, consistent with the practices in the county in which the farm is located.
  2. In the case of an entity, for all members of the entity, to participate in the operation of the farm, with some members providing management and some members providing labor and management necessary for day-to-day activities such that if the members did not provide the management and labor, the operation of the farm would be seriously impaired."

Requested by: Representatives Fox, West

**CLEAN WATER MANAGEMENT TRUST FUND/NO ACQUISITION OF REAL ESTATE INTERESTS IN CERTAIN COUNTIES.**

**SECTION 11.7.** G.S. 113-145.3 reads as rewritten:

**"§ 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~~ Except as provided in subsection (c1) of this section, 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

1 resolving an existing waste treatment problem; and (iii) the repair is  
 2 not for the purpose of expanding the system to accommodate future  
 3 anticipated growth of a community. Priority shall be given to  
 4 economically distressed units of local government.

5 (6) To repair and eliminate failing septic tank systems, to eliminate illegal  
 6 drainage connections, and to expand waste treatment systems if the  
 7 system is being expanded as a remedy to eliminate failing septic tank  
 8 systems or illegal drainage connections. Priority shall be given to  
 9 economically distressed units of local government.

10 (7) To improve stormwater controls and management practices.

11 (8) To facilitate planning that targets reductions in surface water pollution.

12 (9) To fund operating expenses of the Board of Trustees and its staff.

13 (c1) Moneys from the Fund shall not be used to acquire any interest in real  
 14 property for any purpose in any county in which the sum total of land owned by either  
 15 the federal or State government exceeds forty percent (40%). This subsection does not  
 16 apply to a county if the board of commissioners of the county adopts a resolution  
 17 consenting to the acquisition.

18 (d) Limit on Operating and Administrative Expenses. – No more than two  
 19 percent (2%) of the annual balance of the Fund on July 1 or a total sum of one million  
 20 two hundred fifty thousand dollars (\$1,250,000), whichever is greater, may be used each  
 21 fiscal year for administrative and operating expenses of the Board of Trustees and its  
 22 staff."  
 23

24 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
 25 Wright

26 **CLEAN WATER MANAGEMENT TRUST FUND APPROPRIATION**

27 **SECTION 11.8.** Notwithstanding G.S. 143-15.3B(a) for the 2003-2005  
 28 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for  
 29 the 2003-2004 fiscal year is only twenty-five million dollars (\$25,000,000) as provided  
 30 by this act and is only twenty five-million dollars (\$25,000,000) for the 2004-2005  
 31 fiscal year as provided by this act. The funds appropriated by this act to the Clean  
 32 Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).  
 33

34 Requested by: Representative Gillespie

35 **STUDY REALLOCATION OF BAILEY FORK WATERSHED PROPERTY TO**  
 36 **STATE PARK/ACCESS TO STATE PARK**

37 **SECTION 11.9.(a)** The Department of Environment and Natural Resources  
 38 and the Department of Health and Human Services shall study the desirability of  
 39 reallocating the 454 acres that comprise the Bailey Fork watershed property located in  
 40 Burke County that is currently owned by the Department of Health and Human Services  
 41 and shall study whether to provide access to new facilities at the South Mountains State  
 42 Park to students at the North Carolina School for the Deaf at Morganton. After  
 43 considering these matters under this section, the Departments may submit a request to  
 44 the Council of State to reallocate the 454 acres that comprise the Bailey Fork watershed  
 45 property located in Burke County to the South Mountains State Park as an addition to  
 46 the South Mountains State Park. No later than January 1, 2004, the Department of  
 47 Environment and Natural Resources and the Department of Health and Human Services  
 48 shall report the results of the study, including any findings and recommendations, to the  
 49 House of Representatives and Senate Appropriations Subcommittees on Natural and  
 50 Economic Resources.

51 **SECTION 11.9.(b)** Prior to July 1, 2005, the 454 acres that comprise the  
 52 Bailey Fork watershed property located in Burke County that is currently owned by the  
 53 Department of Health and Human Services shall not be transferred or sold without  
 54 review and approval by the General Assembly.  
 55

**PART XII. DEPARTMENT OF COMMERCE**

Requested by: Representatives Fox, West

**WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

**SECTION 12.1.(a)** Of the funds appropriated in this act to the Department of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2003-2004 fiscal year and the sum of one hundred twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2004-2005 fiscal year may be expended by the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes, in addition to funds available to the Authority for these purposes.

**SECTION 12.1.(b)** Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department for legal costs associated with the Project. This subsection becomes effective June 30, 2003.

Requested by: Representatives Fox, West

**COUNCIL OF GOVERNMENT FUNDS**

**SECTION 12.2.(a)** Of the funds appropriated in this act to the Department of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150) for the 2003-2004 fiscal year and eight hundred thirty-two thousand one hundred fifty dollars (\$832,150) for the 2004-2005 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2003-2004 and the 2004-2005 fiscal years.

**SECTION 12.2.(b)** A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

**SECTION 12.2.(c)** Funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than September 1, 2003, and the second subsequent to acceptable submission of the annual report due to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2005, as specified in subdivision (e)(2) of this section.

**SECTION 12.2.(d)** Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

**SECTION 12.2.(e)** Each council of government or lead regional organization shall do the following:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments, including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2003;

- 1 (2) By January 15, 2005, and more frequently as requested, report to the  
2 Joint Legislative Commission on Governmental Operations and the  
3 Fiscal Research Division the following information:  
4 a. State fiscal year 2003-2004 program activities, objectives, and  
5 accomplishments;  
6 b. State fiscal year 2003-2004 itemized expenditures and fund  
7 sources;  
8 c. State fiscal year 2004-2005 planned activities, objectives, and  
9 accomplishments, including actual results through December  
10 31, 2004; and  
11 d. State fiscal year 2004-2005 estimated itemized expenditures  
12 and fund sources, including actual expenditures and fund  
13 sources through December 31, 2004; and  
14 (3) Provide to the Fiscal Research Division a copy of the organization's  
15 annual audited financial statement within 30 days of issuance of the  
16 statement.  
17

18 Requested by: Representatives Fox, West

19 **TOURISM PROMOTION FUNDS**

20 **SECTION 12.3.** Funds appropriated in this act to the Department of  
21 Commerce for tourism promotion grants shall be allocated to counties in an effort to  
22 direct funds to counties most in need. Determinations of which counties are most in  
23 need shall focus on those with the lowest per capita income, highest unemployment, and  
24 slowest population growth, in the following manner:

- 25 (1) Counties 1 through 20 are each eligible to receive a maximum grant of  
26 seven thousand five hundred dollars (\$7,500) for each fiscal year,  
27 provided these funds are matched on the basis of one non-State dollar  
28 for every four State dollars.  
29 (2) Counties 21 through 50 are each eligible to receive a maximum grant  
30 of three thousand five hundred dollars (\$3,500) for two of the next  
31 three fiscal years, provided these funds are matched on the basis of one  
32 non-State dollar for every three State dollars.  
33 (3) Counties 51 through 100 are each eligible to receive a maximum grant  
34 of three thousand five hundred dollars (\$3,500) for alternating fiscal  
35 years, beginning with the 1991-1992 fiscal year, provided these funds  
36 are matched on the basis of four non-State dollars for every State  
37 dollar.  
38

39 Requested by: Representatives Fox, West

40 **ONE NORTH CAROLINA – INDUSTRIAL RECRUITMENT COMPETITIVE**  
41 **FUND**

42 **SECTION 12.4.(a)** Funds appropriated to the Department of Commerce for  
43 the One North Carolina - Industrial Recruitment Competitive Fund shall be used to  
44 continue the Fund. The purpose of the Fund is to provide financial assistance to those  
45 businesses or industries deemed by the Governor to be vital to a healthy and growing  
46 State economy and that are making significant efforts to establish or expand in North  
47 Carolina.

48 **SECTION 12.4.(b)** Moneys allocated from the Competitive Fund shall be  
49 used for the following purposes:

- 50 (1) Installation or purchase of equipment;  
51 (2) Structural repairs, improvements, or renovations of existing buildings  
52 to be used for expansion; and  
53 (3) Construction of or improvements to new or existing water, sewer, gas  
54 or electric utility distribution lines, or equipment for existing  
55 buildings.

1 Moneys may also be used for construction of or improvements to new or  
2 existing water, sewer, gas or electric utility distribution lines, or equipment to serve new  
3 or proposed industrial buildings used for manufacturing and industrial operations. The  
4 Governor shall adopt guidelines and procedures for the commitment of moneys from the  
5 Fund.

6 **SECTION 12.4.(c)** The Department of Commerce shall report on or before  
7 September 30, 2003, and quarterly thereafter, to the Joint Legislative Commission on  
8 Governmental Operations and to the Fiscal Research Division on the commitment,  
9 allocation, and use of funds allocated from the One North Carolina - Industrial  
10 Recruitment Competitive Fund.

11 **SECTION 12.4.(d)** Funds appropriated to the Department of Commerce for  
12 the 2002-2003 fiscal year for the One North Carolina - Industrial Recruitment  
13 Competitive Fund that are unexpended and unencumbered as of June 30, 2003, shall not  
14 revert to the General Fund on June 30, 2003, but shall remain available to the  
15 Department for providing financial assistance to those businesses and industries deemed  
16 by the Governor to be vital to a healthy and growing State economy and that are making  
17 significant efforts to establish or expand in North Carolina.

18 **SECTION 12.4.(e)** This section becomes effective June 30, 2003.  
19

20 Requested by: Representatives Fox, West

21 **INDUSTRIAL DEVELOPMENT FUND**

22 **SECTION 12.5.(a)** The Department of Commerce shall reduce the cash  
23 balance of the Industrial Development Fund by one million one hundred sixty-nine  
24 thousand four hundred thirty-eight dollars (\$1,169,438).

25 **SECTION 12.5.(b)** This section becomes effective June 30, 2002.  
26

27 Requested by: Representatives Fox, West

28 **WORKER TRAINING TRUST FUND**

29 **SECTION 12.6.(a)** There is appropriated from the Worker Training Trust  
30 Fund to the Employment Security Commission of North Carolina the sum of five  
31 million dollars (\$5,000,000) for the 2003-2004 fiscal year for the operation of local  
32 offices.

33 **SECTION 12.6.(b)** Notwithstanding the provisions of G.S. 96-5(f), there is  
34 appropriated from the Worker Training Trust Fund to the following agencies the  
35 following sums for the 2003-2004 fiscal year for the following purposes:

- 36 (1) One hundred ninety-three thousand eight hundred seventy-nine dollars  
37 (\$193,879) for the 2003-2004 fiscal year to the Employment Security  
38 Commission for the State Occupational Information Coordinating  
39 Committee to develop and operate an interagency system to track  
40 former participants in State education and training programs;
- 41 (2) Fifty-three thousand eight hundred fifty-six dollars (\$53,856) for the  
42 2003-2004 fiscal year to the Employment Security Commission to  
43 maintain compliance with Chapter 96 of the General Statutes, which  
44 directs the Commission to employ the Common Follow-Up  
45 Management Information System to evaluate the effectiveness of the  
46 State's job training, education, and placement programs;
- 47 (3) Eight hundred sixty-one thousand six hundred eighty-four dollars  
48 (\$861,684) for the 2003-2004 fiscal year to the Department of Labor to  
49 continue the Apprenticeship Program; and
- 50 (4) Two hundred forty thousand dollars (\$240,000) for the 2003-2004  
51 fiscal year to the Community Colleges System Office for the operation  
52 of the Hosiery Technology Center.

53 **SECTION 12.6.(c)** The agencies listed in subsections (a) and (b) of this  
54 section shall, by January 15, 2004, and more frequently as requested, for the programs  
55 for which funds are appropriated in this section, report to the Joint Legislative

1 Commission on Governmental Operations and the Fiscal Research Division the  
2 following information:

- 3 (1) State fiscal year 2003-2004 program activities, objectives, and  
4 accomplishments;
- 5 (2) State fiscal year 2003-2004 itemized expenditures and fund sources;
- 6 (3) State fiscal year 2004-2005 planned activities, objectives, and  
7 accomplishments including actual results through December 31, 2003;  
8 and
- 9 (4) State fiscal year 2004-2005 estimated itemized expenditures and fund  
10 sources including actual expenditures and fund sources through  
11 December 31, 2003.

12 **SECTION 12.6.(d)** Notwithstanding the provisions of G.S. 96-5(f), funds  
13 appropriated for 2002-2003 from the Worker Training Trust Fund to the Community  
14 Colleges System Office for both the Focused Industrial Training Program and the  
15 Training Initiatives shall not revert, but shall remain available to the System Office for  
16 the support of each program in fiscal year 2003-2004.  
17

18 Requested by: Representatives Fox, West

19 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

20 **SECTION 12.7.(a)** Funds appropriated in this act to the Department of  
21 Commerce for regional economic development commissions shall be allocated to the  
22 following commissions in accordance with subsection (b) of this section: Western North  
23 Carolina Regional Economic Development Commission, Research Triangle Regional  
24 Commission, Southeastern North Carolina Regional Economic Development  
25 Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional  
26 Economic Development Commission, Global TransPark Development Commission,  
27 and Carolinas Partnership, Inc.

28 **SECTION 12.7.(b)** Funds appropriated pursuant to subsection (a) of this  
29 section shall be allocated to each regional economic development commission as  
30 follows:

- 31 (1) First, the Department shall establish each commission's allocation by  
32 determining the sum of allocations to each county that is a member of  
33 that commission. Each county's allocation shall be determined by  
34 dividing the county's enterprise factor by the sum of the enterprise  
35 factors for eligible counties and multiplying the resulting percentage  
36 by the amount of the appropriation. As used in this subdivision, the  
37 term "enterprise factor" means a county's enterprise factor as  
38 calculated under G.S. 105-129.3; seven million five hundred thousand  
39 dollars (\$7,500,000) appropriated to the Global TransPark  
40 Development Zone in Section 6 of Chapter 561 of the 1993 Session  
41 Laws; and
- 42 (2) Next, the Department shall subtract from funds allocated to the Global  
43 TransPark Development Zone the sum of one hundred seventy-one  
44 thousand nine hundred seventy-nine dollars (\$171,979) in each fiscal  
45 year, which sum represents the interest earnings in each fiscal year on  
46 the estimated balance of seven million five hundred thousand dollars  
47 (\$7,500,000) appropriated to the Global TransPark Development Zone  
48 in Section 6 of Chapter 561 of the 1993 Session Laws; and
- 49 (3) Next, the Department shall redistribute the sum of one hundred  
50 seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in  
51 each fiscal year to the seven regional economic development  
52 commissions named in subsection (a) of this section. Each  
53 commission's share of this redistribution shall be determined according  
54 to the enterprise factor formula set out in subdivision (1) of this  
55 subsection. This redistribution shall be in addition to each

1 commission's allocation determined under subdivision (1) of this  
2 subsection.

3  
4 Requested by: Representatives Fox, West

5 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS**

6 **SECTION 12.8.(a)** By February 15 of each fiscal year, beginning in 2004,  
7 the seven regional economic development commissions shall report to the Joint  
8 Legislative Commission on Governmental Operations and the Fiscal Research Division  
9 the following information:

- 10 (1) The preceding fiscal year's program activities, objectives, and  
11 accomplishments.  
12 (2) The preceding fiscal year's itemized expenditures and fund sources.  
13 (3) Demonstration of how the commission's regional economic  
14 development and marketing strategy aligns with the State's overall  
15 economic development and marketing strategies.  
16 (4) To the extent they are involved in promotion activities such as trade  
17 shows, visits to prospects and consultants, advertising and media  
18 placement, the commissions shall demonstrate how they have  
19 generated qualified leads.

20 **SECTION 12.8.(b)** Each of the commissions shall provide to the Fiscal  
21 Research Division a copy of their annual audited financial statement within 30 days of  
22 issuance of the statement.

23 **SECTION 12.8.(c)** The reporting requirements for regional economic  
24 development commissions, as provided in subsection (a) of this section, shall be  
25 reviewed annually by the North Carolina Partnership for Economic Development and  
26 recommendations for changes to the reporting requirements shall be made to the Fiscal  
27 Research Division, the President Pro Tempore of the Senate, and the Speaker of the  
28 House of Representatives.

29 **SECTION 12.8.(d)** Regional economic development commissions shall  
30 receive quarterly allocations of the funds appropriated in this act to the Department of  
31 Commerce for regional economic development commissions.

32 **SECTION 12.8.(e)** Regional economic development commissions shall  
33 remain in the Department of Commerce's Budget Code 14601 with other State-aided  
34 nonprofit entities.

35 **SECTION 12.8.(f)** The Board Structure of the Global TransPark  
36 Development Commission shall be studied in accordance with the recommendations  
37 found in the UNC Kenan-Flagler study, to determine if the board structure should be  
38 reconstituted and made similar to the boards of the Northeastern or Southeastern North  
39 Carolina Regional Economic Development Commissions. In conducting the study, the  
40 following conditions shall be met:

- 41 (1) The Global TransPark Development Commission shall contribute to  
42 the cost of the study by retaining a consultant familiar with the  
43 partnership.  
44 (2) The Study shall be conducted by a designee of the North Carolina  
45 Partnership for Economic Development determined by the Partnership  
46 Presidents, a designee of the UNC Kenan-Flagler School of Business,  
47 and the consultant retained by the Global TransPark Development  
48 Commission.  
49 (3) None of the eastern regional commissions shall be consolidated.  
50 (4) The results of the study shall be submitted to the Fiscal Research  
51 Division and members of the North Carolina Partnership for Economic  
52 Development prior to the beginning of the 2004 Regular Session of the  
53 2003 General Assembly.

54  
55 Requested by: Representatives Fox, West

**NONPROFIT REPORTING REQUIREMENTS**

**SECTION 12.9.(a)** The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., and Partnership for the Sounds, Inc., shall do the following:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003;
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
  - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 12.9.(b)** No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2003. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements by January 15, 2004, or January 15, 2005.

Requested by: Representatives Fox, West

**BIOTECHNOLOGY CENTER**

**SECTION 12.10.(a)** The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

**SECTION 12.10.(b)** The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

**SECTION 12.10.(c)** The North Carolina Biotechnology Center shall:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;



- 1                   b.     State fiscal year 2002-2003 itemized expenditures and fund
- 2                         sources;
- 3                   c.     State fiscal year 2003-2004 planned activities, objectives, and
- 4                         accomplishments including actual results through December 31,
- 5                         2003; and
- 6                   d.     State fiscal year 2003-2004 estimated itemized expenditures
- 7                         and fund sources including actual expenditures and fund
- 8                         sources through December 31, 2003;
- 9                   (2)    By January 15, 2005, and more frequently as requested, report to the
- 10                       Joint Legislative Commission on Governmental Operations and the
- 11                       Fiscal Research Division the following information:
- 12                    a.     State fiscal year 2003-2004 program activities, objectives, and
- 13                         accomplishments;
- 14                    b.     State fiscal year 2003-2004 itemized expenditures and fund
- 15                         sources;
- 16                    c.     State fiscal year 2004-2005 planned activities, objectives, and
- 17                         accomplishments including actual results through December 31,
- 18                         2004; and
- 19                    d.     State fiscal year 2004-2005 estimated itemized expenditures
- 20                         and fund sources including actual expenditures and fund
- 21                         sources through December 31, 2004; and
- 22                   (3)    Provide to the Fiscal Research Division a copy of the organization's
- 23                       annual audited financial statement within 30 days of issuance of the
- 24                       statement.

25                   **SECTION 12.10.(d)** The North Carolina Biotechnology Center shall

26 provide a report containing detailed budget, personnel, and salary information to the

27 Office of State Budget and Management and to the Fiscal Research Division in the same

28 manner as State departments and agencies in preparation for biennium budget requests.

29

30 Requested by:       Representatives Fox, West

31 **RURAL ECONOMIC DEVELOPMENT CENTER**

32                   **SECTION 12.11.(a)** Of the funds appropriated in this act to the Rural

33 Economic Development Center, Inc., the sum of one million seven hundred fourteen

34 thousand six hundred seventy-seven dollars (\$1,714,677) for the 2003-2004 fiscal year

35 and the sum of one million seven hundred fourteen thousand six hundred seventy-seven

36 dollars (\$1,714,677) for the 2004-2005 fiscal year shall be allocated as follows:

	2003-2004 FY	2004-2005 FY
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52                   **SECTION 12.11.(b)** The Rural Economic Development Center, Inc., shall

53 provide a report containing detailed budget, personnel, and salary information to the

54 Office of State Budget and Management in the same manner as State departments and

55 agencies in preparation for biennium budget requests.

1           **SECTION 12.11.(c)** For purposes of this section, the term "community  
2 development corporation" means a nonprofit corporation:

- 3           (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 4           (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue  
5 Code of 1986;
- 6           (3) Whose primary mission is to develop and improve low-income  
7 communities and neighborhoods through economic and related  
8 development;
- 9           (4) Whose activities and decisions are initiated, managed, and controlled  
10 by the constituents of those local communities; and
- 11           (5) Whose primary function is to act as deal maker and packager of  
12 projects and activities that will increase their constituencies'  
13 opportunities to become owners, managers, and producers of small  
14 businesses, affordable housing, and jobs designed to produce positive  
15 cash flow and curb blight in the targeted community.

16           **SECTION 12.11.(d)** Of the funds appropriated in this act to the Rural  
17 Economic Development Center, Inc., the sum of two million three hundred fifty-nine  
18 thousand five hundred dollars (\$2,359,500) for the 2003-2004 fiscal year and the sum of  
19 two million three hundred fifty-nine thousand five hundred dollars (\$2,359,500) for the  
20 2004-2005 fiscal year shall be allocated as follows:

- 21           (1) \$991,000 in each fiscal year for community development grants to  
22 support development projects and activities within the State's minority  
23 communities. Any community development corporation as defined in  
24 this section is eligible to apply for funds. The Rural Economic  
25 Development Center, Inc., shall establish performance-based criteria  
26 for determining which community development corporation will  
27 receive a grant and the grant amount. The Rural Economic  
28 Development Center, Inc., shall allocate these funds as follows:
  - 29           a. \$800,000 in each fiscal year for direct grants to the local  
30 community development corporations that have previously  
31 received State funds for this purpose to support operations and  
32 project activities;
  - 33           b. \$141,000 in each fiscal year for direct grants to local  
34 community development corporations that have not previously  
35 received State funds; and
  - 36           c. \$50,000 in each fiscal year to the Rural Economic Development  
37 Center, Inc., to be used to cover expenses in administering this  
38 section.
- 39           (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to  
40 support the loan fund and operations of the Program; and
- 41           (3) \$983,000 in each fiscal year shall be used for a program to provide  
42 supplemental funding for matching requirements for projects and  
43 activities authorized under this subdivision. The Center shall allocate  
44 these funds as follows:
  - 45           a. \$775,000 in each fiscal year to make grants to local  
46 governments and nonprofit corporations to provide funds  
47 necessary to match federal grants or other grants for:
    - 48           1. Necessary economic development projects and activities  
49 in economically distressed areas;
    - 50           2. Necessary water and sewer projects and activities in  
51 economically distressed communities to address health  
52 or environmental quality problems except that funds  
53 shall not be expended for the repair or replacement of  
54 low-pressure pipe wastewater systems. If a grant is  
55 awarded under this sub-subdivision, then the grant shall

- 1 be matched on a dollar-for-dollar basis in the amount of  
2 the grant awarded; or  
3 3. Projects that demonstrate alternative water and waste  
4 management processes for local governments. Special  
5 consideration should be given to cost-effectiveness,  
6 efficacy, management efficiency, and the ability of the  
7 demonstration project to be replicated.  
8 b. \$208,000 in each fiscal year to make grants to local  
9 governments and nonprofit corporations to provide funds  
10 necessary to match federal grants or other grants related to  
11 water, sewer, or business development projects.  
12 (4) \$190,500 in each fiscal year for the Agricultural Advancement  
13 Consortium. These funds shall be placed in a reserve and allocated as  
14 follows:  
15 a. \$75,000 in each fiscal year for operating expenses associated  
16 with the Consortium; and  
17 b. \$115,500 in each fiscal year for research initiatives funded by  
18 the Consortium.

19 The Consortium shall facilitate discussions among interested parties  
20 and shall develop recommendations to improve the State's economic  
21 development through farming and agricultural interests.

22 The grant recipients in this subsection shall be selected on the basis of need.

23 **SECTION 12.11.(e)** The Rural Economic Development Center, Inc., shall:

- 24 (1) By January 15, 2004, and more frequently as requested, report to the  
25 Joint Legislative Commission on Governmental Operations and the  
26 Fiscal Research Division the following information:  
27 a. State fiscal year 2002-2003 program activities, objectives, and  
28 accomplishments;  
29 b. State fiscal year 2002-2003 itemized expenditures and fund  
30 sources;  
31 c. State fiscal year 2003-2004 planned activities, objectives, and  
32 accomplishments including actual results through December 31,  
33 2003; and  
34 d. State fiscal year 2003-2004 estimated itemized expenditures  
35 and fund sources including actual expenditures and fund  
36 sources through December 31, 2003.  
37 (2) By January 15, 2005, and more frequently as requested, report to the  
38 Joint Legislative Commission on Governmental Operations and the  
39 Fiscal Research Division the following information:  
40 a. State fiscal year 2003-2004 program activities, objectives, and  
41 accomplishments;  
42 b. State fiscal year 2003-2004 itemized expenditures and fund  
43 sources;  
44 c. State fiscal year 2004-2005 planned activities, objectives, and  
45 accomplishments including actual results through December 31,  
46 2004; and  
47 d. State fiscal year 2004-2005 estimated itemized expenditures  
48 and fund sources including actual expenditures and fund  
49 sources through December 31, 2004.  
50 (3) Provide to the Fiscal Research Division a copy of each grant  
51 recipient's annual audited financial statement within 30 days of  
52 issuance of the statement.

53 **SECTION 12.11.(f)** No funds appropriated under this act shall be released to  
54 a community development corporation, as defined in this act, unless the corporation can  
55 demonstrate that there are no outstanding or proposed assessments or other collection

1 actions against the corporation for any State or federal taxes, including related penalties,  
2 interest, and fees.

3  
4 Requested by: Representatives Fox, West

5 **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

6 **SECTION 12.12.(a)** Of the funds appropriated in this act to the Rural  
7 Economic Development Center, Inc., the sum of three hundred fifty-one thousand five  
8 hundred dollars (\$351,500) for the 2003-2004 fiscal year and the sum of three hundred  
9 fifty-one thousand five hundred dollars (\$351,500) for the 2004-2005 fiscal year shall  
10 be allocated as follows:

- 11 (1) \$87,875 in each fiscal year to the Opportunities Industrialization  
12 Center of Wilson, Inc., for its ongoing job training programs;
- 13 (2) \$87,875 in each fiscal year to the Opportunities Industrialization  
14 Center, Inc., in Rocky Mount, for its ongoing job training programs;
- 15 (3) \$87,875 in each fiscal year to the Opportunities Industrialization  
16 Centers Kinston and Lenoir County, North Carolina, Inc.; and
- 17 (4) \$87,875 in each fiscal year to the Opportunities Industrialization  
18 Center of Elizabeth City, Inc.

19 **SECTION 12.12.(b)** For each of the Opportunities Industrialization Centers  
20 receiving funds pursuant to subsection (a) of this section, the Rural Economic  
21 Development Center, Inc., shall:

- 22 (1) By January 15, 2004, and more frequently as requested, report to the  
23 Joint Legislative Commission on Governmental Operations and the  
24 Fiscal Research Division the following information:
  - 25 a. State fiscal year 2002-2003 program activities, objectives, and  
26 accomplishments;
  - 27 b. State fiscal year 2002-2003 itemized expenditures and fund  
28 sources;
  - 29 c. State fiscal year 2003-2004 planned activities, objectives, and  
30 accomplishments, including actual results through December  
31 31, 2003; and
  - 32 d. State fiscal year 2003-2004 estimated itemized expenditures  
33 and fund sources, including actual expenditures and fund  
34 sources through December 31, 2003.
- 35 (2) By January 15, 2005, and more frequently as requested, report to the  
36 Joint Legislative Commission on Governmental Operations and the  
37 Fiscal Research Division the following information:
  - 38 a. State fiscal year 2003-2004 program activities, objectives, and  
39 accomplishments;
  - 40 b. State fiscal year 2003-2004 itemized expenditures and fund  
41 sources;
  - 42 c. State fiscal year 2004-2005 planned activities, objectives, and  
43 accomplishments, including actual results through December  
44 31, 2004; and
  - 45 d. State fiscal year 2004-2005 estimated itemized expenditures  
46 and fund sources, including actual expenditures and fund  
47 sources through December 31, 2004.
- 48 (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor  
49 a financial statement in the form and on the schedule prescribed by the  
50 State Auditor. The financial statements must be audited in accordance  
51 with standards prescribed by the State Auditor to assure that State  
52 funds are used for the purposes provided by law.
- 53 (4) Provide to the Fiscal Research Division a copy of the annual audited  
54 financial statement required in subdivision (3) of this subsection within  
55 30 days of issuance of the statement.

1           **SECTION 12.12.(c)** No funds appropriated under this act shall be released  
2 to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a)  
3 of this section unless the Center can demonstrate that there are no outstanding or  
4 proposed assessments or other collection actions against the Center for any State or  
5 federal taxes, including related penalties, interest, and fees.

6           **SECTION 12.12.(d)** Of the funds appropriated in the Economic Incentives  
7 Reserve, funds shall be used to adjust allocations to Opportunities Industrialization  
8 Centers to equal a reduction of no more than five percent (5%) of their 2002-2003 fiscal  
9 year appropriations.

10  
11 Requested by:           Representatives Wainwright, Lucas, Culpepper

12 **NONPROFIT FUNDING**

13           **SECTION 12.13.** Of the funds appropriated in the Economic Incentives  
14 Reserve for the Commerce State-Aid Non-profits, except Regional Economic  
15 Development Commissions, fiscal year 2003-2004 appropriations shall be adjusted to  
16 reflect fiscal year 2002-2003 appropriations.

17  
18 **PART XIII. JUDICIAL DEPARTMENT**

19  
20 Requested by:           Representatives Kiser, Haire

21 **OPERATIONAL SAVINGS/FUNDING RESERVES**

22           **SECTION 13.1.(a)** The Judicial Department shall report by September 1,  
23 2003, to the Chairs of the Senate and House of Representatives Appropriations  
24 Committees and the Chairs of the Senate and House Representatives Appropriations  
25 Subcommittees on Justice and Public Safety on the positions identified in the  
26 Administrative Office of the Courts in order to implement operational savings.

27           **SECTION 13.1.(b)** The Judicial Department, the Department of Correction,  
28 the Department of Crime Control and Public Safety, the Department of Juvenile Justice  
29 and Delinquency Prevention, and the Department of Justice shall report quarterly to the  
30 Chairs of the Senate and House of Representatives Appropriations Committees and the  
31 Chairs of the Senate and House of Representatives Appropriations Subcommittees on  
32 Justice and Public Safety on the implementation of negative reserves authorized for  
33 each agency in this budget. The departments shall report to the Joint Legislative  
34 Commission on Governmental Operations before implementing negative reserves by  
35 eliminating positions or abolishing programs.

36  
37 Requested by:           Representatives Kiser, Haire

38 **COLLECTION OF WORTHLESS CHECK FUNDS**

39           **SECTION 13.2.** Notwithstanding the provisions of G.S. 7A-308(c), the  
40 Judicial Department may use any balance remaining in the Collection of Worthless  
41 Checks Fund on June 30, 2003, for the purchase or repair of office or information  
42 technology equipment during the 2003-2004 fiscal year. Prior to using any funds under  
43 this section, the Judicial Department shall report to the Joint Legislative Commission on  
44 Governmental Operations and the Chairs of the Senate and House of Representatives  
45 Appropriations Subcommittees on Justice and Public Safety on the equipment to be  
46 purchased or repaired and the reasons for the purchases.

47  
48 Requested by:           Representatives Kiser, Haire

49 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

50           **SECTION 13.3.** The Office of Indigent Defense Services shall report to the  
51 Chairs of the Senate and House of Representatives Appropriations Committees and the  
52 Chairs of the Senate and House of Representatives Appropriations Subcommittees on  
53 Justice and Public Safety by March 1 of each year on:

- 54           (1) The volume and cost of cases handled in each district by assigned  
55 counsel or public defenders;

- 1 (2) Actions taken by the Office to improve the cost-effectiveness and  
2 quality of indigent defense, including the capital case program;  
3 (3) Plans for changes in rules, standards, or regulations in the upcoming  
4 year; and  
5 (4) Any recommended changes in law or funding procedures that would  
6 assist the Office in improving the management of funds expended for  
7 indigent defense services.  
8

9 Requested by: Representatives Kiser, Haire

10 **DRUG TREATMENT COURT PROGRAM**

11 **SECTION 13.4.(a)** It is the intent of the General Assembly that State Drug  
12 Treatment Court funds not be used to fund case manager positions when the services  
13 provided by those positions can be reasonably provided by the Treatment Alternatives  
14 to Street Crime (TASC) program in the Department of Health and Human Services or  
15 by other existing resources. The Drug Treatment Court Program shall identify areas of  
16 potential cost savings in the local programs that would result from reducing the number  
17 of case manager positions. The Program shall also identify areas in which federal  
18 funding might absorb administrative costs.

19 The Drug Treatment Court Program shall report by February 1, 2004, to the  
20 Chairs of the Senate and House of Representatives Appropriations Committees and the  
21 Chairs of the Senate and House of Representatives Appropriations Subcommittees on  
22 Justice and Public Safety on the savings identified.

23 **SECTION 13.4.(b)** Prior to the establishment of any new local drug  
24 treatment court programs, the local drug treatment court management committee shall  
25 consult with the TASC program as to the availability of case management services in  
26 that community.  
27

28 Requested by: Representatives Kiser, Haire

29 **FEDERAL GRANT FUNDS**

30 **SECTION 13.5.** The Judicial Department shall use up to the sum of one  
31 million two hundred fifty thousand dollars (\$1,250,000) from funds available to the  
32 Department to provide the State match needed in order to receive federal grant funds.  
33 Prior to using funds for this purpose, the Department shall report to the Chairs of the  
34 Senate and House of Representatives Appropriations Subcommittees on Justice and  
35 Public Safety and the Joint Legislative Commission on Governmental Operations on the  
36 grants to be matched using these funds. The Judicial Department shall also use proceeds  
37 from the Court Information Technology Fund to fulfill prior obligations to criminal  
38 justice information projects receiving federal funds.  
39

40 Requested by: Representatives Kiser, Haire

41 **PUBLIC DEFENDER STUDY**

42 **SECTION 13.6.** The Office of Indigent Defense Services shall study the  
43 establishment of additional public defender districts in the State, identifying the areas of  
44 the State in which savings could be realized by the establishment of such districts and  
45 the projected savings in each area. The Office of Indigent Defense Services shall report  
46 to the Chairs of the Senate and House of Representatives Appropriations Committees  
47 and the Chairs of the Senate and House of Representatives Appropriations  
48 Subcommittees on Justice and Public Safety by March 1, 2004, on the results of its  
49 study.  
50

51 Requested by: Representatives Kiser, Haire

52 **TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

53 **SECTION 13.7.** Funds appropriated to the Judicial Department in the  
54 2003-2005 biennium for equipment and supplies shall be certified in a reserve account.  
55 The Administrative Office of the Courts may transfer these funds to the appropriate

1 programs and between programs as the equipment priorities and supply consumptions  
 2 occur during the operating year. These funds shall not be expended for any other  
 3 purpose.

4  
 5 Requested by: Representatives Kiser, Haire  
 6 **ADJUST MAGISTRATE AUTHORIZATIONS**

7 **SECTION 13.8.** G.S. 7A-133(c) reads as rewritten:

8 "(c) Each county shall have the numbers of magistrates and additional seats of  
 9 district court, as set forth in the following table:

County	Magistrates Min. – Max.	Additional Seats of Court
10		
11		
12		
13	Camden	1 3
14	Chowan	2 3
15	Currituck	1 4
16	Dare	3 8
17	Gates	2 3
18	Pasquotank	3 5
19	Perquimans	2 4
20	Martin	<del>5</del> 4 8
21	Beaufort	4 8
22	Tyrrell	1 3
23	Hyde	2 4
24	Washington	3 4
25	Pitt	10 12
26		Farmville Ayden Havelock
27	Craven	7 10
28	Pamlico	2 4
29	Carteret	5 8
30	Sampson	6 8
31	Duplin	<del>9</del> 8 11
32	Jones	2 3
33	Onslow	8 14
34	New Hanover	6 11
35	Pender	4 6
36	Halifax	9 14
37		Roanoke Rapids, Scotland Neck
38		
39	Northampton	5 7
40	Bertie	4 6
41	Hertford	5 7
42	Nash	7 10
43	Edgecombe	4 7
44	Wilson	4 7
45	Wayne	5 12
46	Greene	2 4
47	Lenoir	4 10
48	Granville	3 7
49	Vance	3 6
50	Warren	3 5
51	Franklin	3 7
52	Person	3 4
53	Caswell	2 5
54	Wake	12 21
55		Apex, Wendell,

1				Fuquay-
2				Varina,
3				Wake Forest
4	Harnett	7	11	Dunn
5	Johnston	10	12	Benson,
6				Clayton,
7				Selma
8	Lee	4	6	
9	Cumberland	10	19	
10	Bladen	4	6	
11	Brunswick	4	9	
12	Columbus	6	10	Tabor City
13	Durham	8	13	
14	Alamance	7	11	Burlington
15	Orange	4	11	Chapel Hill
16	Chatham	3	9	Siler City
17	Scotland	3	5	
18	Hoke	4	5	
19	Robeson	8	16	Fairmont,
20				Maxton,
21				Pembroke,
22				Red Springs,
23				Rowland,
24				St. Pauls
25	Rockingham	4	9	Reidsville,
26				Eden,
27				Madison
28	Stokes	2	5	
29	Surry	5	9	Mt. Airy
30	Guilford	20	27	High Point
31	Cabarrus	5	9	Kannapolis
32	Montgomery	2	4	
33	Randolph	5	10	Liberty
34	Rowan	5	10	
35	Stanly	5	6	
36	Union	4	7	
37	Anson	4	6	
38	Richmond	5	6	Hamlet
39	Moore	5	8	Southern
40				Pines
41	Forsyth	3	15	Kernersville
42	Alexander	2	4	
43	Davidson	7	10	Thomasville
44	Davie	2	3	
45	Iredell	4	9	Mooresville
46	Alleghany	1	2	
47	Ashe	3	4	
48	Wilkes	4	6	
49	Yadkin	3	5	
50	Avery	3	5	
51	Madison	4	5	
52	Mitchell	3	4	
53	Watauga	4	6	
54	Yancey	2	4	
55	Burke	4	7	



1	Caldwell	4	7	
2	Catawba	6	10	Hickory
3	Mecklenburg	15	28	
4	Gaston	11	22	
5	Cleveland	5	8	
6	Lincoln	4	7	
7	Buncombe	6	15	
8	Henderson	4	7	
9	McDowell	3	6	
10	Polk	3	4	
11	Rutherford	6	8	
12	Transylvania	2	4	
13	Cherokee	3	4	
14	Clay	1	2	
15	Graham	2	3	
16	Haywood	5	7	Canton
17	Jackson	3	5	
18	Macon	3	4	
19	Swain	2	<del>3</del> 4"	

20  
21 Requested by: Representatives Kiser, Haire

22 **SUSPENSION OF COURT-ORDERED ARBITRATION PROGRAM**

23 **SECTION 13.9.** The Director of the Administrative Office of the Courts  
24 shall suspend the court-ordered arbitration program authorized under G.S. 7A-37.1 in  
25 any or all districts or counties to the extent that personnel to operate the program or  
26 funds to pay arbitrators are not available from any source. The Director may reinstate  
27 the program in one or more districts or counties to the extent that such personnel or  
28 funds become available.  
29

30 Requested by: Representatives Wainwright, Lucas, Culpepper

31 **NORTH CAROLINA STATE BAR FUNDS**

32 **SECTION 13.10.** Of the funds appropriated by this act to the Economic  
33 Incentives Reserve and allocated by the Office of State Budget and Management  
34 pursuant to Section 6.17 of this act as a grant-in-aid to the North Carolina State Bar for  
35 the 2003-2004 fiscal year, the North Carolina State Bar may in its discretion use up to  
36 the sum of five hundred ninety thousand dollars (\$590,000) for the 2003-2004 fiscal  
37 year to contract with the Center for Death Penalty Litigation to provide training,  
38 consultation, brief banking, and other assistance to attorneys representing indigent  
39 capital defendants.  
40

41 **PART XIV. DEPARTMENT OF JUSTICE**

42  
43 Requested by: Representatives Kiser, Haire

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

46 **SECTION 14.1.(a)** Assets transferred to the Departments of Justice,  
47 Correction, and Crime Control and Public Safety during the 2003-2005 biennium  
48 pursuant to applicable federal law shall be credited to the budgets of the respective  
49 departments and shall result in an increase of law enforcement resources for those  
50 departments. The Departments of Justice, Correction, and Crime Control and Public  
51 Safety shall report to the Joint Legislative Commission on Governmental Operations  
52 upon receipt of the assets and, before using the assets, shall report on the intended use of  
53 the assets and the departmental priorities on which the assets may be expended.

54 **SECTION 14.1.(b)** The General Assembly finds that the use of assets  
55 transferred pursuant to federal law for new personnel positions, new projects,

1 acquisition of real property, repair of buildings where the repair includes structural  
2 change, and construction of or additions to buildings may result in additional expenses  
3 for the State in future fiscal periods. Therefore, the Department of Justice, the  
4 Department of Correction, and the Department of Crime Control and Public Safety are  
5 prohibited from using these assets for such purposes without the prior approval of the  
6 General Assembly.

7 **SECTION 14.1.(c)** Nothing in this section prohibits North Carolina law  
8 enforcement agencies from receiving funds from the United States Department of  
9 Justice, the United States Department of the Treasury, and the United States Department  
10 of Health and Human Services.

11  
12 Requested by: Representatives Kiser, Haire

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

15 **SECTION 14.2.** The Private Protective Services and Alarm Systems  
16 Licensing Boards shall pay the appropriate State agency for the use of physical facilities  
17 and services provided to those Boards by the State.

18  
19 Requested by: Representatives Kiser, Haire

20 **CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

21 **SECTION 14.3.** Client departments, agencies, and boards shall reimburse  
22 the Department of Justice for reasonable court fees, attorney travel and subsistence  
23 costs, and other costs directly related to litigation in which the Department of Justice is  
24 representing the department, agency, or board.

25  
26 Requested by: Representatives Kiser, Haire

27 **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL**  
28 **REPRESENTATION**

29 **SECTION 14.4.** The Department of Justice shall be reimbursed by the  
30 Board of Governors of The University of North Carolina for two Attorney III positions  
31 to provide legal representation to The University of North Carolina System.

32  
33 Requested by: Representatives Kiser, Haire

34 **REPORT ON CRIMINAL RECORDS CHECKS CONDUCTED FOR**  
35 **CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR**  
36 **CRIMINAL RECORDS CHECKS**

37 **SECTION 14.5.(a)** The Department of Justice shall report by January 15  
38 each year to the Joint Legislative Commission on Governmental Operations, the Chairs  
39 of the Senate and House of Representatives Appropriations Committees, and the Chairs  
40 of the Senate and House of Representatives Appropriations Subcommittees on Justice  
41 and Public Safety on the receipts, costs for, and number of criminal records checks  
42 performed in connection with applications for concealed weapons permits. The report  
43 by the Department of Justice shall also include information on the number of  
44 applications received and approved for firearms safety courses.

45 **SECTION 14.5.(b)** The Office of State Budget and Management, in  
46 consultation with the Department of Justice, shall study the feasibility of adjusting the  
47 fees charged for criminal records checks conducted by the Division of Criminal  
48 Information of the Department of Justice as a result of the increase in receipts from  
49 criminal records checks. The study shall include an assessment of the Division's  
50 operational, personnel, and overhead costs related to providing criminal records checks  
51 and how those costs have changed since the prior fiscal year. The Office of State Budget  
52 and Management shall report its findings and recommendations to the Chairs of the  
53 Senate and House of Representatives Appropriations Committees, the Chairs of the  
54 Senate and House of Representatives Appropriations Subcommittees on Justice and  
55 Public Safety, and the Fiscal Research Division on or before March 1, 2004.

1  
2 Requested by: Representatives Kiser, Haire

3 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**  
4 **DISBURSED**

5 **SECTION 14.6.** The North Carolina Legal Education Assistance Foundation  
6 shall report by March 1, 2004, to the Chairs of the House of Representatives and Senate  
7 Appropriations Committees and the Chairs of the House of Representatives and Senate  
8 Justice and Public Safety Subcommittees on its internal controls and procedures for  
9 ensuring that all funds designated for payoff of education loans are used for that  
10 purpose.

11  
12 Requested by: Representative Kiser

13 **RAPE KIT FUNDS A PRIORITY**

14 **SECTION 14.7.** In expending funds appropriated in this act to the  
15 Department of Justice for the Molecular Genetics Section of the State Bureau of  
16 Investigation, the Department shall give priority to the analysis of forensic samples  
17 from rape kits for the investigation and prosecution of criminal offenses over the  
18 analysis of DNA samples taken from convicted offenders for entry into the DNA  
19 database.

20  
21 **PART XV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**  
22 **PREVENTION**

23  
24 Requested by: Representatives Kiser, Haire

25 **S.O.S. ADMINISTRATIVE COST LIMITS**

26 **SECTION 15.1.** Of the funds appropriated to the Department of Juvenile  
27 Justice and Delinquency Prevention in this act, not more than four hundred fifty  
28 thousand dollars (\$450,000) for the 2003-2004 fiscal year and not more than four  
29 hundred fifty thousand dollars (\$450,000) for the 2004-2005 fiscal year may be used to  
30 administer the S.O.S. Program, to provide technical assistance to applicants and to local  
31 S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may  
32 contract with appropriate public or nonprofit agencies to provide the technical  
33 assistance, including training and related services.

34  
35 Requested by: Representatives Kiser, Haire

36 **JUVENILE CRIME PREVENTION COUNCIL GRANT REPORTING AND**  
37 **CERTIFICATION**

38 **SECTION 15.2.(a)** On or before May 1 each year, the Department of  
39 Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative  
40 Commission on Governmental Operations and the Appropriations Committees of the  
41 Senate and House of Representatives a list of the recipients of the grants awarded, or  
42 preapproved for award, from funds appropriated to the Department for local Juvenile  
43 Crime Prevention Council grants. The list shall include for each recipient the amount of  
44 the grant awarded, the membership of the local committee or council administering the  
45 award funds on the local level, and a short description of the local services, programs, or  
46 projects that will receive funds. The list shall also identify any programs that received  
47 grant funds at one time but for which funding has been eliminated by the Department of  
48 Juvenile Justice and Delinquency Prevention. A written copy of the list and other  
49 information regarding the projects shall also be sent to the Fiscal Research Division of  
50 the General Assembly.

51 **SECTION 15.2.(b)** Each county in which local programs receive Juvenile  
52 Crime Prevention Council grant funds from the Department of Juvenile Justice and  
53 Delinquency Prevention shall certify annually through its local council to the  
54 Department that funds received are not used to duplicate or supplant other programs  
55 within the county.

1  
2 Requested by: Representatives Kiser, Haire

3 **REPORTS ON CERTAIN PROGRAMS**

4 **SECTION 15.3.(a)** Project Challenge North Carolina, Inc., shall report to  
5 the Chairs of the Senate and House of Representatives Appropriations Subcommittees  
6 on Justice and Public Safety by April 1 each year on the operation and the effectiveness  
7 of its program in providing alternative dispositions and services to juveniles who have  
8 been adjudicated delinquent or undisciplined. The report shall include information on  
9 the source of referrals for juveniles, the types of offenses committed by juveniles  
10 participating in the program, the amount of time those juveniles spend in the program,  
11 the number of juveniles who successfully complete the program, and the number of  
12 juveniles who commit additional offenses after completing the program.

13 **SECTION 15.3.(b)** The Department of Juvenile Justice and Delinquency  
14 Prevention shall report to the Chairs of the Senate and House of Representatives  
15 Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the  
16 Juvenile Assessment Center by April 1 each year. The report on the Juvenile  
17 Assessment Center shall include information on the number of juveniles served and an  
18 evaluation of the effectiveness of juvenile assessment plans and services provided as a  
19 result of these plans.

20 **SECTION 15.3.(c)** Communities in Schools shall report to the Chairs of the  
21 Senate and House of Representatives Appropriations Subcommittees on Justice and  
22 Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint  
23 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and  
24 the Joint Legislative Education Oversight Committee by April 1 each year on the  
25 operation and the effectiveness of its program. The report shall include information on  
26 the number of children served, the number of volunteers used, the impact on the  
27 children who have received services from Communities in Schools, and the operating  
28 budget of Communities in Schools.

29  
30 Requested by: Representatives Kiser, Haire

31 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

32 **SECTION 15.4.** Funds appropriated in this act to the Department of Juvenile  
33 Justice and Delinquency Prevention for the 2003-2004 fiscal year may be used as  
34 matching funds for the Juvenile Accountability Incentive Block Grants. If North  
35 Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds  
36 to be awarded, the Office of State Budget and Management and the Governor's Crime  
37 Commission shall consult with the Department of Juvenile Justice and Delinquency  
38 Prevention regarding the criteria for awarding federal funds. The Office of State Budget  
39 and Management, the Governor's Crime Commission, and the Department of Juvenile  
40 Justice and Delinquency Prevention shall report to the Appropriations Committees of  
41 the Senate and House of Representatives and the Joint Legislative Commission on  
42 Governmental Operations prior to allocation of the federal funds. The report shall  
43 identify the amount of funds to be received for the 2003-2004 fiscal year, the amount of  
44 funds anticipated for the 2004-2005 fiscal year, and the allocation of funds by program  
45 and purpose.

46  
47 Requested by: Representatives Kiser, Haire

48 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

49 **SECTION 15.5.** The Department of Juvenile Justice and Delinquency  
50 Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness  
51 camp programs, the teen court programs, the program that grants funds to the local  
52 organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L.  
53 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and  
54 multipurpose group homes. The teen court report shall include statistical information  
55 on the number of juveniles served, the number and type of offenses considered by teen

1 courts, referral sources for teen courts, and the number of juveniles that become  
2 court-involved after participation in teen courts. The report on the Boys and Girls Clubs  
3 program shall include information on:

- 4 (1) The expenditure of State appropriations on the program;
- 5 (2) The operations and the effectiveness of the program; and
- 6 (3) The number of juveniles served under the program.

7 In conducting the evaluation of each of these programs, the Department shall  
8 consider whether participation in each program results in a reduction of court  
9 involvement among juveniles. The Department shall also identify whether the programs  
10 are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The  
11 Department shall report the results of the evaluation to the Chairs of the House of  
12 Representatives and Senate Appropriations Committees and the Chairs of the  
13 Subcommittees of Justice and Public Safety of the House of Representatives and Senate  
14 Appropriations Committees by March 1 of each year.

15  
16 Requested by: Representatives Kiser, Haire

#### 17 **USE OF FUNDS FOR YOUTH DEVELOPMENT CENTER BEDS**

18 **SECTION 15.6.(a)** The Department of Juvenile Justice and Delinquency  
19 Prevention may use funds available during the 2003-2004 fiscal year to establish or  
20 reestablish Youth Development Center beds and convert up to 50 beds in one Eckerd  
21 Wilderness Camp for use as a Youth Development Center, as defined in G.S. 7B-1501.  
22 Any conversion shall be effectuated with existing contract funds. If the Department of  
23 Juvenile Justice and Delinquency Prevention determines it needs additional youth  
24 development center beds during the 2003-2004 fiscal year, it shall consider  
25 reestablishing beds at Samarkand Manor Youth Development Center.

26 **SECTION 15.6.(b)** The Department shall report to the Chairs of the Justice  
27 and Public Safety Subcommittees of the House of Representatives and the Senate and  
28 the Joint Legislative Commission on Governmental Operations and the Corrections,  
29 Crime Control, and Juvenile Justice Oversight Committee prior to:

- 30 (1) Converting any Eckerd Wilderness Camp beds to secure confinement  
31 beds during the 2003-2004 fiscal year; or
- 32 (2) Establishing bed capacity greater than 740 total beds, including beds  
33 converted at Eckerd Wilderness Camps, during the 2003-2004 fiscal  
34 year.

35 The report shall include the sources of funding for any additional beds.

36  
37 Requested by: Representatives Kiser, Haire

#### 38 **PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS**

39 **SECTION 15.7.** The Department of Juvenile Justice and Delinquency  
40 Prevention may use funds appropriated to the Department in this act to continue the  
41 planning and design of new youth development centers with up to 500 total beds. The  
42 Department shall design facilities that are conducive to effective security and  
43 programming while ensuring improved staffing efficiencies.

44 The Department of Juvenile Justice and Delinquency Prevention shall provide  
45 a quarterly status report to the Joint Legislative Corrections, Crime Control, and  
46 Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives  
47 Appropriations Subcommittee on Justice and Public Safety and the Senate  
48 Appropriations Committee on Justice and Public Safety on the number of youth  
49 development centers to be designed and the number of beds at each, as well as the  
50 rationale for the number of beds to be built at each facility. The report shall also  
51 include:

- 52 (1) The status of the plan and design of the new facilities.
- 53 (2) The proposed sites for the facilities.
- 54 (3) How the plan and design will meet the mandate of ensuring effective  
55 security and programming while improving staff efficiencies.

- 1           (4) The Department's long-range plan for closing other youth development  
2           centers or individual cottages at selected youth development centers or  
3           revising the mission or objective of individual youth development  
4           centers.  
5

6 Requested by: Representatives Kiser, Haire

7 **OPERATION OF BUNCOMBE YOUTH DETENTION CENTER**

8           **SECTION 15.8.** The Department of Juvenile Justice and Delinquency  
9           Prevention shall continue to operate the Buncombe Youth Detention Center at its  
10          current site during the 2003-2004 fiscal year. To the extent practicable during the  
11          2003-2004 fiscal year, the Department shall operate the Buncombe Youth Detention  
12          Center at the same average population and staffing levels and at the same budget as the  
13          2002-2003 fiscal year.  
14

15 **PART XVI. DEPARTMENT OF CORRECTION**

16  
17 Requested by: Representatives Kiser, Haire

18 **FEDERAL GRANT REPORTING**

19           **SECTION 16.1.** The Department of Correction, the Department of Justice,  
20          the Department of Crime Control and Public Safety, the Judicial Department, and the  
21          Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of  
22          each year to the Joint Legislative Commission on Governmental Operations, the Chairs  
23          of the Senate and House of Representatives Appropriations Committees, and the Chairs  
24          of the Senate and House of Representatives Appropriations Subcommittees on Justice  
25          and Public Safety on federal grant funds received or preapproved for receipt by those  
26          departments. The report shall include information on the amount of grant funds  
27          received or preapproved for receipt by each department, the use of the funds, the State  
28          match expended to receive the funds, and the period to be covered by each grant. If the  
29          department intends to continue the program beyond the end of the grant period, the  
30          department shall report on the proposed method for continuing the funding of the  
31          program at the end of the grant period. Each department shall also report on any  
32          information it may have indicating that the State will be requested to provide future  
33          funding for a program presently supported by a local grant.  
34

35 Requested by: Representatives Kiser, Haire

36 **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY**  
37 **MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE**  
38 **SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

39           **SECTION 16.2.** The Department of Correction may use funds available to  
40          the Department for the 2003-2005 biennium to pay the sum of forty dollars (\$40.00) per  
41          day as reimbursement to counties for the cost of housing convicted inmates, parolees,  
42          and post-release supervisees awaiting transfer to the State prison system, as provided in  
43          G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission  
44          on Governmental Operations, the Joint Legislative Corrections, Crime Control, and  
45          Juvenile Justice Oversight Committee, the Chairs of the Senate and House of  
46          Representatives Appropriations Committees, and the Chairs of the Senate and House of  
47          Representatives Appropriations Subcommittees on Justice and Public Safety on the  
48          expenditure of funds to reimburse counties for prisoners awaiting transfer and on its  
49          progress in reducing the jail backlog.  
50

51 Requested by: Representatives Kiser, Haire

52 **SHIFT PAY FOR SECURITY STAFF**

53           **SECTION 16.3.** The Department of Correction may use funds available for  
54          the 2003-2004 fiscal year for the payment to security staff of special supplemental  
55          weekend shift premium pay that exceeds standard weekend shift pay by up to ten

1 percent (10%). The Department shall also continue to take steps to hold down the cost  
2 of shift pay by converting prisons from three eight-hour shifts to two 12-hour shifts  
3 whenever practical.

4 The Department of Correction shall report to the Senate and House of  
5 Representatives Appropriations Subcommittees on Justice and Public Safety by April 1,  
6 2004, on its progress in converting prison work shifts from eight hours to 12 hours. The  
7 report shall include information on savings generated to date and potential future  
8 savings, as well as any changes in employee morale and leave usage, as a result of  
9 converting to 12-hour shifts.

10  
11 Requested by: Representatives Kiser, Haire

## 12 DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS

13 **SECTION 16.4.(a)** The Department of Correction shall conduct annual  
14 security staffing postaudits of each prison.

15 **SECTION 16.4.(b)** The Department of Correction shall annually update the  
16 security staffing relief formula. Each update shall include a review of all annual training  
17 requirements for security staff to determine which of these requirements should be  
18 mandatory and the appropriate frequency of the training.

19 **SECTION 16.4.(c)** The Department of Correction shall report on its  
20 progress in implementing the staffing recommendations of the National Institute of  
21 Corrections to the Senate and House of Representatives Appropriations Subcommittees  
22 on Justice and Public Safety by February 1, 2004. The report shall include a status  
23 report on the implementation of a centralized postaudit control system and the  
24 automation of leave records.

25  
26 Requested by: Representatives Kiser, Haire

## 27 USE OF CLOSED PRISON FACILITIES

28 **SECTION 16.5.** In conjunction with the closing of prison facilities,  
29 including small expensive prison units recommended for consolidation by the  
30 Government Performance Audit Committee, the Department of Correction shall consult  
31 with the county or municipality in which the unit is located, with the elected State and  
32 local officials, and with State agencies about the possibility of converting that unit to  
33 other use. The Department may also consult with any private for-profit or nonprofit firm  
34 about the possibility of converting the unit to other use. In developing a proposal for  
35 future use of each unit, the Department shall give priority to converting the unit to other  
36 criminal justice use. Consistent with existing law and the future needs of the  
37 Department of Correction, the State may provide for the transfer or the lease of any of  
38 these units to counties, municipalities, State agencies, or private firms wishing to  
39 convert them to other use. The Department of Correction may also consider converting  
40 some of the units recommended for closing from one security custody level to another,  
41 where that conversion would be cost-effective. A prison unit under lease to a county  
42 pursuant to the provisions of this section for use as a jail is exempt for the period of the  
43 lease from any of the minimum standards adopted by the Secretary of Health and  
44 Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that  
45 would subject the unit to greater standards than those required of a unit of the State  
46 prison system.

47 Prior to any transfer or lease of these units, the Department of Correction  
48 shall report on the terms of the proposed transfer or lease to the Joint Legislative  
49 Commission on Governmental Operations and the Joint Legislative Corrections, Crime  
50 Control, and Juvenile Justice Oversight Committee. The Department of Correction shall  
51 also provide annual summary reports to the Joint Legislative Commission on  
52 Governmental Operations and the Joint Legislative Corrections, Crime Control, and  
53 Juvenile Justice Oversight Committee on the conversion of these units to other use and  
54 on all leases or transfers entered into pursuant to this section.  
55

1 Requested by: Representatives Kiser, Haire

2 **INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS**

3 **SECTION 16.6.(a)** If the cost of providing food and health care to inmates  
4 housed in the Division of Prisons is anticipated to exceed the continuation budget  
5 amounts provided for that purpose in this act, the Department of Correction shall report  
6 the reasons for the anticipated cost increase and the source of funds the Department  
7 intends to use to cover those additional needs to the Joint Legislative Commission on  
8 Governmental Operations, the Chairs of the Senate and House of Representatives  
9 Appropriations Committees, and the Chairs of the Senate and House of Representatives  
10 Appropriations Subcommittees on Justice and Public Safety.

11 **SECTION 16.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the  
12 Department of Correction may use funds available during the 2003-2005 biennium for  
13 the purchase of prescription drugs for inmates if expenditures are projected to exceed  
14 the Department's inmate medical continuation budget for prescription drugs. The  
15 Department shall consult with the Joint Legislative Commission on Governmental  
16 Operations prior to exceeding the continuation budget amount.

17  
18 Requested by: Representatives Kiser, Haire

19 **MOBILE MEDICAL OPERATING ROOM**

20 **SECTION 16.7.** The Department of Correction shall continue the contract  
21 for a mobile medical operating room at Central Prison for the 2003-2004 fiscal year at a  
22 reduced fixed rate that more clearly reflects the usage. However, the Department shall  
23 use the mobile unit for additional procedures, as authorized by the terms of the  
24 agreement, whenever the Department's Utilization Review Team determines that (i) a  
25 specific procedure can be performed at a cost below that charged by a public or private  
26 hospital; and (ii) there is no compelling medical reason for performing the procedure in  
27 a hospital instead of using the mobile medical unit.

28 The Department shall also study the use of this mobile operating room and  
29 report by April 1, 2004, to the Chairs of the Senate and House of Representatives  
30 Appropriations Subcommittees on Justice and Public Safety. The report shall  
31 recommend whether the mobile unit should be continued, eliminated, or expanded in  
32 terms of capacity of the current unit and the potential for establishing an additional  
33 mobile unit. The report shall also include information on the number and type of  
34 procedures performed over and above the fixed-rate contract and the savings generated.

35  
36 Requested by: Representatives Kiser, Haire

37 **CONVERSION OF CONTRACTED MEDICAL POSITIONS**

38 **SECTION 16.8.(a)** The Department of Correction may convert contract  
39 medical positions to permanent State medical positions at individual correctional  
40 facilities if the Department can document that the total savings generated will exceed  
41 the total cost of the new positions for each facility. Where practical, the Department  
42 shall convert contract positions to permanent positions by using existing vacancies in  
43 medical positions.

44 **SECTION 16.8.(b)** The Department of Correction shall report by April 1,  
45 2004, to the Joint Legislative Commission on Governmental Operations and the Chairs  
46 of the Senate and House of Representatives Appropriations Subcommittees on Justice  
47 and Public Safety on all conversions made pursuant to this section, by type of position  
48 and location, and on the savings generated at each correctional facility.

49  
50 Requested by: Representatives Kiser, Haire

51 **LIMIT USE OF OPERATIONAL FUNDS**

52 **SECTION 16.9.** Funds appropriated in this act to the Department of  
53 Correction for operational costs for additional facilities shall be used for personnel and  
54 operating expenses set forth in the budget approved by the General Assembly in this act.  
55 These funds shall not be expended for any other purpose, except as provided for in this



1 act, and shall not be expended for additional prison personnel positions until the new  
2 facilities are within 120 days of projected completion, except for certain management,  
3 security, and support positions necessary to prepare the facility for opening, as  
4 authorized in the budget approved by the General Assembly.  
5

6 Requested by: Representatives Kiser, Haire

7 **FEDERAL GRANT MATCHING FUNDS**

8 **SECTION 16.10.** Notwithstanding the provisions of G.S. 148-2, the  
9 Department of Correction may use up to the sum of nine hundred thousand dollars  
10 (\$900,000) from funds available to the Department to provide the State match needed in  
11 order to receive federal grant funds. Prior to using funds for this purpose, the  
12 Department shall report to the Chairs of the Senate and House of Representatives  
13 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative  
14 Commission on Governmental Operations on the grants to be matched using these  
15 funds.  
16

17 Requested by: Representatives Kiser, Haire

18 **COMPUTER/DATA PROCESSING SERVICES FUNDS**

19 **SECTION 16.11.** Notwithstanding the provisions of G.S. 143-23(a2), the  
20 Department of Correction may use funds available during the 2003-2005 biennium for  
21 expenses for computer/data processing services if expenditures exceed the Department's  
22 continuation budget amount for those services. The Department shall report to the Joint  
23 Legislative Commission on Governmental Operations prior to exceeding the  
24 continuation budget amount.  
25

26 Requested by: Representatives Kiser, Haire

27 **MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK**  
28 **CREWS**

29 **SECTION 16.12.(a)** Of funds appropriated to the Department of  
30 Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be  
31 transferred by the Department of Transportation to the Department of Correction during  
32 the 2003-2005 biennium for the actual costs of highway-related labor performed by  
33 medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made  
34 quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The  
35 Department of Transportation may use funds appropriated by this act to pay an  
36 additional amount exceeding the ten million dollars (\$10,000,000), but those payments  
37 shall be subject to negotiations among the Department of Transportation, the  
38 Department of Correction, and the Office of State Budget and Management prior to  
39 payment by the Department of Transportation.  
40

41 **SECTION 16.12.(b)** The Department of Correction may use up to 39 work  
42 crews for Department of Transportation litter control projects. The Department of  
43 Transportation shall transfer at least one million three hundred thousand dollars  
44 (\$1,300,000) per year from the Highway Fund to the Department of Correction during  
45 the 2003-2005 biennium to cover the cost of those work crews. Should the two  
46 departments determine that the actual cost of operating 39 work crews exceeds that  
47 amount, the Department of Transportation shall transfer an additional amount as agreed  
48 upon by the two departments and the Office of State Budget and Management.

49 Requested by: Representatives Kiser, Haire

50 **ENERGY FOR COMMITTED OFFENDERS/CONTRACT AND REPORT**

51 **SECTION 16.13.** The Department of Correction may continue to contract  
52 with Energy for Committed Offenders, Inc., for the purchase of prison beds for  
53 minimum security female inmates during the 2003-2005 biennium. Energy for  
54 Committed Offenders, Inc., shall report by February 1 of each year to the Joint  
55 Legislative Commission on Governmental Operations on the annual cost per inmate and

1 the average daily inmate population compared to bed capacity using the same  
2 methodology as that used by the Department of Correction. Energy for Committed  
3 Offenders, Inc., shall also provide information on the rearrest rate and the  
4 return-to-prison rate for inmates participating in the program who are paroled or  
5 released from prison.

6  
7 Requested by: Representatives Kiser, Haire

8 **ELECTRONIC MONITORING COSTS**

9 **SECTION 16.14.** The Department of Correction shall report by March 1,  
10 2004, to the Chairs of the Senate and House of Representatives Appropriations  
11 Committees and the Chairs of the Senate and House of Representatives Appropriations  
12 Subcommittees on Justice and Public Safety on efforts to increase the use of electronic  
13 monitoring of sentenced offenders in the community as an alternative to the  
14 incarceration of probation violators. The report shall also document the geographical  
15 distribution of electronic monitoring use compared to other intermediate sanctions.

16  
17 Requested by: Representatives Kiser, Haire

18 **COLLECTION OF OFFENDER FEES**

19 **SECTION 16.15.** The Department of Correction and the Judicial  
20 Department shall report by April 1, 2004, to the Chairs of the Senate and House of  
21 Representatives Appropriations Committees and the Chairs of the Senate and House of  
22 Representatives Appropriations Subcommittees on Justice and Public Safety on the  
23 success of their efforts to improve the collection rate of offender fees for probationers  
24 and for nonprobationers sentenced to community service and on any recommendations  
25 for statutory or procedural changes that will improve the collection of financial  
26 obligations from offenders.

27 The report shall include a comparison of the percentage of offender fees  
28 collected in the most recent year compared to prior years, including the percentage of  
29 offenders who were ordered to pay fees and the percentage of offenders who actually  
30 paid those fees. The report shall also include the total offender fees collected, in dollars  
31 and as a percentage of the fees ordered, and the fees that could have been ordered based  
32 on the sentence and conditions imposed by the judge. If any of this information cannot  
33 be collected, the report shall include a description of the data collection issues and a  
34 plan for addressing those issues.

35  
36 Requested by: Representatives Kiser, Haire

37 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

38 **SECTION 16.16.(a)** It is the intent of the General Assembly that State  
39 Criminal Justice Partnership Program funds not be used to fund case manager positions  
40 when those services can be reasonably provided by Division of Community Corrections  
41 personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the  
42 Department of Health and Human Services.

43 **SECTION 16.16.(b)** Notwithstanding the provisions of G.S. 143B-273.15  
44 specifying that grants to participating counties are for the full fiscal year and that  
45 unobligated funds are returned to the State-County Criminal Justice Partnership  
46 Account at the end of the grant period, the Department of Correction may reallocate  
47 unspent or unclaimed funds distributed to counties participating in the State-County  
48 Criminal Justice Partnership Program in an effort to maintain the level of services  
49 realized in previous fiscal years.

50 **SECTION 16.16.(c)** The Department of Correction may not deny funds to a  
51 county to support both a residential program and a day reporting center if the  
52 Department of Correction determines that the county has a demonstrated need and a  
53 fully developed plan for each type of sanction.

54 **SECTION 16.16.(d)** The Department of Correction shall report by February  
55 1 of each year to the Chairs of the Senate and House of Representatives Appropriations

1 Committees, the Senate and House of Representatives Appropriations Subcommittees  
2 on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and  
3 Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice  
4 Partnership Program. The report shall include the following information:

- 5 (1) The amount of funds carried over from the prior fiscal year;
- 6 (2) The dollar amount and purpose of grants awarded to counties as  
7 discretionary grants for the current fiscal year;
- 8 (3) Any counties the Department anticipates will submit requests for new  
9 implementation grants;
- 10 (4) An update on efforts to ensure that all counties make use of the  
11 electronic reporting system, including the number of counties  
12 submitting offender participation data via the system;
- 13 (5) An analysis of offender participation data received, including data on  
14 each program's utilization and capacity; and
- 15 (6) An analysis of comparable programs, prepared by the Research and  
16 Planning Division of the Department of Correction, and a summary of  
17 the reports prepared by county Criminal Justice Partnerships Advisory  
18 Boards.

19  
20 Requested by: Representatives Kiser, Haire

#### 21 **REPORTS ON NONPROFIT PROGRAMS**

22 **SECTION 16.17.(a)** Funds appropriated in this act to the Department of  
23 Correction to support the programs of Harriet's House may be used for program  
24 operating costs, the purchase of equipment, and the rental of real property. Harriet's  
25 House shall report by February 1 of each year to the Joint Legislative Commission on  
26 Governmental Operations on the expenditure of State appropriations and on the  
27 effectiveness of the program, including information on the number of clients served and  
28 the number of clients who successfully complete the Harriet's House program.

29 **SECTION 16.17.(b)** Summit House shall report by February 1 of each year  
30 to the Joint Legislative Commission on Governmental Operations on the expenditure of  
31 State appropriations and on the effectiveness of the program, including information on  
32 the number of clients served, the number of clients who have had their probation  
33 revoked, and the number of clients who successfully complete the program while  
34 housed at Summit House, Inc.

35 **SECTION 16.17.(c)** Women at Risk shall report by February 1 of each year  
36 to the Joint Legislative Commission on Governmental Operations on the expenditure of  
37 State funds and on the effectiveness of the program, including information on the  
38 number of clients served, the number of clients who have had their probation revoked,  
39 and the number of clients who have successfully completed the program.

40 **SECTION 16.17.(d)** The John Hyman Foundation shall report by February  
41 1 of each year to the Joint Legislative Commission on Governmental Operations on the  
42 expenditure of State funds and on the effectiveness of the program, including  
43 information on the number of clients served, the number of clients who have had their  
44 probation revoked, and the number of clients who have successfully completed the  
45 program.

46  
47 Requested by: Representatives Kiser, Haire

#### 48 **REPORT ON PROBATION AND PAROLE CASELOADS**

49 **SECTION 16.18.** The Department of Correction shall report by March 1 of  
50 each year to the Chairs of the Senate and House of Representatives Appropriations  
51 Subcommittees on Justice and Public Safety and the Joint Legislative Corrections,  
52 Crime Control, and Juvenile Justice Oversight Committee on caseload averages for  
53 probation and parole officers. The report shall include:

- 54 (1) Data on current caseload averages for Probation Parole Officer I,  
55 Probation Parole Officer II, and Probation Parole Officer III positions;

- 1 (2) An analysis of the optimal caseloads for these officer classifications;  
2 and  
3 (3) An assessment of the role of surveillance officers.  
4

5 Requested by: Representatives Kiser, Haire  
6 **COMMUNITY SERVICE WORK PROGRAM**

7 **SECTION 16.19.** The Department of Correction shall report to the Chairs of  
8 the Senate and House of Representatives Appropriations Subcommittees on Justice and  
9 Public Safety by May 1, 2004, on the integration of the Community Service Work  
10 Program into the Division of Community Corrections, including the Department's  
11 ability to monitor the collection of offender payments from unsupervised offenders  
12 sentenced to community service. The Department shall also report to the Chairs of the  
13 Senate and House of Representatives Appropriations Subcommittees on Justice and  
14 Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the  
15 average caseloads of Community Service Work Program coordinators, by district,  
16 division, and statewide. The report shall also include the money collected, the type and  
17 value of the work performed, and the number of offenders in the Community Service  
18 Work Program, by type of referral (i.e. parole, supervised probation, unsupervised  
19 probation or community punishment, DWI, any other agency referrals).  
20

21 Requested by: Representatives Kiser, Haire  
22 **REPORT ON INMATES ELIGIBLE FOR PAROLE**

23 **SECTION 16.20.** The Post-Release Supervision and Parole Commission  
24 shall report by January 15 and July 15 of each year to the Senate and House of  
25 Representatives Appropriations Subcommittees on Justice and Public Safety and the  
26 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee  
27 on inmates eligible for parole. These reports shall include at least the following:

- 28 (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates  
29 that were parole-eligible during the current fiscal year and the total  
30 number of those inmates that were paroled. The report should group  
31 these inmates by offense type, custody classification, and type of  
32 parole;  
33 (2) The average time served, by offense class, of Fair Sentencing and  
34 Pre-Fair Sentencing inmates compared to inmates sentenced under  
35 Structured Sentencing; and  
36 (3) The projected number of parole-eligible inmates to be paroled or  
37 released by the end of the 2003-2004 fiscal year and by the end of the  
38 2004-2005 fiscal year.  
39

40 Requested by: Representatives Kiser, Haire  
41 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**  
42 **STAFFING REORGANIZATION AND REDUCTION**

43 **SECTION 16.21.** The Post-Release Supervision and Parole Commission  
44 shall report by March 1 of each year to the Chairs of the Senate and House of  
45 Representatives Appropriations Subcommittees on Justice and Public Safety on an  
46 updated transition plan for implementing staff reductions.  
47

## 48 **PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

49  
50 Requested by: Representatives Kiser, Haire  
51 **TRANSFER CJIN TO THE DEPARTMENT OF CRIME CONTROL AND**  
52 **PUBLIC SAFETY**

53 **SECTION 17.1.(a)** G.S. 143-661(a) reads as rewritten:  
54 "(a) The Criminal Justice Information Network Governing Board is established  
55 within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and

1 Public Safety, to operate the State's Criminal Justice Information Network, the purpose  
2 of which shall be to provide the governmental and technical information systems  
3 infrastructure necessary for accomplishing State and local governmental public safety  
4 and justice functions in the most effective manner by appropriately and efficiently  
5 sharing criminal justice and juvenile justice information among law enforcement,  
6 judicial, and corrections agencies. The Board is established within the Department of  
7 ~~Justice, State Bureau of Investigation,~~ Crime Control and Public Safety, for  
8 organizational and budgetary purposes only and the Board shall exercise all of its  
9 statutory powers in this Article independent of control by the Department of  
10 ~~Justice-Crime Control and Public Safety.~~"

11 **SECTION 17.1.(b)** G.S. 143-664(b) reads as rewritten:

12 "(b) Pending permanent staffing, the Department shall provide the Board with  
13 professional and clerical staff and any additional support the Board needs to fulfill its  
14 mandate. The Board may meet in an area provided by the Department of ~~Justice-Crime~~  
15 Control and Public Safety and the Board's staff shall use space provided by the  
16 Department."

17 **SECTION 17.1.(c)** The Criminal Justice Information Network as provided  
18 in Article 69 of Chapter 143 of the General Statutes is hereby transferred by a Type II  
19 transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public  
20 Safety.

21  
22 Requested by: Representatives Kiser, Haire

### 23 **THE JUVENILE JUSTICE INFORMATION SYSTEM**

24 **SECTION 17.2.(a)** G.S. 143B-516(13) reads as rewritten:

25 "(13) ~~Assist the Criminal Justice Information Network Governing Board~~  
26 ~~with administering~~ Develop and administer a comprehensive juvenile  
27 justice information system to collect data and information about  
28 delinquent juveniles for the purpose of developing treatment and  
29 intervention plans and allowing reliable assessment and evaluation of  
30 the effectiveness of rehabilitative and preventive services provided to  
31 delinquent juveniles."

32 **SECTION 17.2.(b)** G.S. 143-663(a)(1) reads as rewritten:

33 "(1) To establish and operate the Network as an integrated system of State  
34 and local government components for effectively and efficiently  
35 storing, communicating, and using criminal justice information at the  
36 State and local levels throughout North Carolina's law enforcement,  
37 judicial, juvenile justice, and corrections agencies, with the  
38 components of the Network to include electronic devices, programs,  
39 data, and governance and to set the Network's policies and  
40 procedures."

41  
42 Requested by: Representatives Kiser, Haire

### 43 **ANNUAL EVALUATION OF THE TARHEEL CHALLENGE PROGRAM**

44 **SECTION 17.3.** The Department of Crime Control and Public Safety shall  
45 report to the Chairs of the House of Representatives and Senate Appropriations  
46 Committees and the Chairs of the House of Representatives and Senate Appropriations  
47 Subcommittees on Justice and Public Safety by April 1 of each year on the operations  
48 and effectiveness of the National Guard Tarheel Challenge Program. The report should  
49 evaluate the program's effectiveness as an intervention method for preventing juveniles  
50 from becoming undisciplined or delinquent. The report shall also evaluate the  
51 Program's role in improving individual skills and employment potential for participants  
52 and shall include:

- 53 (1) The source of referrals for individuals participating in the Program;  
54 (2) The summary of types of actions or offenses committed by the  
55 participants of the Program;

- 1 (3) An analysis outlining the cost of providing services for each  
 2 participant, including a breakdown of all expenditures related to the  
 3 administration and operation of the Program and the education and  
 4 treatment of the Program participants;  
 5 (4) The number of individuals who successfully complete the Program;  
 6 and  
 7 (5) The number of participants who commit offenses after completing the  
 8 Program.  
 9

10 Requested by: Representatives Kiser, Haire

11 **LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER**  
 12 **GRANTS**

13 **SECTION 17.4.(a)** Section 1303(4) of the Omnibus Crime Control and Safe  
 14 Streets Act of 1968 provides that the State application for Drug Law Enforcement  
 15 Grants is subject to review by the State legislature or its designated body. Therefore, the  
 16 Governor's Crime Commission of the Department of Crime Control and Public Safety  
 17 shall report on the State application for grants under the State and Local Law  
 18 Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe  
 19 Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act  
 20 of 1986, to the Senate and House of Representatives Appropriations Subcommittees on  
 21 Justice and Public Safety when the General Assembly is in session. When the General  
 22 Assembly is not in session, the Governor's Crime Commission shall report on the State  
 23 application to the Joint Legislative Commission on Governmental Operations.

24 **SECTION 17.4.(b)** Unless a State statute provides a different forum for  
 25 review, when a federal law or regulation provides that an individual State application  
 26 for a grant shall be reviewed by the State legislature or its designated body and at the  
 27 time of the review the General Assembly is not in session, that application shall be  
 28 reviewed by the Joint Legislative Commission on Governmental Operations.  
 29

30 Requested by: Representatives Kiser, Haire

31 **VICTIMS ASSISTANCE NETWORK REPORT**

32 **SECTION 17.5.** The Department of Crime Control and Public Safety shall  
 33 report on the expenditure of funds allocated pursuant to this section for the Victims  
 34 Assistance Network. The Department shall also report on the Network's efforts to  
 35 gather data on crime victims and their needs, act as a clearinghouse for crime victims'  
 36 services, provide an automated crime victims' bulletin board for subscribers, coordinate  
 37 and support activities of other crime victims' advocacy groups, identify the training  
 38 needs of crime victims' services providers and criminal justice personnel, and  
 39 coordinate training for these personnel. The Department shall submit its report to the  
 40 Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate  
 41 and House of Representatives by December 1 of each year of the biennium.  
 42

43 **PART XVIII. DEPARTMENT OF ADMINISTRATION**

44  
 45 Requested by: Representatives Jeffus, Walend

46 **AGENCIES TO USE MAIL SERVICE CENTER**

47 **SECTION 18.1.** G.S. 143-341(8)g. reads as rewritten:

48 **"§ 143-341. Powers and duties of Department.**

49 The Department of Administration has the following powers and duties:

50  
 51 (8) General Services:

52 ...

53 g. To establish and operate a central mailing system- mail service  
 54 center for that shall be used by all State agencies, agencies other  
 55 than the Employment Security Commission, and in connection

1 therewith and in the discretion of the Secretary, ~~to make~~  
 2 ~~application for and procure a post office substation for that~~  
 3 ~~purpose, and to do all things necessary in connection with the~~  
 4 ~~maintenance of the central mailing system. mail service center.~~  
 5 The Secretary ~~may~~ shall allocate and charge against the  
 6 respective departments and agencies their proportionate parts of  
 7 the cost of the maintenance of the ~~central mailing system. mail~~  
 8 ~~service center.~~ The Secretary shall develop a plan for the  
 9 efficient operation of the center that meets the needs of State  
 10 agencies and ensures timely delivery of mail, and shall present  
 11 that plan to the Office of State Budget and Management and the  
 12 General Assembly no later than the convening date of the 2003  
 13 General Assembly mail.

14  
 15 Requested by: Representatives Jeffus, Walend

16 **STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF**  
 17 **ADMINISTRATION**

18 **SECTION 18.2.** The Secretary of the Department of Administration, in  
 19 collaboration with appropriate entities which concentrate on public policy and business  
 20 management, shall study the functions of the advocacy programs that are housed in the  
 21 Department of Administration to determine the appropriate organizational placement of  
 22 the programs within State government. The study shall also consider whether the  
 23 functions of the programs could be more efficiently and effectively performed by an  
 24 appropriate nonprofit organization. The Secretary shall report the findings and  
 25 recommendations to the Joint Legislative Commission on Governmental Operations and  
 26 to the Chairs of the Senate and House of Representatives Appropriations Committees by  
 27 May 1, 2004.

28  
 29 **PART XIX. OFFICE OF THE STATE AUDITOR**

30  
 31 Requested by: Representatives Jeffus, Walend

32 **SMART START AUDITS**

33 **SECTION 19.1.** G.S. 143B-168.14(b) reads as rewritten:

34 "(b) Each local partnership shall be subject to audit and review by the State  
 35 Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor  
 36 shall conduct annual financial and compliance audits of ~~the~~ local  
 37 ~~partnerships. partnerships that are rated "needs improvement" in performance~~  
 38 assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated  
 39 "superior" or "satisfactory" in performance assessments authorized in G.S. 143B-  
 40 168.12(a)(7) shall undergo biennial financial and compliance audits by the State  
 41 Auditor."

42  
 43 **PART XX. OFFICE OF THE GOVERNOR**

44  
 45 Requested by: Representatives Jeffus, Walend

46 **HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

47 **SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance  
 48 Agency for the federal HOME Program shall be used to match federal funds  
 49 appropriated for the HOME Program. In allocating State funds appropriated to match  
 50 federal HOME Program funds, the Agency shall give priority to HOME Program  
 51 projects, as follows:

- 52 (1) First priority to projects that are located in counties designated as Tier  
 53 One, Tier Two, or Tier Three Enterprise Counties under G.S.  
 54 105-129.3; and

- 1 (2) Second priority to projects that benefit persons and families whose  
2 incomes are fifty percent (50%) or less of the median family income  
3 for the local area, with adjustments for family size, according to the  
4 latest figures available from the United States Department of Housing  
5 and Urban Development.

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

10 **SECTION 20.1.(b)** If the United States Congress changes the HOME  
11 Program such that matching funds are not required for a given program year, then the  
12 Agency shall not spend the matching funds appropriated under this act for that program  
13 year.

14 **SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME  
15 Program funds shall not revert to the General Fund on June 30, 2004, or on June 30,  
16 2005.

## 17 18 **PART XXI. INFORMATION TECHNOLOGY**

19  
20 Requested by: Representatives Jeffus, Walend

### 21 **ITS BUDGET STRUCTURE REVIEW/REPORT**

22 **SECTION 21.1.(a)** The Office of Information Technology Services shall  
23 analyze the State's legacy information technology systems and develop a plan to  
24 ascertain the needs, costs, and time frame required for State agencies to progress to  
25 more modern information technology systems. In conducting this legacy system  
26 assessment and analysis, the Office shall:

- 27 (1) Examine the hierarchical structure and interrelated relationships within  
28 and between State agency legacy systems.  
29 (2) Catalog and analyze the portfolio of legacy applications in use in State  
30 agencies and consider the extent to which new applications could be  
31 used concurrently with, or should replace, legacy systems.  
32 (3) Consider issues related to migration from legacy environments to  
33 Internet-based and client/server environments and related to the  
34 availability of programmers and other information technology  
35 professionals with the skills to migrate legacy applications to other  
36 environments.  
37 (4) Study any other issue relative to the assessment of legacy information  
38 technology systems in State agencies, except that the analysis shall not  
39 include matters within the purview of the studies authorized in S.L.  
40 2001-491 or S.L. 2002-126.

41 State departments, agencies, and institutions shall give to ITS all information and all  
42 data within their possession, or ascertainable from their records, that ITS deems  
43 necessary to carry out the analysis.

44 By March 1, 2004, the Office shall complete the analysis and shall make a  
45 report of the assessment to the Information Resources Management Commission, the  
46 Joint Legislative Commission on Governmental Operations, and the Joint Select  
47 Committee on Information Technology.

48 **SECTION 21.1.(b)** The Office of State Budget and Management shall  
49 conduct a study of information technology (IT) expenditures across all of State  
50 government, with focused attention to identification and elimination of duplicative IT  
51 expenditures, operations, and inventory, to identify and recommend potential cost  
52 savings and efficiencies in State agency IT operations. In this study, OSBM should  
53 address the following questions:

- 54 (1) Is State government's IT budgeting and organizational structure the  
55 most efficient approach?



- 1 (2) What alternative IT budgeting and organizational structures could help  
2 North Carolina realize cost savings?

3 OSBM is also directed to work in conjunction with the Office of Information  
4 Technology Services (ITS) and the Information Resource Management Commission  
5 (IRMC) to study the ITS and IRMC budget structures, and, in addition to  
6 recommending efficiencies, OSBM, ITS, and the IRMC shall develop a plan to propose  
7 how the ITS and IRMC budgets should be transitioned to General Fund agency  
8 supported operations. By April 1, 2004, OSBM shall make reports on these matters to  
9 the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint  
10 Appropriations Subcommittee on General Government, and the Fiscal Research  
11 Division.

## 12 13 **PART XXII. DEPARTMENT OF INSURANCE**

14  
15 Requested by: Representatives Jeffus, Walend

### 16 **INSURANCE FUND TRANSFER TO GENERAL FUND**

17 **SECTION 22.1.** The Commissioner of Insurance shall transfer funds  
18 quarterly from the Department of Insurance Fund to the General Fund to repay the funds  
19 appropriated to the Department of Insurance from the General Fund for each fiscal year,  
20 plus accrued interest at a rate determined by the State Treasurer.

## 21 22 **PART XXIII. DEPARTMENT OF REVENUE**

23  
24 Requested by: Representatives Jeffus, Walend

### 25 **DOR TAXPAYER TELECOMMUNICATIONS SERVICE**

26 **SECTION 23.1.** Section 22.6 of S.L. 2002-126 reads as rewritten:

27 "**SECTION 22.6.(a)** The Department of Revenue may draw up to seven million  
28 eight hundred forty thousand five hundred thirteen dollars (\$7,840,513) through June  
29 30, ~~2004, 2005~~, from the collection assistance fee account created in G.S. 105-243.1  
30 in order to pay for the costs of establishing and equipping a central taxpayer  
31 telecommunications service center for collections and assistance and for the costs  
32 associated with aligning local field offices with the new center.

33 ~~"SECTION 22.6.(b) The Secretary of Revenue shall consult with the Joint  
34 Legislative Commission on Governmental Operations on a detailed plan with proposed  
35 costs before any funds may be expended for these purposes. This plan must be  
36 presented by October 31, 2002.~~

37 "**SECTION 22.6.(c)** Beginning January 1, 2003, and ending on the second quarter  
38 following completion of the projects described in subsection (a) of this section, the  
39 Department of Revenue must report quarterly to the Joint Legislative Commission on  
40 Governmental Operations on the use of the funds and the progress of establishing the  
41 new center."

42  
43 Requested by: Representatives Jeffus, Walend

### 44 **CERTAIN DOR POSITIONS FEE-SUPPORTED**

45 **SECTION 23.2.** Of the funds in the collection assistance fee account created  
46 in G.S. 105-243.1, the Department of Revenue may use up to five hundred thirty-one  
47 thousand five hundred twelve dollars (\$531,512) in each year of the 2003-2005 fiscal  
48 biennium for salary and related fringe benefits for the following positions formerly  
49 supported from the General Fund:

- 50 Position No. 4784-0000-0076-621 - Revenue Officer II  
51 Position No. 4784-0000-0076-622 - Revenue Officer II  
52 Position No. 4784-0000-0076-636 - Revenue Officer I  
53 Position No. 4784-0000-0076-637 - Revenue Officer I  
54 Position No. 4784-0000-0076-638 - Revenue Officer I  
55 Position No. 4784-0000-0076-639 - Revenue Officer I

1 Position No. 4784-0000-0076-640 - Revenue Officer I  
2 Position No. 4784-0000-0076-641 - Revenue Officer I  
3 Position No. 4784-0000-0076-642 - Revenue Officer I  
4 Position No. 4784-0000-0076-643 - Revenue Officer I  
5 Position No. 4784-0000-0076-644 - Revenue Officer I  
6 Position No. 4784-0000-0076-645 - Revenue Officer I  
7 Position No. 4784-0000-0076-647 - Revenue Officer I

## 8 9 **PART XXIV. SECRETARY OF STATE**

10  
11 Requested by: Representatives Jeffus, Walend

### 12 **TRANSFER CONSULTATION REQUIREMENT UNDER BUSINESS LICENSE** 13 **INFORMATION OFFICE TO SMALL BUSINESS CENTERS**

14 **SECTION 24.1.(a)** The Department of the Secretary of State (Department)  
15 and the North Carolina Community College System (System) shall develop and  
16 implement a plan to transfer the consultation function of the Business License  
17 Information Office (BLIO) in the Department to the Small Business Centers that are  
18 located within each of the community colleges in the System. The plan shall provide for  
19 the following:

- 20 (1) Establishment of a Statewide Coordinator position who will develop  
21 and maintain a web-based master application system of all State  
22 licensing and regulatory requirements.
- 23 (2) Development and ongoing maintenance of a web-based master  
24 application system of all State licensing and regulatory requirements.
- 25 (3) Training for the Directors of the Small Business Centers.
- 26 (4) Phase-out of the BLIO consultant positions.

27 **SECTION 24.1.(b)** The Department shall use funds appropriated for the  
28 2003-2004 fiscal year for the Business License Information Office (Fund 1240) in  
29 Budget Code 13200 to develop the web-based master application and for training.

30 **SECTION 24.1.(c)** The Department and the System shall present their plan  
31 to the Joint Legislative Commission on Governmental Operations and to the Chairs of  
32 the Appropriations Committees of the Senate and the House of Representatives by  
33 October 1, 2003. After presenting the plan, the Department and the System shall report  
34 on the implementation of the plan to the Joint Legislative Commission on Governmental  
35 Operations and to the Chairs of the Appropriations Committees of the Senate and the  
36 House of Representatives on a quarterly basis. The plan shall be fully implemented by  
37 June 30, 2004.

38  
39 Requested by: Representatives Jeffus, Walend

### 40 **PUBLICATION OF NORTH CAROLINA MANUAL**

41 **SECTION 24.2.** The Department of the Secretary of State shall support the  
42 publication of the North Carolina Manual with receipts from sales of the manual when  
43 budgeting for the 2005-2007 biennium. The Department shall consider the feasibility of  
44 providing the manual by Internet.

## 45 46 **PART XXV. STATE BOARD OF ELECTIONS**

47  
48 Requested by: Representatives Jeffus, Walend

### 49 **HELP AMERICA VOTE ACT MATCHING FUNDS**

50 **SECTION 25.1.(a)** Of the funds appropriated to the State Board of Elections  
51 for the 2003-2004 fiscal year by Section 2.1 of this act:

- 52 (1) The sum of \$1,791,936 is transferred to a Reserve Fund to meet the  
53 Maintenance of Effort requirements of section 254(a)(7) of the Help  
54 America Vote Act, Public Law 107-252.

- 1 (2) The sum of \$1,665,650 currently appropriated to Fund 1100  
2 Administration for the SEIMS RCC is transferred to a Reserve Fund  
3 for the State Board of Elections.
- 4 (3) The sum of \$2,524,400 is transferred to the Election Fund to meet the  
5 five percent (5%) matching requirement of Title II Help America Vote  
6 Act, Public Law 107-252. It is estimated that the amount needed for  
7 the 2003-2004 fiscal year will be \$1,130,000. The funds shall be  
8 available only for matching federal funds under HAVA for the  
9 2003-2004, 2004-2005, and 2005-2006 fiscal years. The money shall  
10 only be expended as federal funds are available to match, and if the  
11 amount available to the State is less than projected, the unexpended  
12 remainder of the \$2,524,400 shall revert to the General Fund on the  
13 earlier of:
- 14 a. June 30, 2006; or
  - 15 b. A determination by the Office of State Budget and Management  
16 that the unexpended remainder will not be needed.

17 **SECTION 25.1.(b)** The 107th Congress established the Help America Vote  
18 Act (HAVA) as Public Law 107-252 establishing a program to assist in the  
19 administration of Federal elections and provide assistance with the administration of  
20 certain Federal elections laws and programs; establish minimum election administration  
21 standards for States and units of local government with the responsibility for the  
22 administration of Federal elections. In HAVA, Congress authorized appropriations for  
23 elections assistance in the form of a matching grant program (Title II of HAVA,  
24 Requirements Payments) for which states are required as one condition of the Election  
25 Assistance Requirements Payments to match federal allocations with a five percent  
26 (5%) match of State dollars. The federal government has additional requirements,  
27 including a required state plan and a stipulation for each participating state to implement  
28 the Maintenance of Effort (MOE) requirements of Title II, section 254(a)(7) of HAVA.  
29 The MOE requires that the state maintain the expenditures of the state for activities  
30 funded by the payment at a level that is not less than the level of such expenditures  
31 maintained by the state for the fiscal year ending prior to November 2000. Congress  
32 authorized up to \$1.4 billion for Requirements Payments, and \$810 million for Title II  
33 requirements grants was funded for fiscal year 2003. Title II requirements funding has  
34 not been passed by Congress for fiscal years 2004-2005 and 2005-2006 but is currently  
35 proposed at \$500 million for each year.

36 Based upon the 2003 approved funding, it is estimated that North Carolina  
37 will receive \$22.6 million of the Title II funding if North Carolina meets all the  
38 conditions of the Election Assistance program, including not only the five percent (5%)  
39 state match but also maintenance of its expenditure level on HAVA activities at the  
40 expense level the State Board of Elections had in State fiscal year 1999-2000. Actual  
41 expenditures for the State Elections Information Management System (SEIMS), which  
42 is a qualified HAVA activity, in 1999-2000 was three million four hundred fifty-seven  
43 thousand five hundred eighty-five dollars and six cents (\$3,457,585.06). The authorized  
44 expenditures on SEIMS in 2002-2003 by the State Board of Elections is one million six  
45 hundred sixty-five thousand six hundred fifty dollars (\$1,665,650). The difference in  
46 expenditure levels is one million seven hundred ninety-one thousand nine hundred  
47 thirty-five dollars and six cents (\$1,791,935.06). To meet HAVA's Title II MOE  
48 requirement, North Carolina has to appropriate from its General Fund to a Reserve on a  
49 recurring basis (or for as long as Congress requires the MOE as a condition of states'  
50 being eligible to receive Requirements Payments), the amount of three million four  
51 hundred fifty-seven thousand five hundred eighty-five dollars and six cents  
52 (\$3,457,585.06) annually.

53 For the State to meet its obligatory five percent (5%) match for HAVA's Title  
54 II Requirements Payment, North Carolina has to match twenty-two million six hundred  
55 thousand dollars (\$22,600,000) estimated federal funds in 2003-2004; thirteen million

1 nine hundred forty-four thousand dollars (\$13,944,000) estimated federal funds in both  
2 2004-2005 and 2005-2006. The State's match is one million one hundred thirty thousand  
3 dollars (\$1,130,000) in 2003-2004; six hundred ninety-seven thousand two hundred  
4 dollars (\$697,200) in 2004-2005 and six hundred ninety-seven thousand two hundred  
5 dollars (\$697,200) in 2005-2006. The nonrecurring match total required from the  
6 General Fund is two million five hundred twenty-four thousand four hundred dollars  
7 (\$2,524,400).

8 **SECTION 25.1.(c)** There is established a special fund to be known as the  
9 Election Fund. All funds received for implementation of the Help America Vote Act of  
10 2002, Public Law 107-252, shall be deposited in that fund. The State Board of Elections  
11 shall use funds in the Election Fund only to implement HAVA.

12 **SECTION 25.1.(d)** G.S. 147-69.2(a) is amended by adding a new  
13 subdivision to read:

14 "(17d) The Election Fund."

15 **SECTION 25.1.(e)** Subsections (c) and (d) of this section are effective when  
16 this act becomes law.

## 17 18 **PART XXVI. OFFICE OF STATE BUDGET AND MANAGEMENT**

19  
20 Requested by: Representatives Jeffus, Walend

### 21 **NC HUMANITIES COUNCIL**

22 **SECTION 26.1.** The North Carolina Humanities Council shall:

- 23 (1) By January 15, 2004, and more frequently as requested, report to the  
24 Joint Legislative Commission on Governmental Operations and the  
25 Fiscal Research Division the following information:  
26 a. State fiscal year 2002-2003 program activities, objectives, and  
27 accomplishments;  
28 b. State fiscal year 2002-2003 itemized expenditures and fund  
29 sources;  
30 c. State fiscal year 2003-2004 planned activities, objectives, and  
31 accomplishments including actual results through December 31,  
32 2003; and  
33 d. State fiscal year 2003-2004 estimated itemized expenditures  
34 and fund sources including actual expenditures and fund  
35 sources through December 31, 2003.  
36 (2) Provide to the Fiscal Research Division a copy of the organization's  
37 annual audited financial statement within 30 days of issuance of the  
38 statement.

## 39 40 **PART XXVII. OFFICE OF THE STATE CONTROLLER**

41  
42 Requested by: Representatives Jeffus, Walend

### 43 **OVERPAYMENTS AUDIT**

44 **SECTION 27.1.(a)** During the 2003-2004 fiscal year, receipts generated by  
45 the collection of inadvertent overpayments by State agencies to vendors as a result of  
46 pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed  
47 refunds, erroneously paid excise taxes, and related errors as required by G.S.  
48 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

49 **SECTION 27.1.(b)** For the 2003-2004 fiscal year, two hundred thousand  
50 dollars (\$200,000) of the funds transferred from the Special Reserve Account 24172  
51 shall be used by the Office of the State Controller for data processing, debt collection,  
52 or e-commerce costs.

53 **SECTION 27.1.(c)** All funds available in the Special Reserve Account  
54 24172 on July 1, 2003, are transferred to the General Fund on that date.

1           **SECTION 27.1.(d)** Any unobligated funds in the Special Reserve Account  
2 24172 that are realized above the allowance in subsection (b) of this section are subject  
3 to appropriation by the General Assembly in the 2004 Regular Session of the 2003  
4 General Assembly.

5           **SECTION 27.1.(e)** The State Controller shall report quarterly to the Joint  
6 Legislative Commission on Governmental Operations and the Fiscal Research Division  
7 on the revenue deposited into the Special Reserve Account and the disbursement of that  
8 revenue.  
9

## 10 **PART XXVIII. DEPARTMENT OF THE STATE TREASURER**

11  
12 Requested by:           Representatives Jeffus, Walend

### 13 **AMENDING FUNDING FOR RETIREMENT AND ESCHEAT OPERATIONS**

14           **SECTION 28.1.(a)** G.S. 116B-6(h) reads as rewritten:

15           "(h) Expenditures. – The Treasurer may expend the funds in the Escheat Fund,  
16 other than funds in the Escheat Account, for the payment of claims for refunds to  
17 owners, holders and claimants under G.S. 116B-4; for the payment of costs of  
18 maintenance and upkeep of abandoned or escheated property; costs of preparing lists of  
19 names of owners of abandoned property to be furnished to clerks of superior court; costs  
20 of notice and publication; costs of appraisals; fees of persons employed pursuant to G.S.  
21 116B-8 costs involved in determining whether a decedent died without heirs; costs of a  
22 title search of real property that has escheated; and costs of auction or sale under this  
23 Chapter. All other costs, including salaries of personnel, necessary to carry out the  
24 duties of the Treasurer under this Chapter, shall be ~~appropriated from the funds of the~~  
25 ~~Escheat Fund pursuant to the provisions of Article 1, Chapter 143 of the General~~  
26 ~~Statutes covered by an appropriation to the State Treasurer for this purpose in the~~  
27 Current Appropriations Act. The Escheat Fund shall deposit as nontax revenue to the  
28 General Fund the amount appropriated from the General Fund to cover the cost of the  
29 administration, management, and operations of the Escheats program."

30           **SECTION 28.1.(b)** G.S. 135-6(g) reads as rewritten:

31           "(g) Officers and Other Employees; Salaries and Expenses. – The State Treasurer  
32 shall be ex officio chairman of the Board of Trustees. The Board of Trustees shall, by a  
33 majority vote of all the members, appoint a director, who may be, but need not be, one  
34 of its members. The salary of the director of the Retirement System is subject to the  
35 provisions of Chapter 126 of the General Statutes of North Carolina. The Board of  
36 Trustees shall engage such actuarial and other service as shall be required to transact the  
37 business of the Retirement System. The compensation of all persons, other than the  
38 director, engaged by the Board of Trustees, and all other expenses of the Board  
39 necessary for the operation of the Retirement System, shall be paid at such rates and in  
40 such amounts as the Board of Trustees shall approve, subject to the approval of the  
41 Director of the Budget. The cost of the administration, management, and operation of  
42 the Retirement System shall be covered by an appropriation to the State Treasurer in the  
43 Current Appropriations Act. The Retirement System shall deposit its apportioned share  
44 of the cost to the General Fund as nontax revenue."

45           **SECTION 28.1.(c)** G.S. 128-28(h) reads as rewritten:

46           "(h) Officers and Other Employees, Salaries and Expenses. – The Board of  
47 Trustees shall elect from its membership a chairman, and shall, by a majority vote of all  
48 the members, appoint a director, who may be, but need not be, one of its members. The  
49 Board of Trustees shall engage such actuarial and other service as shall be required to  
50 transact the business of the Retirement System. The compensation of all persons  
51 engaged by the Board of Trustees, and all other expenses of the Board necessary for the  
52 operation of the Retirement System, shall be paid at such rates and in such amounts as  
53 the Board of Trustees shall approve. The cost of the administration, management, and  
54 operation of the Retirement System shall be covered by an appropriation to the State

1 Treasurer in the Current Appropriations Act. The Retirement System shall deposit its  
 2 apportioned share of the cost to the General Fund as nontax revenue."

3 **SECTION 28.1.(d)** Subsections (a) through (c) of this section become  
 4 effective July 1, 2003.

5  
 6 Requested by: Representatives Jeffus, Walend  
 7 **STATE TREASURER SUBJECT TO EXECUTIVE BUDGET ACT**

8 **SECTION 28.2.(a)** G.S. 147-68(e) reads as rewritten:

9 "(e) The State Treasurer-Treasurer, in carrying out the responsibilities of this  
 10 section, shall except as provided in G.S. 143-25 be independent of any fiscal control  
 11 exercise by the Director of the Budget or the Department of Administration and shall be  
 12 responsible to the Advisory Budget Commission, the General Assembly and the people  
 13 of North Carolina for the efficient and faithful exercise of the responsibilities of his  
 14 office. The State Treasurer, for all other purposes, is subject to Article 1 of Chapter 143  
 15 of the General Statutes."

16 **SECTION 28.2.(b)** Subsection (a) of this section becomes effective July 1,  
 17 2003.

18  
 19 **PART XXIX. DEPARTMENT OF TRANSPORTATION**

20  
 21 Requested by: Representatives Cole, Gillespie  
 22 **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND**  
 23 **APPROPRIATIONS**

24 **SECTION 29.1.(a).** The General Assembly authorizes and certifies  
 25 anticipated revenues of the Highway Fund as follows:

26	For Fiscal Year 2005-2006	\$1,409.2 Million
27	For Fiscal Year 2006-2007	\$1,458.9 Million
28	For Fiscal Year 2007-2008	\$1,509.4 Million
29	For Fiscal Year 2008-2009	\$1,558.8 Million

30 **SECTION 29.1.(b)** The General Assembly authorizes and certifies  
 31 anticipated revenues of the Highway Trust Fund as follows:

32	For Fiscal Year 2005-2006	\$1,096.3 Million
33	For Fiscal Year 2006-2007	\$1,148.0 Million
34	For Fiscal Year 2007-2008	\$1,202.6 Million
35	For Fiscal Year 2008-2009	\$1,252.4 Million

36  
 37 Requested by: Representatives Cole, Gillespie  
 38 **SMALL URBAN CONTINGENCY FUNDS**

39 **SECTION 29.2.** Of the funds appropriated in this act to the Department of  
 40 Transportation:

- 41 (1) Fourteen million dollars (\$14,000,000) shall be allocated in each fiscal  
 42 year for small urban construction projects. These funds shall be  
 43 allocated equally in each fiscal year of the biennium among the 14  
 44 Highway Divisions for the small urban construction program for small  
 45 construction projects that are located within the area covered by a  
 46 one-mile radius of the municipal corporate limits.
- 47 (2) Ten million dollars (\$10,000,000) in fiscal year 2003-2004 and ten  
 48 million dollars (\$10,000,000) in fiscal year 2004-2005 shall be used  
 49 statewide for rural or small urban highway improvements and related  
 50 transportation enhancements to public roads and public facilities,  
 51 industrial access roads, and spot safety projects as approved by the  
 52 Secretary of Transportation.

53 None of these funds used for rural secondary road construction are subject to  
 54 the county allocation formulas in G.S. 136-44.5(b) and (c).

55 These funds are not subject to G.S. 136-44.7.

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

6  
7 Requested by: Representatives Cole, Gillespie  
8 **DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT**  
9 **PROGRAMS**

10 **SECTION 29.3.** The Department of Transportation may establish two pilot  
11 programs to test incentive pay for employees as a means for increasing efficiency and  
12 productivity.

13 One of the pilot programs shall involve the highway resurfacing program  
14 using road oil. Up to one-fourth of one percent (0.25%) of the budget allocation for this  
15 program may be used to provide employee incentive payments.

16 The other pilot project may be selected by the Department of Transportation,  
17 and up to twenty-five thousand dollars (\$25,000) may be used from existing budgets for  
18 incentives.

19 Incentive payments shall be based on quantifiable measures and production  
20 schedules determined prior to the implementation of the pilot programs that shall last no  
21 more than two years.

22 The Department of Transportation shall report to the Joint Legislative  
23 Transportation Oversight Committee on the pilot programs at least 30 days prior to their  
24 implementation.

25  
26 Requested by: Representatives Cole, Gillespie  
27 **REDUCE HIGHWAY TRUST FUND ADMINISTRATION ALLOCATION**

28 **SECTION 29.4.** G.S. 136-176(b) reads as rewritten:

29 "(b) Funds in the Trust Fund are annually appropriated to the Department of  
30 Transportation to be allocated and used as provided in this subsection. A sum, not to  
31 exceed ~~four and one half percent (4.5%)~~ three and eight-tenths percent (3.8%) of the  
32 amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of  
33 this section, may be used each fiscal year by the Department for expenses to administer  
34 the Trust Fund. Operation and project development costs of the North Carolina  
35 Turnpike Authority are eligible administrative expenses under this subsection. Any  
36 funds allocated to the Authority pursuant to this subsection shall be repaid by the  
37 Authority from its toll revenue as soon as possible, subject to any restrictions included  
38 in the agreements entered into by the Authority in connection with the issuance of the  
39 Authority's revenue bonds. Beginning one year after the Authority begins collecting  
40 tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed  
41 to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield  
42 on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest  
43 earned on the unpaid balance shall be deposited in the Highway Trust Fund upon  
44 repayment. The rest of the funds in the Trust Fund shall be allocated and used as  
45 follows:

- 46 (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design,  
47 and construct the projects of the Intrastate System described in G.S.  
48 136-179 and to pay debt service on highway bonds and notes that are  
49 issued under the State Highway Bond Act of 1996 and whose proceeds  
50 are applied to these projects.  
51 (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and  
52 construct the urban loops described in G.S. 136-180 and to pay debt  
53 service on highway bonds and notes that are issued under the State  
54 Highway Bond Act of 1996 and whose proceeds are applied to these  
55 urban loops.

- 1 (3) Six and one-half percent (6.5%) to supplement the appropriation to  
2 cities for city streets under G.S. 136-181.  
3 (4) Six and one-half percent (6.5%) for secondary road construction as  
4 provided in G.S. 136-182 and to pay debt service on highway bonds  
5 and notes that are issued under the State Highway Bond Act of 1996  
6 and whose proceeds are applied to secondary road construction.

7 The Department must administer funds allocated under subdivisions (1), (2), and (4)  
8 of this subsection in a manner that ensures that sufficient funds are available to make  
9 the debt service payments on bonds issued under the State Highway Bond Act of 1996  
10 as they become due."  
11

12 Requested by: Representatives Cole, Gillespie

13 **USE OF EXCESS OVERWEIGHT/OVERSIZE FUNDS**

14 **SECTION 29.5.** Funds generated by overweight/oversize permit fees in  
15 excess of the cost of administering the program, as determined pursuant to G.S.  
16 20-119(e), shall be used for highway and bridge maintenance required as a result of  
17 damages caused from overweight/oversize loads.  
18

19 Requested by: Representatives Cole, Gillespie

20 **ENVIRONMENTAL PERMITS ON DEPARTMENT OF TRANSPORTATION**  
21 **CONSTRUCTION PROJECTS**

22 **SECTION 29.6.** Chapter 136 of the General Statutes is amended by adding a  
23 new section to read:

24 **"§ 136-44.7B. Permit issuance by Department of Environment and Natural**  
25 **Resources transportation construction projects.**

26 (a) Once the Department of Environment and Natural Resources or any agency  
27 within the Department of Environment and Natural Resources has received a complete  
28 application for a permit that is required for a transportation construction project to be  
29 undertaken by or on behalf of the Department of Transportation, the Department of  
30 Environment and Natural Resources shall expedite the review of the application and  
31 shall issue or deny the permit within 90 days of receipt of the submission. All permits  
32 not denied within that time limit shall be deemed approved. The Secretary of  
33 Environment and Natural Resources and the Secretary of Transportation shall jointly  
34 decide any question as to whether an application for a permit is complete. If the  
35 Secretary of Environment and Natural Resources and the Secretary of Transportation  
36 are unable to jointly decide any question, the Governor shall decide the question.

37 (b) Once the Department of Environment and Natural Resources or any agency  
38 within the Department of Environment and Natural Resources has issued a permit that is  
39 required for a transportation construction project to be undertaken by or on behalf of the  
40 Department of Transportation, that permit shall remain in effect until the project is  
41 completed. The permit shall not expire and shall not be modified or canceled for any  
42 reason, including a subsequent change in federal law or regulations or in State law or  
43 rules, unless at least one of the following occurs:

- 44 (1) The modification or cancellation is requested by the Department of  
45 Transportation.  
46 (2) The modification or cancellation is clearly required by a change in  
47 federal law or regulations and a failure to modify or cancel the permit  
48 by the Department of Environment and Natural Resources would result  
49 in a loss of federal program delegation or a significant reduction in the  
50 availability of federal funds to the Department of Environment and  
51 Natural Resources or to the Department of Transportation.  
52 (3) The modification or cancellation is clearly required by a change in  
53 State law as a result of an act of the General Assembly that includes a  
54 statement that the General Assembly specifically intends the change in  
55 State law to apply to ongoing transportation construction projects.



- 1           (4) The modification or cancellation is ordered by a court of competent
- 2           jurisdiction.
- 3           (5) The nature or scope of the transportation construction project is
- 4           significantly expanded or otherwise altered."

5  
6 Requested by:           Representatives Cole, Gillespie

7 **DRIVER EDUCATION PRIVATIZATION**

8           **SECTION 29.7.** The State Board of Education shall study statewide  
9 privatization of State-funded driver education programs. The State Board of Education  
10 shall report to the Joint Legislative Education Oversight Committee and the joint  
11 Legislative Transportation Oversight Committee by November 30, 2003, on proposals  
12 for statewide privatization and cost reduction.

13  
14 Requested by:           Representatives Cole, Gillespie

15 **DEPARTMENT OF TRANSPORTATION GENERAL ADMINISTRATION**  
16 **REDUCTIONS.**

17           **SECTION 29.8.** The Department of Transportation shall reduce  
18 expenditures for General Administration by one million eight hundred thousand dollars  
19 (\$1,800,000) during fiscal year 2003-2004 and by three million six hundred thousand  
20 dollars (\$3,600,000) in fiscal year 2004-2005. At least seventy-five percent (75%) of the  
21 savings shall be achieved through reductions in personnel. Savings shall be used for  
22 maintenance. The Department of Transportation shall report to the Joint Legislative  
23 Transportation Oversight Committee on or before November 30, 2003, on actions it will  
24 be taking to implement the provisions of this section.

25  
26 **PART XXX. SALARIES AND EMPLOYEE BENEFITS**

27  
28 Requested by:           Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
29 Owens, Wright

30 **GOVERNOR AND COUNCIL OF STATE**

31           **SECTION 30.1.(a)** Effective July 1, 2003, G.S. 147-11(a) reads as  
32 rewritten:

33           "(a) The salary of the Governor shall be ~~one hundred eighteen thousand four~~  
34 ~~hundred thirty dollars (\$118,430)~~ one hundred twenty thousand three hundred  
35 twenty-five dollars (\$120,325) annually, payable monthly."

36           **SECTION 30.1.(b)** Effective July 1, 2003, the annual salaries for the  
37 members of the Council of State, payable monthly, for the 2003-2004 and 2004-2005  
38 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$ 106,195
Attorney General	106,195
Secretary of State	106,195
State Treasurer	106,195
State Auditor	106,195
Superintendent of Public Instruction	106,195
Agriculture Commissioner	106,195
Insurance Commissioner	106,195
Labor Commissioner	106,195

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49 Requested by:           Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
50 Owens, Wright

51 **NONELECTED DEPARTMENT HEADS/SALARY INCREASES**

52           **SECTION 30.2.** In accordance with G.S. 143B-9, the maximum annual  
53 salaries, payable monthly, for the nonelected heads of the principal State departments  
54 for the 2003-2004 and 2004-2005 fiscal years are:  
55

	<u>Annual Salary</u>
1 <u>Nonelected Department Heads</u>	
2     Secretary of Administration	\$ 103,753
3     Secretary of Correction	103,753
4     Secretary of Crime Control and Public Safety	103,753
5     Secretary of Cultural Resources	103,753
6     Secretary of Commerce	103,753
7     Secretary of Environment and Natural Resources	103,753
8     Secretary of Health and Human Services	103,753
9     Secretary of Juvenile Justice and Delinquency Prevention	103,753
10    Secretary of Revenue	103,753
11    Secretary of Transportation	103,753

12  
13 Requested by:       Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
14 Owens, Wright

15 **CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

16       **SECTION 30.3.** Effective July 1, 2003, the annual salaries, payable  
17 monthly, for the 2003-2004 and 2004-2005 fiscal years for the following executive  
18 branch officials are:

	<u>Annual Salary</u>
19 <u>Executive Branch Officials</u>	
20     Chairman, Alcoholic Beverage Control Commission	\$ 94,433
21     State Controller	132,159
22     Commissioner of Motor Vehicles	94,433
23     Commissioner of Banks	106,195
24     Chairman, Employment Security Commission	131,992
25     State Personnel Director	103,753
26     Chairman, Parole Commission	86,229
27     Members of the Parole Commission	79,610
28     Chairman, Utilities Commission	118,267
29     Members of the Utilities Commission	106,195
30     Executive Director, Agency for Public Telecommunications	79,610
31     General Manager, Ports Railway Commission	71,887
32     Director, Museum of Art	96,764
33     Executive Director, North Carolina Housing Finance Agency	116,872
34     Executive Director, North Carolina Agricultural Finance Authority	91,918
35     State Chief Information Officer	132,080

36  
37 Requested by:       Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
38 Owens, Wright

39 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASE**

40       **SECTION 30.4.(a)** Effective July 1, 2003, the annual salaries, payable  
41 monthly, for specified judicial branch officials for the 2003-2004 and 2004-2005 fiscal  
42 years are:

	<u>Annual Salary</u>
43 <u>Judicial Branch Officials</u>	
44     Chief Justice, Supreme Court	\$ 120,325
45     Associate Justice, Supreme Court	117,181
46     Chief Judge, Court of Appeals	114,251
47     Judge, Court of Appeals	112,298
48     Judge, Senior Regular Resident Superior Court	109,247
49     Judge, Superior Court	106,195
50     Chief Judge, District Court	96,431
51     Judge, District Court	93,380
52     Administrative Officer of the Courts	109,247
53     Assistant Administrative Officer of the Courts	99,787

54       **SECTION 30.4.(b)** The district attorney or public defender of a judicial  
55 district, with the approval of the Administrative Officer of the Courts or the

Commission on Indigent Defense Services, respectively, 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 sixty-one thousand one hundred fifty-four dollars (\$61,154) and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-one thousand five hundred thirty-two dollars (\$31,532) effective July 1, 2003.

**SECTION 30.4.(c)** Effective July 1, 2003, the salaries in effect for the 2003-2004 and 2004-2005 fiscal years for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by one and six-tenths percent (1.6%)

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

**CLERK OF SUPERIOR COURT/SALARY INCREASES**

**SECTION 30.5.** Effective July 1, 2003, 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>\$69,911</del> \$71,030
100,000 to 149,999	<del>78,452</del> 79,707
150,000 to 249,999	<del>86,994</del> 88,386
250,000 and above	<del>95,537</del> 97,066.

The salary schedule in this subsection is intended to represent the following approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
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 Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

**ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES/CLERK OF COURT PERSONNEL FLEXIBILITY**

**SECTION 30.6.** Effective July 1, 2003, G.S. 7A-102 reads as rewritten:

**"§ 7A-102. Assistant and deputy clerks; appointment; number; salaries; duties.**

(a) The numbers and salaries of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court shall be determined by the Administrative Officer of the Courts after consultation with the clerk concerned. All personnel in the clerk's office are employees of the State. The clerk appoints the assistants, deputies, and other employees in ~~his~~the clerk's office to serve at his or her pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks of superior court, conformed to the office of assistant or deputy clerk, as the case may be. ~~The~~ Except as provided by subsection (c2) of this section, the job classifications and related salaries of each employee within the office of each superior court clerk shall be

1 subject to the approval of the Administrative Officer of the Courts after consultation  
 2 with each clerk concerned and shall be subject to the availability of funds appropriated  
 3 for that purpose by the General Assembly.

4 (b) An assistant clerk is authorized to perform all the duties and functions of the  
 5 office of clerk of superior court, and any act of an assistant clerk is entitled to the same  
 6 faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence  
 7 and correctness of any record in the clerk's office, to take the proofs and examinations  
 8 of the witnesses touching the execution of a will as required by G.S. 31-17, and to  
 9 perform any other ministerial act which the clerk may be authorized and empowered to  
 10 do, in his own name and without reciting the name of his principal. The clerk is  
 11 responsible for the acts of his assistants and deputies. With the consent of the clerk of  
 12 superior court of each county and the consent of the presiding judge in any proceeding,  
 13 an assistant or deputy clerk is authorized to perform all the duties and functions of the  
 14 office of the clerk of superior court in another county in any proceeding in the district or  
 15 superior court that has been transferred to that county from the county in which the  
 16 assistant or deputy clerk is employed.

17 (c) Notwithstanding the provisions of subsection (a), the Administrative Officer  
 18 of the Courts shall establish an incremental salary plan for assistant clerks and for  
 19 deputy clerks based on a series of salary steps corresponding to the steps contained in  
 20 the Salary Plan for State Employees adopted by the Office of State Personnel, subject to  
 21 a minimum and a maximum annual salary as set forth below. On and after July 1, 1985,  
 22 each assistant clerk and each deputy clerk shall be eligible for an annual step increase in  
 23 his salary plan based on satisfactory job performance as determined by each clerk.  
 24 Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the  
 25 office of superior court clerk would warrant an annual salary greater than the salary first  
 26 established under this section, that assistant or deputy clerk shall be eligible on and after  
 27 July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after  
 28 July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps  
 29 in his salary plan, and shall remain eligible for a two-step increase each year as  
 30 recommended by each clerk until that assistant or deputy clerk's annual salary  
 31 corresponds to his number of years of service. Any person covered by this subsection  
 32 who would not receive a step increase in fiscal year 1995-96 because that person is at  
 33 the top of the salary range as it existed for fiscal year 1994-95 shall receive a salary  
 34 increase to the maximum annual salary provided by subsection (c1) of this section.

35 (c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time  
 36 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary  
 37 subject to the following minimum and maximum rates:

39	Assistant Clerks and Head Bookkeeper	Annual Salary
40	Minimum	\$26,515\$26,939
41	Maximum	46,46447,207
42		
43	Deputy Clerks	Annual Salary
44	Minimum	\$22,565\$22,926
45	Maximum	35,934.36,508.

46  
 47 (c2) The clerk of superior court may appoint assistant clerks, deputy clerks, and a  
 48 head bookkeeper and set their salaries above the minimum rate established for the  
 49 positions by subsection (c1) of this section if, in the clerk's discretion, (i) the needs of  
 50 the clerk's office would be best served by an appointment above the minimum rate, (ii)  
 51 the appointee's skills and experience support the higher rate, and (iii) the Administrative  
 52 Office of the Courts certifies that there are sufficient funds available.

53 (d) Full-time assistant clerks, licensed to practice law in North Carolina, who are  
 54 employed in the office of superior court clerk on and after July 1, 1984, and full-time  
 55 assistant clerks possessing a masters degree in business administration, public

1 administration, accounting, or other similar discipline from an accredited college or  
2 university who are employed in the office of superior court clerk on and after July 1,  
3 1997, are authorized an annual salary of not less than three-fourths of the maximum  
4 annual salary established for assistant clerks; the clerk of superior court, with the  
5 approval of the Administrative Office of the Courts, may establish a higher annual  
6 salary but that salary shall not be higher than the maximum annual salary established for  
7 assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law  
8 school, who are employed in the office of superior court clerk on and after July 1, 1984,  
9 are authorized an annual salary of not less than two-thirds of the maximum annual  
10 salary established for assistant clerks; the clerk of superior court, with the approval of  
11 the Administrative Office of the Courts, may establish a higher annual salary, but the  
12 entry-level salary may not be more than three-fourths of the maximum annual salary  
13 established for assistant clerks, and in no event may be higher than the maximum annual  
14 salary established for assistant clerks. The Except as provided by subsection (c2) of this  
15 section, the entry-level annual salary for all other assistant and deputy clerks employed  
16 on and after July 1, 1984, shall be at the minimum rates as herein established.

17 (e) A clerk of superior court may apply to the Director of the Administrative  
18 Office of the Courts to enter into contracts with local governments for the provision by  
19 the State of services of assistant clerks, deputy clerks, and other employees in the office  
20 of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

21 (f) The Director of the Administrative Office of the Courts may provide  
22 assistance requested pursuant to subsection (e) of this section only upon a showing by  
23 the senior resident superior court judge, supported by facts, that the overwhelming  
24 public interest warrants the use of additional resources for the speedy disposition of  
25 cases involving drug offenses, domestic violence, or other offenses involving a threat to  
26 public safety.

27 (g) The terms of any contract entered into with local governments pursuant to  
28 subsection (e) of this section shall be fixed by the Director of the Administrative Office  
29 of the Courts in each case. Nothing in this section shall be construed to obligate the  
30 General Assembly to make any appropriation to implement the provisions of this  
31 section or to obligate the Administrative Office of the Courts to provide the  
32 administrative costs of establishing or maintaining the positions or services provided for  
33 under this section. Further, nothing in this section shall be construed to obligate the  
34 Administrative Office of the Courts to maintain positions or services initially provided  
35 for under this section."

36  
37 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
38 Owens, Wright

### 39 MAGISTRATES/SALARY INCREASES

40 **SECTION 30.7.** Effective July 1, 2003, G.S. 7A-171.1 reads as rewritten:

41 "(a) The Administrative Officer of the Courts, after consultation with the chief  
42 district judge and pursuant to the following provisions, shall set an annual salary for  
43 each magistrate.

- 44 (1) A full-time magistrate shall be paid the annual salary indicated in the  
45 table set out in this subdivision. A full-time magistrate is a magistrate  
46 who is assigned to work an average of not less than 40 hours a week  
47 during the term of office. The Administrative Officer of the Courts  
48 shall designate whether a magistrate is full-time. Initial appointment  
49 shall be at the entry rate. A magistrate's salary shall increase to the  
50 next step every two years on the anniversary of the date the magistrate  
51 was originally appointed for increases to Steps 1 through 3, and every  
52 four years on the anniversary of the date the magistrate was originally  
53 appointed for increases to Steps 4 through 6.

54  
55 Table of Salaries of Full-Time Magistrates

	Step Level	Annual Salary
	Entry Rate	<del>\$26,889</del> \$27,319
	Step 1	<del>29,525</del> 29,997
	Step 2	<del>32,393</del> 32,911
	Step 3	<del>35,523</del> 36,091
	Step 4	<del>38,952</del> 39,575
	Step 5	<del>42,721</del> 43,405
	Step 6	<del>46,864</del> 47,614.

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, an individual who, when initially appointed as a full-time magistrate, is licensed to practice law in North Carolina, shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(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:	
	Less than 1 year of service	<del>\$21,325</del> \$21,666
	1 or more but less than 3 years of service	<del>22,389</del> 22,747

3 or more but less than 5 years of service ~~24,530-24,922.~~

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

- (2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

- (3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

- (4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

**GENERAL ASSEMBLY PRINCIPAL CLERKS**

**SECTION 30.8.** Effective July 1, 2003, 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 ~~eighty eight thousand three hundred and six dollars (\$88,306)~~ eighty-nine thousand seven hundred nineteen dollars (\$89,719) 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 Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

**SERGEANT-AT-ARMS AND READING CLERKS**

**SECTION 30.9.** Effective July 1, 2003, 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 ninety two dollars (\$292.00)~~ two hundred ninety-seven dollars (\$297.00) 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."

1  
2 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
3 Owens, Wright

4 **LEGISLATIVE EMPLOYEES**

5 **SECTION 30.10.** The Legislative Services Officer shall increase the salaries  
6 of nonelected employees of the General Assembly in effect for fiscal year 2002-2003 by  
7 one and six-tenths percent (1.6%). Nothing in this act limits any of the provisions of  
8 G.S. 120-32.  
9

10 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
11 Owens, Wright

12 **COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES**

13 **SECTION 30.11.** The Director of the Budget shall transfer from the Reserve  
14 for Compensation Increases, created in this act for fiscal years 2003-2004 and  
15 2004-2005, funds to the North Carolina Community College System Office necessary to  
16 provide an annual salary increase of one and six-tenths percent (1.6%) including funds  
17 for the employer's retirement and social security contributions, commencing July 1,  
18 2003, for all permanent full-time community college institutional personnel supported  
19 by State funds.  
20

21 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
22 Owens, Wright

23 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES**

24 **SECTION 30.12.(a)** The Director of the Budget shall transfer to the Board  
25 of Governors of The University of North Carolina sufficient funds from the Reserve for  
26 Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005,  
27 to provide an annual salary increase of one and six-tenths percent (1.6%), including  
28 funds for the employer's retirement and social security contributions, commencing July  
29 1, 2003, for all employees of The University of North Carolina, as well as employees  
30 other than teachers of the North Carolina School of Science and Mathematics, supported  
31 by State funds and whose salaries are exempt from the State Personnel Act (EPA).  
32

33 **SECTION 30.12.(b)** The Director of the Budget shall transfer to the Board  
34 of Governors of The University of North Carolina sufficient funds from the Reserve for  
35 Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005,  
36 to provide an annual salary increase of one and eighty-one hundredths percent (1.81%),  
37 including funds for the employer's retirement and social security contributions,  
38 commencing July 1, 2003, for all teaching employees of the North Carolina School of  
39 Science and Mathematics supported by State funds and whose salaries are exempt from  
40 the State Personnel Act (EPA). These funds shall be allocated to individuals according  
41 to the rules adopted by the Board of Trustees of the North Carolina School of Science  
42 and Mathematics and may not be used for any purpose other than for salary increases  
43 and necessary employer contributions provided by this section.  
44

44 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
45 Owens, Wright

46 **MOST STATE EMPLOYEES**

47 **SECTION 30.13.(a)** The salaries in effect June 30, 2003, of all permanent  
48 full-time State employees whose salaries are set in accordance with the State Personnel  
49 Act and who are paid from the General Fund or the Highway Fund shall be increased on  
50 or after July 1, 2003, unless otherwise provided by this act, by one and six-tenths  
51 percent (1.6%).  
52

53 **SECTION 30.13.(b)** Except as otherwise provided in this act, the fiscal year  
54 2003-2004 salaries for permanent full-time State officials and persons in exempt  
positions that are recommended by the Governor or the Governor and the Advisory



1 Budget Commission and set by the General Assembly shall be increased by one and  
2 six-tenths percent (1.6%), commencing July 1, 2003.

3 **SECTION 30.13.(c)** The salaries in effect for fiscal year 2003-2004 for all  
4 permanent part-time State employees shall be increased on and after July 1, 2003, by  
5 pro rata amounts of the one and six-tenths percent (1.6%) salary increase provided for  
6 permanent full-time employees covered under subsection (a) of this section.

7 **SECTION 30.13.(d)** The Director of the Budget may allocate out of special  
8 operating funds or from other sources of the employing agency, except tax revenues,  
9 sufficient funds to allow a salary increase, on and after July 1, 2003, in accordance with  
10 subsection (a), (b), or (c) of this section, including funds for the employer's retirement  
11 and social security contributions, for the permanent full-time and part-time employees  
12 of the agency, provided the employing agency elects to make available the necessary  
13 funds.

14 **SECTION 30.13.(e)** Within regular Executive Budget Act procedures as  
15 limited by this act, all State agencies and departments may increase on an equitable  
16 basis the rate of pay of temporary and permanent hourly State employees, subject to  
17 availability of funds in the particular agency or department, by pro rata amounts of the  
18 one and six-tenths percent (1.6%) salary increase provided for permanent full-time  
19 employees covered by the provisions of subsection (a) of this section, commencing July  
20 1, 2003.

21  
22 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
23 Owens, Wright

#### 24 **ALL STATE-SUPPORTED PERSONNEL**

25 **SECTION 30.14.(a)** Salaries and related benefits for positions that are  
26 funded partially from the General Fund or Highway Fund and partially from sources  
27 other than the General Fund or Highway Fund shall be increased from the General Fund  
28 or Highway Fund appropriation only to the extent of the proportionate part of the  
29 salaries paid from the General Fund or Highway Fund.

30 **SECTION 30.14.(b)** The granting of the salary increases under this act does  
31 not affect the status of eligibility for salary increments for which employees may be  
32 eligible unless otherwise required by this act.

33 **SECTION 30.14.(c)** The salary increases provided in this act are to be  
34 effective July 1, 2003, and do not apply to persons separated from State service due to  
35 resignation, dismissal, reduction in force, death, or retirement or whose last workday is  
36 prior to July 1, 2003.

37 Payroll checks issued to employees after July 1, 2003, which represent  
38 payment of services provided prior to July 1, 2003, shall not be eligible for salary  
39 increases provided for in this act. This subsection shall apply to all employees, subject  
40 to or exempt from the State Personnel Act, paid from State funds, including public  
41 schools, community colleges, and The University of North Carolina.

42 **SECTION 30.14.(d)** The Director of the Budget shall transfer from the  
43 Reserve for Compensation Increases in this act for fiscal year 2003-2004 all funds  
44 necessary for the salary increases provided by this act, including funds for the  
45 employer's retirement and social security contributions.

46 **SECTION 30.14.(e)** Nothing in this act authorizes the transfer of funds  
47 between the General Fund and the Highway Fund for salary increases.

48  
49 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
50 Owens, Wright

#### 51 **STUDY COMPENSATION OF CERTAIN HIGH-LEVEL OFFICERS**

52 **SECTION 30.15.** The Office of State Personnel (OSP) and the Office of  
53 State Budget and Management (OSBM) shall study jointly the relative compensation of  
54 members of the Council of State, State department heads, and other high-ranking

1 elected and nonelected public officials whose salaries are set by the General Assembly  
2 to determine whether the officers are being compensated at rates in accordance with:

- 3 (1) The officer's scope of responsibilities and span of control.
- 4 (2) The critical nature of the officer's department, agency, institution, or  
5 function.
- 6 (3) The relative size of the operations and budget under the officer's direct  
7 control.
- 8 (4) The required credentials, knowledge, and experience necessary to  
9 competently manage the officer's organization or function.

10 In conducting this study, the OSP and OSBM shall focus on the relative compensation  
11 among these various officers to determine the appropriate salary levels for the officers  
12 given the factors identified in this section.  
13

14 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
15 Owens, Wright

#### 16 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

17 **SECTION 30.16.(a)** Required employer salary-related contributions for  
18 employees whose salaries are paid from department, office, institution, or agency  
19 receipts shall be paid from the same source as the source of the employees' salary. If an  
20 employee's salary is paid in part from the General Fund or Highway Fund and in part  
21 from department, office, institution, or agency receipts, required employer salary-related  
22 contributions may be paid from the General Fund or Highway Fund only to the extent of  
23 the proportionate part paid from the General Fund or Highway Fund in support of the  
24 salary of the employee, and the remainder of the employer's requirements shall be paid  
25 from the source that supplies the remainder of the employee's salary. The requirements  
26 of this section as to source of payment are also applicable to payments on behalf of the  
27 employee for hospital-medical benefits, longevity pay, unemployment compensation,  
28 accumulated leave, workers' compensation, severance pay, separation allowances, and  
29 applicable disability income benefits.

30 **SECTION 30.16.(b)** Effective July 1, 2003, the State's employer  
31 contribution rates budgeted for retirement and related benefits as percentage of covered  
32 salaries for the 2003-2004 fiscal year are (i) three and ninety-five hundredths percent  
33 (3.95%) - Teachers and State Employees; (ii) eight and ninety-five hundredths percent  
34 (8.95%) - State Law Enforcement Officers; (iii) ten and forty-one hundredths percent  
35 (10.41%) - University Employees' Optional Retirement System; (iv) ten and forty-one  
36 hundredths percent (10.41%) - Community College Optional Retirement Program; (v)  
37 fourteen and ninety-seven hundredths percent (14.97%) - Consolidated Judicial  
38 Retirement System; and (vi) three and five hundredths percent (3.05%) - Legislative  
39 Retirement System. Each of the foregoing contribution rates includes three and five  
40 hundredths percent (3.05%) for hospital and medical benefits. The rate for Teachers and  
41 State Employees, State Law Enforcement Officers, the Community College Optional  
42 Retirement Program, and the University Employees' Optional Retirement Program  
43 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates  
44 for Teachers and State Employees and State Law Enforcement Officers include sixteen  
45 hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law  
46 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

47 **SECTION 30.16.(c)** Effective July 1, 2004, the State's employer  
48 contribution rates budgeted for retirement and related benefits as percentage of covered  
49 salaries for the 2004-2005 fiscal year are (i) five and seventy-eight hundredths percent  
50 (5.78%) - Teachers and State Employees; (ii) ten and seventy-eight hundredths percent  
51 (10.78%) - State Law Enforcement Officers; (iii) ten and forty-one hundredths percent  
52 (10.41%) - University Employees' Optional Retirement System; (iv) ten and forty-one  
53 hundredths percent (10.41%) - Community College Optional Retirement Program; (v)  
54 fourteen and ninety-seven hundredths percent (14.97%) - Consolidated Judicial  
55 Retirement System; and (vi) three and five hundredths percent (3.05%) - Legislative

1 Retirement System. Each of the foregoing contribution rates includes three and five  
2 hundredths percent (3.05%) for hospital and medical benefits. The rate for Teachers and  
3 State Employees, State Law Enforcement Officers, the Community College Optional  
4 Retirement Program, and the University Employees' Optional Retirement Program  
5 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates  
6 for Teachers and State Employees and State Law Enforcement Officers include sixteen  
7 hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law  
8 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

9 **SECTION 30.16.(d)** The maximum annual employer contributions, payable  
10 monthly, by the State for each covered employee or retiree for the 2003-2004 fiscal year  
11 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)  
12 Medicare-eligible employees and retirees - two thousand four hundred seventeen dollars  
13 (\$2,417), and (ii) non-Medicare-eligible employees and retirees - three thousand one  
14 hundred seventy-five dollars (\$3,175).

15 **SECTION 30.16.(e)** The maximum annual employer contributions, payable  
16 monthly, by the State for each covered employee or retiree for the 2004-2005 fiscal year  
17 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)  
18 Medicare-eligible employees and retirees - two thousand four hundred seventy-eight  
19 dollars (\$2,478), and (ii) non-Medicare-eligible employees and retirees - three thousand  
20 two hundred fifty-six dollars (\$3,256).

21  
22 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
23 Owens, Wright

#### 24 RETIREMENT COLAS

25 **SECTION 30.17.(a)** G.S. 135-5 is amended by adding a new subsection to  
26 read:

27 "(III) From and after July 1, 2003, the retirement allowance to or on account of  
28 beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased  
29 by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June  
30 1, 2003, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2003, the  
31 retirement allowance to or on account of beneficiaries whose retirement commenced  
32 after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of  
33 one and twenty-eight hundredths percent (1.28%) of the allowance payable as  
34 determined by the Board of Trustees based upon the number of months that a retirement  
35 allowance was paid between July 1, 2002, and June 30, 2003."

36 **SECTION 30.17.(b)** G.S. 135-65 is amended by adding a new subsection to  
37 read:

38 "(x) From and after July 1, 2003, the retirement allowance to or on account of  
39 beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased  
40 by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June  
41 1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on  
42 account of beneficiaries whose retirement commenced after July 1, 2002, but before  
43 June 30, 2003, shall be increased by a prorated amount of one and twenty-eight  
44 hundredths percent (1.28%) of the allowance payable as determined by the Board of  
45 Trustees based upon the number of months that a retirement allowance was paid  
46 between July 1, 2002, and June 30, 2003."

47 **SECTION 30.17.(c)** G.S. 120-4.22A is amended by adding a new subsection  
48 to read:

49 "(r) In accordance with subsection (a) of this section, from and after July 1, 2003,  
50 the retirement allowance to or on account of beneficiaries whose retirement commenced  
51 on or before January 1, 2003, shall be increased by one and twenty-eight hundredths  
52 percent (1.28%) of the allowance payable on June 1, 2003. Furthermore, from and after  
53 July 1, 2003, the retirement allowance to or on account of beneficiaries whose  
54 retirement commenced after January 1, 2003, but before June 30, 2003, shall be  
55 increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) of

1 the allowance payable as determined by the Board of Trustees based upon the number  
2 of months that a retirement allowance was paid between January 1, 2003, and June 30,  
3 2003."  
4

5 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
6 Owens, Wright

7 **TRANSFER OF SERVICE IN THE LEGISLATIVE RETIREMENT SYSTEM**  
8 **TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM**  
9 **AND THE JUDICIAL RETIREMENT SYSTEM**

10 **SECTION 30.18.(a)** G.S. 120-4.13 reads as rewritten:

11 **"§ 120-4.13. Transfer of membership and benefits.**

12 (a) The Board of Trustees shall set up procedures to transfer membership from  
13 the Legislative Retirement Fund to the Retirement System and to recompute benefits  
14 paid to retirees of the Legislative Retirement Fund who elect to transfer to the  
15 Retirement System.

16 (b) The accumulated contributions and creditable service of any member whose  
17 service as a member of the General Assembly has been or is terminated other than by  
18 retirement or death and who, while still a member of this Retirement System, became or  
19 becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees'  
20 Retirement System for a period of five or more years may, upon application of the  
21 member, be transferred from this Retirement System to the Teachers' and State  
22 Employees' Retirement System. In order to effect the transfer of a member's creditable  
23 service from the Legislative Retirement System to the Teachers' and State Employees'  
24 Retirement System, there shall be transferred from the Legislative Retirement System to  
25 the Teachers' and State Employees' Retirement System the sum of (i) the accumulated  
26 contributions of the member credited in the annuity savings fund and (ii) the amount of  
27 reserve held in the Legislative Retirement System as a result of previous contributions  
28 by the employer on behalf of the transferring member.

29 (c) The accumulated contributions and creditable service of any member whose  
30 service as a member of the General Assembly has been or is terminated other than by  
31 retirement or death and who, while still a member of this Retirement System, became or  
32 becomes a member, as defined in G.S. 135-53(11), of the Consolidated Judicial  
33 Retirement System for a period of five or more years may, upon application of the  
34 member, be transferred from this Retirement System to the Consolidated Judicial  
35 Retirement System. In order to effect the transfer of a member's creditable service from  
36 the Legislative Retirement System to the Consolidated Judicial Retirement System,  
37 there shall be transferred from the Legislative Retirement System to the Consolidated  
38 Judicial Retirement System the sum of (i) the accumulated contributions of the member  
39 credited in the annuity savings fund and (ii) the amount of reserve held in the  
40 Legislative Retirement System as a result of previous contributions by the employer on  
41 behalf of the transferring member."

42 **SECTION 30.18.(b)** G.S. 135-4 reads as rewritten:

43 "(j2) The creditable service of a member who was a member of the Local  
44 Governmental Employees' Retirement System, the Consolidated Judicial Retirement  
45 System, or the Legislative Retirement System, and whose accumulated contributions  
46 and reserves are transferred from that System to this System, includes service that was  
47 creditable in the Local Governmental Employees' Retirement System, the Consolidated  
48 Judicial Retirement System, or the Legislative Retirement System, and membership  
49 service with those Retirement Systems is membership service with this Retirement  
50 System."

51 **SECTION 30.18.(c)** Article 1 of Chapter 135 of the General Statutes is  
52 amended by adding new section to read:

53 **"§ 135-18.9 Transfer of members from the Legislative Retirement System or the**  
54 **Consolidated Judicial Retirement System.**

1       (a) The accumulated contributions, creditable service, and reserves, if any, of a  
2 member of the Legislative Retirement System, as provided for in Article 1A of G.S.120,  
3 or the Consolidated Judicial Retirement System, as provided for in Article 4 of G.S.  
4 135, who later becomes a member of the Teachers' and State Employees' Retirement  
5 System for a period of five or more years may, upon application of the member, be  
6 transferred from the Legislative Retirement System or the Consolidated Judicial  
7 Retirement System. The accumulated contributions, creditable service, and reserves of  
8 any member whose service as a member of the Legislative Retirement System or the  
9 Consolidated Judicial Retirement System is terminated other than by retirement or death  
10 and who later becomes a member of the Teachers' and State Employees' Retirement  
11 System may, upon application of the member, be transferred from the Legislative  
12 Retirement System or the Consolidated Judicial Retirement System to the Teachers' and  
13 State Employees' Retirement System. In order to effect the transfer of a member's  
14 creditable service from the Legislative Retirement System or the Consolidated Judicial  
15 Retirement System to the Teachers' and State Employees' Retirement System, the  
16 accumulated contributions of each member credited in the annuity savings fund in the  
17 Legislative Retirement System or the Consolidated Judicial Retirement System shall be  
18 transferred and credited to the annuity savings fund in the Teachers' and State  
19 Employees' Retirement System.

20       (b) The Board of Trustees shall effect such rules as it may deem necessary to  
21 administer the preceding subsection and to prevent any duplication of service credits or  
22 benefits that might otherwise occur."

23       **SECTION 30.18.(d)** G.S. 135-70 is amended by adding a new subsection to  
24 read:

25       "(a1) The accumulated contributions and creditable service of any member whose  
26 service as a member of this Retirement System has been or is terminated other than by  
27 retirement or death and who, while still a member of this Retirement System, became or  
28 becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees'  
29 Retirement System for a period of five or more years may, upon application of the  
30 member, be transferred from this Retirement System to the Teachers' and State  
31 Employees' Retirement System. In order to effect the transfer of a member's creditable  
32 service from this Retirement System to the Teachers' and State Employees' Retirement  
33 System, there shall be transferred from this Retirement System to the Teachers' and  
34 State Employees' Retirement System the sum of (i) the accumulated contributions of the  
35 member credited in the annuity savings fund and (ii) the amount of reserve held in this  
36 Retirement System as a result of previous contributions by the employer on behalf of  
37 the transferring member."

38       **SECTION 30.18.(e)** G.S. 135-70.1 reads as rewritten:

39       "**§ 135-70.1. Transfer of members from the Local Governmental Employees'**  
40 **Retirement System or System, the Teachers' and State Employees'**  
41 **Retirement System, System, or the Legislative Retirement System.**

42       (a) The accumulated contributions, creditable service, and reserves, if any, of a  
43 former teacher or employee, as defined in G.S. 135-1(25), 135-1(10), and 128-21(10),  
44 respectively, or a former member of the General Assembly, who is a member of the  
45 Consolidated Judicial Retirement System for a period of five or more years may, upon  
46 application of the member, be transferred from the Local Governmental Employees'  
47 Retirement System or System, the Teachers' and State Employees' Retirement System  
48 System, or the Legislative Retirement System to the Consolidated Judicial Retirement  
49 System. The accumulated contributions, creditable service, and reserves of any member  
50 whose service as a teacher or employee or member of the General Assembly is  
51 terminated other than by retirement or death and who becomes a member of the  
52 Consolidated Judicial Retirement System may, upon application of the member, be  
53 transferred from the Local Governmental Employees' Retirement System or System, the  
54 Teachers' and State Employees' Retirement System System, or the Legislative  
55 Retirement System to the Consolidated Judicial Retirement System. In order to effect

1 the transfer of a member's creditable service from the Local Governmental Retirement  
2 ~~System or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or  
3 ~~the Legislative Retirement System~~, to the Consolidated Judicial Retirement System, the  
4 accumulated contributions of each member credited in the annuity savings fund in the  
5 Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State  
6 Employees' Retirement System ~~System~~, or the Legislative Retirement System shall be  
7 transferred and credited to the annuity savings fund in the Consolidated Judicial  
8 Retirement System.

9 (b) The Board of Trustees shall effect such rules as it may deem necessary to  
10 administer the preceding subsection and to prevent any duplication of service credits or  
11 benefits that might otherwise occur."

12 **SECTION 30.18.(f)** G.S. 135-56(f) reads as rewritten:

13 "(f) The creditable service of a member who was a member of the Local  
14 Governmental Employees' Retirement System ~~or System~~, the Teachers' and State  
15 Employees' Retirement System ~~System~~, or the Legislative Retirement System and  
16 whose accumulated contributions and reserves are transferred from that System to this  
17 System, includes service that was creditable in the Local Governmental Employees'  
18 Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System,  
19 or the Legislative Retirement System, and membership service with those Retirement  
20 Systems is membership service with this Retirement System."

21 **SECTION 30.18.(g)** G.S. 135-58(a3) reads as rewritten:

22 "(a3) Any member who retires under the provisions of G.S. 135-57(a) or G.S.  
23 135-57(c) on or after July 1, 2001, but before January 1, 2004, after the member has  
24 either attained the member's 65th birthday or has completed 24 years or more of  
25 creditable service, shall receive an annual retirement allowance, payable monthly,  
26 which shall commence on the effective date of the member's retirement and shall be  
27 continued on the first day of each month thereafter during the member's lifetime, the  
28 amount of which shall be computed as the sum of the amounts in subdivisions (1), (2),  
29 (3), (4), and (5) following, provided that in no event shall the annual allowance payable  
30 to any member be greater than an amount which, when added to the allowance, if any,  
31 to which the member is entitled under the Teachers' and State Employees' Retirement  
32 System, the Legislative Retirement System, or the Local Governmental Employees'  
33 Retirement System (prior in any case to any reduction for early retirement or for an  
34 optional mode of payment) would total three-fourths of the member's final  
35 compensation:

- 36 (1) Four and two-hundredths percent (4.02%) of the member's final  
37 compensation, multiplied by the number of years of creditable service  
38 rendered as a justice of the Supreme Court or judge of the Court of  
39 Appeals;
- 40 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
41 compensation, multiplied by the number of years of creditable service  
42 rendered as a judge of the superior court or as Administrative Officer  
43 of the Courts;
- 44 (3) Three and two-hundredths percent (3.02%) of the member's final  
45 compensation, multiplied by the number of years of creditable service,  
46 rendered as a judge of the district court, district attorney, or clerk of  
47 superior court;
- 48 (4) A service retirement allowance computed in accordance with the  
49 service retirement provisions of Article 3 of Chapter 128 of the  
50 General Statutes using an average final compensation as defined in  
51 G.S. 135-53(2a) and creditable service equal to the number of years of  
52 the member's creditable service that was transferred from the Local  
53 Governmental Employees' Retirement System to this System as  
54 provided in G.S. 135-56; and

- 1 (5) A service retirement allowance computed in accordance with the  
2 service retirement provisions of Article 1 of this Chapter using an  
3 average final compensation as defined in G.S. 135-53(2a) and  
4 creditable service, including any sick leave standing to the credit of the  
5 member, equal to the number of years of the member's creditable  
6 service that was transferred from the Teachers' and State Employees'  
7 Retirement System to this System as provided in G.S. 135-56."

8 **SECTION 30.18.(h)** G.S. 135-58 is amended by adding a new section to

9 read:

10 "(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S.  
11 135-57(c) on or after January 1, 2004, after the member has either attained the member's  
12 65th birthday or has completed 24 years or more of creditable service, shall receive an  
13 annual retirement allowance, payable monthly, which shall commence on the effective  
14 date of the member's retirement and shall be continued on the first day of each month  
15 thereafter during the member's lifetime, the amount of which shall be computed as the  
16 sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in  
17 no event shall the annual allowance payable to any member be greater than an amount  
18 which, when added to the allowance, if any, to which the member is entitled under the  
19 Teachers' and State Employees' Retirement System, the Legislative Retirement System,  
20 or the Local Governmental Employees' Retirement System (prior in any case to any  
21 reduction for early retirement or for an optional mode of payment) would total  
22 three-fourths of the member's final compensation:

- 23 (1) Four and two-hundredths percent (4.02%) of the member's final  
24 compensation, multiplied by the number of years of creditable service  
25 rendered as a justice of the Supreme Court or judge of the Court of  
26 Appeals;  
27 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
28 compensation, multiplied by the number of years of creditable service  
29 rendered as a judge of the superior court or as Administrative Officer  
30 of the Courts;  
31 (3) Three and two-hundredths percent (3.02%) of the member's final  
32 compensation, multiplied by the number of years of creditable service,  
33 rendered as a judge of the district court, district attorney, or clerk of  
34 superior court;  
35 (4) A service retirement allowance computed in accordance with the  
36 service retirement provisions of Article 3 of Chapter 128 of the  
37 General Statutes using an average final compensation as defined in  
38 G.S. 135-53(2a) and creditable service equal to the number of years of  
39 the member's creditable service that was transferred from the Local  
40 Governmental Employees' Retirement System to this System as  
41 provided in G.S. 135-56; and  
42 (5) A service retirement allowance computed in accordance with the  
43 service retirement provisions of Article 1 of this Chapter of the  
44 General Statutes using an average final compensation as defined in  
45 G.S. 135-53(2a) and creditable service, including any sick leave  
46 standing to the credit of the member, equal to the number of years of  
47 the member's creditable service that was transferred from the Teachers'  
48 and State Employees' Retirement System or the Legislative Retirement  
49 System to this System as provided in G.S. 135-56."

50 **SECTION 30.18.(i)** This section becomes effective January 1, 2004.

51  
52 **PART XXXI. CAPITAL APPROPRIATIONS**

53  
54 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
55 Owens, Wright

**CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 31.1.** There is appropriated from the General Fund for the 2003-2004 fiscal year the following amount for capital improvements:

	<b>2003-2004</b>
Department of Environment and Natural Resources	
Water Resource Projects	\$27,601,000
<b>TOTAL CAPITAL APPROPRIATION</b>	<b>\$27,601,000</b>

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

**WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

**SECTION 31.2.(a)** The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

<b>Name of Project</b>	<b>2003-2004</b>
(1) Wilmington Harbor Deepening	\$6,800,000
(2) Morehead City Harbor Maintenance	100,000
(3) Morehead City Harbor Section 933 Nourishment	4,661,000
(4) Wilmington Harbor Maintenance	2,700,000
(5) Manteo (Shallowbag) Bay Channel Maintenance	3,500,000
(6) John H. Kerr Reservoir Operations Evaluation	200,000
(7) Beaufort Harbor Maintenance Dredging	80,000
(8) Carolina Beach Renourishment (New Hanover County)	1,125,000
(9) Kure Beach Renourishment (New Hanover County)	1,177,000
(10) Ocean Isle Beach Renourishment (Brunswick County)	813,000
(11) Bogue Banks Shore Protection Study (Carteret County)	200,000
(12) Surf City/North Topsail Beach Protection Study	150,000
(13) Princeville Flood Control Study	400,000
(14) West Onslow Beach (Topsail)	75,000
(15) Deep Creek (Yadkin County) Watershed Management	1,500,000
(16) State Local Projects	2,500,000
(17) Currituck Sound Water Management Study	150,000
(18) Aquatic Weed Control, Lake Gaston and Statewide	300,000
(19) Swan Quarter (Hyde County) Flood Control Dikes	100,000
(20) Little Sugar Creek Restoration (Mecklenburg County)	20,000
(21) Neuse River Basin Feasibility Study	100,000
(22) Environmental Restoration Projects	700,000
(23) Projected Feasibility Studies	100,000
(24) Planning Assistance to Communities	150,000
<b>TOTAL</b>	<b>\$27,601,000</b>

**SECTION 31.2.(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 funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2003-2004 fiscal year, or if the projects funded under 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 2003-2004.



- 1 (3) State-local water resources development projects. Funds not expended  
2 or encumbered for these purposes shall revert to the General Fund at  
3 the end of the 2004-2005 fiscal year.

4 **SECTION 31.2.(c)** The Department shall make quarterly reports on the use  
5 of these funds to the Joint Legislative Commission on Governmental Operations, the  
6 Fiscal Research Division, and the Office of State Budget and Management. Each report  
7 shall include all of the following:

- 8 (1) All projects listed in this section.  
9 (2) The estimated cost of each project.  
10 (3) The date that work on each project began or is expected to begin.  
11 (4) The date that work on each project was completed or is expected to be  
12 completed.  
13 (5) The actual cost of each project.

14 The quarterly reports shall also show those projects advanced in schedule,  
15 those projects delayed in schedule, and an estimate of the amount of funds expected to  
16 revert to the General Fund.

17 **SECTION 31.2.(d)** Notwithstanding G.S. 143-23, if additional federal funds  
18 that require a State match are received for water resources projects or for beach  
19 renourishment projects for the 2003-2004 fiscal year, the Director of the Budget may,  
20 after consultation with the Joint Legislative Commission on Governmental Operations,  
21 transfer funds from General Fund appropriations to match the federal funds.

22  
23 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
24 Owens, Wright

25 ***PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS***

26 **SECTION 31.3.** The appropriations made by the 2003 General Assembly  
27 for capital improvements shall be disbursed for the purposes provided by this act.  
28 Expenditure of funds shall not be made by any State department, institution, or agency  
29 until an allotment has been approved by the Governor as Director of the Budget. The  
30 allotment shall be approved only after full compliance with the Executive Budget Act,  
31 Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction  
32 contracts for projects to be financed in whole or in part with self-liquidating  
33 appropriations, the Director of the Budget shall approve the elements of the method of  
34 financing of those projects including the source of funds, interest rate, and liquidation  
35 period. Provided, however, that if the Director of the Budget approves the method of  
36 financing a project, the Director shall report that action to the Joint Legislative  
37 Commission on Governmental Operations at its next meeting.

38 Where direct capital improvement appropriations include the purpose of  
39 furnishing fixed and movable equipment for any project, those funds for equipment  
40 shall not be subject to transfer into construction accounts except as authorized by the  
41 Director of the Budget. The expenditure of funds for fixed and movable equipment and  
42 furnishings shall be reviewed and approved by the Director of the Budget prior to  
43 commitment of funds.

44 Capital improvement projects authorized by the 2003 General Assembly shall  
45 be completed, including fixed and movable equipment and furnishings, within the limits  
46 of the amounts of the direct or self-liquidating appropriations provided, except as  
47 otherwise provided in this act. Capital improvement projects authorized by the 2003  
48 General Assembly for the design phase only shall be designed within the scope of the  
49 project as defined by the approved cost estimate filed with the Director of the Budget,  
50 including costs associated with site preparation, demolition, and movable and fixed  
51 equipment.

52  
53 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
54 Owens, Wright

55 ***ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS***

1           **SECTION 31.4.** When each capital improvement project appropriated by the  
2 2003 General Assembly, other than those projects under the Board of Governors of The  
3 University of North Carolina, is placed under a construction contract, direct  
4 appropriations shall be encumbered to include all costs for construction, design,  
5 investigation, administration, movable equipment, and a reasonable contingency.  
6 Unencumbered direct appropriations remaining in the project budget shall be placed in a  
7 project reserve fund credited to the Office of State Budget and Management. Funds in  
8 the project reserve may be used for emergency repair and renovation projects at State  
9 facilities with the approval of the Director of the Budget. The project reserve fund may  
10 be used, at the discretion of the Director of the Budget, to allow for award of contracts  
11 where bids exceed appropriated funds, if those projects supplemented were designed  
12 within the scope intended by the applicable appropriation or any authorized change in it,  
13 and if, in the opinion of the Director of the Budget, all means to award contracts within  
14 the appropriation were reasonably attempted. At the discretion of the Director of the  
15 Budget, any balances in the project reserve fund shall revert to the original source.

16  
17 Requested by:           Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
18 Owens, Wright

19 ***REPAIRS AND RENOVATIONS FUNDS ALLOCATIONS***

20           **SECTION 31.5.** As the bond referendum passed in 2000 provided funds for  
21 capital improvements, repairs, and renovations throughout The University of North  
22 Carolina System, no funds in the Reserve for Repairs and Renovations shall be used for  
23 projects of the System for the 2003-2004 fiscal year.

24  
25 Requested by:           Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
26 Owens, Wright

27 ***CAPITAL IMPROVEMENT PROJECTS/SUPPLEMENTAL FUNDING***  
28 ***APPROVAL/REPORTING REQUIREMENT***

29           **SECTION 31.6.** Each department receiving capital improvement  
30 appropriations from the Highway Fund under this act shall report quarterly to the  
31 Director of the Budget on the status of those capital projects. The reporting procedure  
32 to be followed shall be developed by the Director of the Budget.

33 Highway Fund capital improvement projects authorized in this act that have  
34 not been placed under contract for construction due to insufficient funds may be  
35 supplemented with funds identified by the Director of the Budget, provided:

- 36 (1) That the project was designed and bid within the scope as authorized  
37 by the General Assembly;
- 38 (2) That the funds to supplement the project are from the same source as  
39 authorized for the original project;
- 40 (3) That the department to which the project was authorized has  
41 unsuccessfully pursued all statutory authorizations to award the  
42 contract; and
- 43 (4) That the action be reported to the Fiscal Research Division of the  
44 Legislative Services Office.

45  
46 Requested by:           Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
47 Owens, Wright

48 ***PROJECT COST INCREASE***

49           **SECTION 31.7.** Upon the request of the administration of a State agency,  
50 department, or institution, the Director of the Budget may, when in the Director's  
51 opinion it is in the best interest of the State to do so, increase the cost of a capital  
52 improvement project. Provided, however, that if the Director of the Budget increases  
53 the cost of a project, the Director shall report that action to the Joint Legislative  
54 Commission on Governmental Operations at its next meeting. The increase may be

1 funded from gifts, federal or private grants, special fund receipts, excess patient receipts  
2 above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or  
3 direct capital improvement appropriations to that department or institution.  
4

5 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
6 Owens, Wright

7 ***NEW PROJECT AUTHORIZATION***

8 **SECTION 31.8.** Upon the request of the administration of any State agency,  
9 department, or institution, the Director of the Budget may authorize the construction of  
10 a capital improvement project not specifically authorized by the General Assembly if  
11 such project is to be funded by gifts, federal or private grants, special fund receipts,  
12 excess patient receipts above those budgeted at the University of North Carolina  
13 Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the  
14 construction of a capital improvement project pursuant to this section, the Director shall  
15 consult with the Joint Legislative Commission on Governmental Operations.  
16

17 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
18 Owens, Wright

19 ***ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS***

20 **SECTION 31.9.** Funds that become available by gifts, excess patient  
21 receipts above those budgeted at the University of North Carolina Hospitals at Chapel  
22 Hill, federal or private grants, receipts becoming a part of special funds by act of the  
23 General Assembly, or any other funds available to a State department or institution may  
24 be utilized for advance planning through the working drawing phase of capital  
25 improvement projects, upon approval of the Director of the Budget. The Director of the  
26 Budget may make allocations from the Advance Planning Fund for advance planning  
27 through the working drawing phase of capital improvement projects, except that this  
28 revolving fund shall not be utilized by the Board of Governors of The University of  
29 North Carolina or the State Board of Community Colleges.  
30

31 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
32 Owens, Wright

33 ***APPROPRIATIONS LIMITS/REVERSION OR LAPSE***

34 **SECTION 31.10.** Except as permitted in previous sections of this act, the  
35 appropriations for capital improvements made by the 2003 General Assembly may be  
36 expended only for specific projects set out by the 2003 General Assembly and for no  
37 other purpose. Construction of all capital improvement projects enumerated by the  
38 2003 General Assembly shall be commenced, or self-liquidating indebtedness with  
39 respect to them shall be incurred, within 12 months following the first day of the fiscal  
40 year in which the funds are available. If construction contracts on those projects have  
41 not been awarded or self-liquidating indebtedness has not been incurred within that  
42 period, the direct appropriation for those projects shall revert to the original source, and  
43 the self-liquidating appropriation shall lapse; except that direct appropriations may be  
44 placed in a reserve fund as authorized in this act. This deadline with respect to both  
45 direct and self-liquidating appropriations may be extended with the approval of the  
46 Director of the Budget up to an additional 12 months if circumstances and conditions  
47 warrant such extension.  
48

49 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
50 Owens, Wright

51 ***INTENT TO FUND PARTIALLY COMPLETED CAPITAL PROJECTS***

52 **SECTION 31.11.** It is the intent of the General Assembly that future  
53 appropriations for capital improvements shall include funding for new projects only  
54 after full funding for partially completed projects has been restored.  
55

**PART XXXII. REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 32.1.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2003.

**SECTION 32.1.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2003-2004 fiscal year is two hundred thousand dollars (\$200,000).

**SECTION 32.1.(c)** This section becomes effective July 1, 2003.

**PART XXXIII. INSURANCE REGULATORY CHARGE**

**SECTION 33.1.(a)** The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and five-tenths percent (6.5%) for the 2003 calendar year.

**SECTION 33.1.(b)** This section is effective when it becomes law.

**PART XXXIV. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES**

**SECTION 34.1.(a)** G.S. 131D-2(b)(1) reads as rewritten:

"(b) Licensure; inspections. –

(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of two hundred fifty dollars (\$250.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual license fee in the amount of three hundred fifty dollars (\$350.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents (\$12.50). A license shall not be renewed if outstanding ~~fin~~~~es~~~~–~~~~fees~~, ~~fin~~~~es~~, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

- a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;
- b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made

substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

- a. The Department finds that:
  - 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
  - 2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- b. The Department finds that:
  - 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
  - 2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or
- c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

**SECTION 34.1.(b)** This section becomes effective October 1, 2003.

**SECTION 34.2.(a)** G.S. 131E-77(d) reads as rewritten:

"(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

<u>Facility Type</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
<u>General Acute Hospitals:</u>	<u>1-49 beds</u>	<u>\$250.00</u>	<u>\$12.50</u>
	<u>50-99 beds</u>	<u>\$350.00</u>	<u>\$12.50</u>
	<u>100-199 beds</u>	<u>\$450.00</u>	<u>\$12.50</u>
	<u>200-399 beds</u>	<u>\$550.00</u>	<u>\$12.50</u>
	<u>400-699 beds</u>	<u>\$750.00</u>	<u>\$12.50</u>
<u>Other Hospitals</u>	<u>700+ beds</u>	<u>\$950.00</u>	<u>\$12.50</u>
		<u>\$500.00</u>	<u>\$12.50."</u>

**SECTION 34.2.(b)** This section becomes effective October 1, 2003.

**SECTION 34.3.(a)** G.S. 131E-102(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the

1 Department may by rule require. A license shall be granted to the applicant upon a  
 2 determination by the Department that the applicant has complied with the provisions of  
 3 this Part and the rules promulgated under this Part. The Department shall charge the  
 4 applicant a nonrefundable annual license fee in the amount of four hundred fifty dollars  
 5 (\$450.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents  
 6 (\$12.50)."

7 **SECTION 34.3.(b)** This section becomes effective October 1, 2003.

8 **SECTION 34.4.(a)** G.S. 131E-138(c) reads as rewritten:

9 "(c) An application for a license shall be available from the Department, and each  
 10 application filed with the Department shall contain all information requested by the  
 11 Department. A license shall be granted to the applicant upon a determination by the  
 12 Department that the applicant has complied with the provisions of this Part and the rules  
 13 promulgated by the Commission under this Part. The Department shall charge the  
 14 applicant a nonrefundable annual license fee in the amount of three hundred fifty dollars  
 15 (\$350.00)."

16 **SECTION 34.4.(b)** This section becomes effective October 1, 2003.

17 **SECTION 34.5.(a)** G.S. 131E-147(b) reads as rewritten:

18 "(b) Applications shall be available from the Department, and each application  
 19 filed with the Department shall contain all necessary and reasonable information that  
 20 the Department may by rule require. A license shall be granted to the applicant upon a  
 21 determination by the Department that the applicant has complied with the provisions of  
 22 this Part and the rules promulgated by the Commission under this Part. The Department  
 23 shall charge the applicant a nonrefundable annual base license fee in the amount of  
 24 seven hundred dollars (\$700.00) plus a nonrefundable annual per-operating room fee in  
 25 the amount of fifty dollars (\$50.00)."

26 **SECTION 34.5.(b)** This section becomes effective October 1, 2003.

27 **SECTION 34.6.(a)** G.S. 131E-167(a) reads as rewritten:

28 "(a) Applications for certification shall be available from the Department, and  
 29 each application filed with the Department shall contain all necessary and reasonable  
 30 information that the Department may by rule require. A certificate shall be granted to  
 31 the applicant for a period not to exceed ~~two years~~ one year upon a determination by the  
 32 Department that the applicant has substantially complied with the provisions of this  
 33 Article and the rules promulgated by the Department under this Article. The Department  
 34 shall charge the applicant a nonrefundable annual certification fee in the amount of two  
 35 hundred fifty dollars (\$250.00)."

36 **SECTION 34.6.(b)** This section becomes effective October 1, 2003.

37 **SECTION 34.7.(a)** Article 16 of Chapter 131E of the General Statutes is  
 38 amended by adding the following new section to read:

39 **"§ 131E-269. Authorization to charge fee for certification of facilities suitable to**  
 40 **perform abortions.**

41 The Department of Health and Human Services shall charge each hospital or clinic  
 42 certified by the Department as a facility suitable for the performance of abortions, as  
 43 authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of  
 44 seven hundred dollars (\$700.00)."

45 **SECTION 34.7.(b)** This section becomes effective October 1, 2003.

46 **SECTION 34.8.(a)** G.S. 122C-23 is amended by adding the following new  
 47 subsection to read:

48 "(h) The Department shall charge facilities licensed under this Chapter that have  
 49 licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-  
 50 bed fee as follows:

<u>Type of Facility</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
<u>Facilities (non-ICF-MR):</u>	<u>6 or fewer beds</u>	<u>\$250.00</u>	<u>\$0</u>
	<u>More than 6 beds</u>	<u>\$250.00</u>	<u>\$12.50</u>
<u>ICF-MR Only:</u>	<u>6 or fewer beds</u>	<u>\$650.00</u>	<u>\$0</u>
	<u>More than 6 beds</u>	<u>\$650.00</u>	<u>\$12.50."</u>

1           **SECTION 34.8.(b)** This section becomes effective October 1, 2003.

2           **SECTION 34.9.(a)** Part 3 of Article 6 of Chapter 131E of the General  
3 Statutes is amended by adding the following new section to read:

4           "**§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in**  
5           **continuing care retirement communities.**

6           The Department shall charge continuing care retirement communities licensed under  
7 Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult  
8 care home beds licensed by the Department a nonrefundable annual base license fee in  
9 the amount of four hundred fifty dollars (\$450.00) plus a nonrefundable annual per-bed  
10 fee in the amount of twelve dollars and fifty cents (\$12.50)."

11           **SECTION 34.9.(b)** This section becomes effective October 1, 2003.

12           **SECTION 34.10.(a)** Article 56 of Chapter 143 of the General Statutes is  
13 amended by adding the following new section to read:

14           "**§ 143-520 Fees.**

15           The Department of Health and Human Services shall charge a nonrefundable annual  
16 fee for emergency medical services provided under this Article, as follows:

<b><u>Type of Provider</u></b>	<b><u>Annual Fee</u></b>
<u>Credentiaing of persons paid for providing EMS Services</u>	<u>\$90.00</u>
<u>Licensing of EMS Providers/Vehicle Inspections</u>	<u>\$50.00</u>
<u>Licensing of Emergency Dispatch Providers</u>	<u>\$185.00."</u>

21           **SECTION 34.10.(b)** This section becomes effective October 1, 2003.

22           **SECTION 34.11.(a)** Article 16 of Chapter 131E of the General Statutes is  
23 amended by adding the following new section to read:

24           "**§ 131E-267. Fees for departmental review of health care facility construction**  
25           **projects.**

26           The Department of Health and Human Services shall charge a fee for the review of  
27 each health care facility construction project to ensure that project plans and  
28 construction are in compliance with State law. The fee shall be charged on a one-time,  
29 per-project basis, as follows, and shall not exceed twenty-five thousand dollars  
30 (\$25,000) for any single project:

<b><u>Institutional Project</u></b>	<b><u>Project Fee</u></b>
<u>Hospitals</u>	<u>\$300.00 plus \$0.20/square foot of project space</u>
<u>Nursing Homes</u>	<u>\$250.00 plus \$0.15/square foot of project space</u>
<u>Ambulatory Surgical Facility</u>	<u>\$200.00 plus \$0.15/square foot of project space</u>
<u>Psychiatric Hospital</u>	<u>\$200.00 plus \$0.15/square foot of project space</u>
<u>Adult Care Home more</u> 37 <u>than 7 beds</u>	<u>\$175.00 plus \$0.10/square foot of project space</u>

<b><u>Residential Project</u></b>	<b><u>Project Fee</u></b>
<u>Family Care Homes</u>	<u>\$175.00 flat fee</u>
<u>ICF/MR Group Homes</u>	<u>\$275.00 flat fee</u>
<u>Group Homes: 1-3 beds</u>	<u>\$100.00 flat fee</u>
<u>Group Homes: 4-6 beds</u>	<u>\$175.00 flat fee</u>
<u>Group Homes: 7-9 beds</u>	<u>\$225.00 flat fee</u>
<u>Other residential:</u>	
<u>More than 9 beds</u>	<u>\$225.00 plus \$0.075/square foot of facility space."</u>

47           **SECTION 34.11.(b)** This section becomes effective October 1, 2003.

48           **SECTION 34.12.(a)** G.S. 110-90 reads as rewritten:

49           "**§ 110-90. Powers and duties of Secretary of Health and Human Services.**

50           The Secretary shall have the following powers and duties under the policies and  
51 rules of the Commission:

52           (1) To administer the licensing program for child care facilities.

53           (1a) To establish a fee for the licensing of child care facilities. The amount  
54 of the fee may not exceed the amount listed in this subdivision. The

1 fee does not apply to a religious-sponsored child care center operated  
 2 pursuant to a letter of compliance.

<u>Capacity of Facility</u>	<u>Maximum Fee</u>
<u>12 or fewer children</u>	<u>\$ 35.00</u>
<u>13-50 children</u>	<u>\$125.00</u>
<u>51-100 children</u>	<u>\$250.00</u>
<u>101 or more children</u>	<u>\$400.00</u>

- 8 (2) To obtain and coordinate the necessary services from other State  
 9 departments and units of local government which are necessary to  
 10 implement the provisions of this Article.  
 11 (3) To employ the administrative personnel and staff as may be necessary  
 12 to implement this Article where required services, inspections or  
 13 reports are not available from existing State agencies and units of local  
 14 government.  
 15 (4) To issue a rated license to any child care facility which meets the  
 16 standards established by this Article. The rating shall be based on  
 17 program standards, education levels of staff, and compliance history of  
 18 the child care facility.  
 19 (5) To revoke the license of any child care facility that ceases to meet the  
 20 standards established by this Article and rules on these standards  
 21 adopted by the Commission, or that demonstrates a pattern of  
 22 noncompliance with this Article or the rules, or to deny a license to  
 23 any applicant that fails to meet the standards or the rules. These  
 24 revocations and denials shall be done in accordance with the  
 25 procedures set out in G.S. 150B and this Article and rules adopted by  
 26 the Commission.  
 27 (6) To prosecute or defend on behalf of the State, through the office of the  
 28 Attorney General, any legal actions arising out of the administration or  
 29 enforcement of this Article.  
 30 (7) To promote and coordinate educational programs and materials for  
 31 operators of child care facilities which are designed to improve the  
 32 quality of child care available in the State, using the resources of other  
 33 State and local agencies and educational institutions where  
 34 appropriate.  
 35 (8) Repealed by Session Laws 1997-506, s. 5.  
 36 (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an  
 37 administrative penalty pursuant to G.S. 110-102.2, or to order  
 38 summary suspension of a license. These actions shall be done in  
 39 accordance with the procedures set out in G.S. 150B and this Article  
 40 and rules adopted by the Commission.  
 41 (10) To issue final agency decisions in all G.S. 150B contested cases  
 42 proceedings filed as a result of actions taken under this Article  
 43 including, but not limited to the denial, revocation, or suspension of a  
 44 license or the levying of a civil or administrative penalty.  
 45 (11) To issue a license to any child care arrangement that does not meet the  
 46 definition of child care facility in G.S. 110-86 whenever the operator  
 47 of the arrangement chooses to comply with the requirements of this  
 48 Article and the rules adopted by the Commission and voluntarily  
 49 applies for a child care facility license. The Commission shall adopt  
 50 rules for the issuance or removal of the licenses."

51 **SECTION 34.12.(b)** This section becomes effective October 1, 2003.

52 **SECTION 34.13.(a)** G.S. 130A-5 is amended by adding the following new  
 53 subdivision to read:

54 "(15) To establish a fee to cover the cost of analyzing clinical Pap smear  
 55 specimens sent to the State Laboratory by local health departments and



1                   State-owned facilities and for reporting the results of the analysis. This  
2                   fee shall be in addition to the charge for the Pap smear test kit."  
3                   **SECTION 34.13.(b)** This section becomes effective July 1, 2003.

4  
5                   **PART XXXV.       DEPARTMENT OF ENVIRONMENT AND NATURAL**  
6                   **RESOURCES FEES**

7                   **SECTION 35.1.(a)** G.S. 113-34(c) reads as rewritten:

8                   "(c) The Department, with the approval of the Governor and Council of State,  
9                   may enter into leases of lands and waters for State parks, State lakes and recreational  
10                   purposes; and the Department may construct, operate, and maintain on the lands and  
11                   waters suitable public service facilities and conveniences and may charge and collect  
12                   reasonable fees for each of the following:

13                   (1) The erection, maintenance and use of docks, piers and other structures  
14                   as may be permitted in or on the waters under its own rules.

15                   (2) Fishing privileges in the waters, provided that the privileges shall be  
16                   extended only to holders of bona fide North Carolina fishing licenses,  
17                   and provided further that all State fishing laws and rules are complied  
18                   with.

19                   (3) Vehicle access to Fort Fisher State Recreation Area."

20                   **SECTION 35.1.(b)** Notwithstanding G.S. 150B-21.1, the Department of  
21                   Environment and Natural Resources may adopt temporary rules to establish fees under  
22                   G.S. 113-34(c)(3), as amended by subsection (a) of this section, within six months after  
23                   the effective date of this section.

24                   **SECTION 35.1.(c)** This section becomes effective July 1, 2003.

25  
26                   **PART XXXVI.       DEPARTMENT OF TRANSPORTATION FEES**

27                   **SECTION 36.1.(a)** G.S. 138-82 reads as rewritten:

28                   "**§ 136-82. Department of Transportation to establish and maintain ferries.**

29                   The Department of Transportation is vested with authority to provide for the  
30                   establishment and maintenance of ferries connecting the parts of the State highway  
31                   system, whenever in its discretion the public good may so ~~require, and to prescribe and~~  
32                   ~~collect such tolls therefor as may, in the discretion of the Department of Transportation,~~  
33                   ~~be expedient.~~ require. The Department of Transportation shall collect tolls on all ferries.  
34                   The Department may establish various classes of ferry users.

35                   To accomplish the purpose of this section said Department of Transportation is  
36                   authorized to acquire, own, lease, charter or otherwise control all necessary vessels,  
37                   boats, terminals or other facilities required for the proper operation of such ferries or to  
38                   enter into contracts with persons, firms or corporations for the operation thereof and to  
39                   pay therefor such reasonable sums as may in the opinion of said Department of  
40                   Transportation represent the fair value of the public service rendered.

41                   The Department of Transportation, notwithstanding any other provision of law, may  
42                   operate, or contract for the operation of, concessions on the ferries and at ferry facilities  
43                   to provide to passengers on the ferries food, drink, and other refreshments, personal  
44                   comfort items, and souvenirs publicizing the ferry system."

45                   **SECTION 36.1.(b)** This section becomes effective July 1, 2004.

46  
47                   **PART XXXVII.     ADJUST LOCAL GOVERNMENT HOLD HARMLESS**

48                   **SECTION 37.1.** G.S. 105-521 reads as rewritten:

49                   "**§ 105-521. Transitional local government hold harmless.**

50                   (a) Definitions. – The following definitions apply in this section:

51                   (1) Local government. – A county or municipality that received a  
52                   distribution of local sales taxes in the most recent fiscal year for which  
53                   a local sales tax share has been calculated.

- 1 (2) Local sales tax share. – A local government's percentage share of the  
2 two-cent (2¢) sales taxes distributed during the most recent fiscal year  
3 for which data are available.
- 4 (3) Repealed reimbursement amount. – The total amount a local  
5 government would have been entitled to receive during the 2002-2003  
6 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2,  
7 105-277.001, and 105-277.1A, if the Governor had not withheld any  
8 distributions under those sections.
- 9 (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax  
10 authorized in Article 39 of this Chapter and in Chapter 1096 of the  
11 1967 Session Laws, the first one-half cent (1/2¢) local sales and use  
12 tax authorized in Article 40 of this Chapter, and the second one-half  
13 cent (1/2¢) local sales and use tax authorized in Article 42 of this  
14 Chapter.

15 (b) Distributions. – On or before ~~September~~ August 15, 2003, and each  
16 ~~September~~ August 15 thereafter, the Secretary must multiply each local government's  
17 local sales tax share by the estimated amount that all local governments would be  
18 expected to receive during the current fiscal year under G.S. 105-520 if every county  
19 levied the tax under this Article for the year. If the resulting amount is less than one  
20 hundred percent (100%) of the local government's repealed reimbursement amount, the  
21 Secretary must pay the local government the difference, but not less than one hundred  
22 dollars (\$100.00).

23 On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget  
24 and Management and the Fiscal Research Division of the General Assembly must each  
25 submit to the Secretary and to the General Assembly a final projection of the estimated  
26 amount that all local governments would be expected to receive during the upcoming  
27 fiscal year under G.S. 105-520 if every county levied the tax under this Article for the  
28 fiscal year. If the Secretary does not use the lower of the two final projections to make  
29 the calculation required by this subsection, the Secretary must report the reasons for this  
30 decision to the Joint Legislative Commission on Governmental Operations within 60  
31 days after receiving the projections.

32 (c) Source of Funds. – The Secretary must draw the funds distributed under this  
33 section from sales and use tax collections under Article 5 of this Chapter.

34 (d) Reports. – The Secretary must report to the Revenue Laws Study Committee  
35 by January 31, 2004, and each January 31 thereafter, the amount distributed under this  
36 section for the current fiscal year."

37 **SECTION 37.2.** Effective January 1, 2013, G.S. 105-521 is repealed.  
38

### 39 **PART XXXVIII. TEMPORARILY MAINTAIN STATE SALES TAX RATE**

40 **SECTION 38.1.** Section 34.13(c) of S.L. 2001-424 reads as rewritten:

41 "**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies  
42 to sales made on or after that date. This section is repealed effective for sales made on  
43 or after July 1, ~~2005~~, 2003. This section does not affect the rights or liabilities of the  
44 State, a taxpayer, or another person arising under a statute amended or repealed by this  
45 section before the effective date of its amendment or repeal; nor does it affect the right  
46 to any refund or credit of a tax that accrued under the amended or repealed statute  
47 before the effective date of its amendment or repeal."  
48

### 49 **PART XXXIX. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE**

50 **SECTION 39.1.** Effective for taxable years beginning on or after January 1,  
51 2006, G.S. 105-134.2(a) reads as rewritten:

52 "(a) A tax is imposed upon the North Carolina taxable income of every individual.  
53 The tax shall be levied, collected, and paid annually and shall be computed at the  
54 following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
-0-	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	<del>\$200,000</del> NA	7.75%
<del>\$200,000</del>	NA	8.25%

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
-0-	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	<del>\$160,000</del> NA	7.75%
<del>\$160,000</del>	NA	8.25%

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
-0-	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	<del>\$120,000</del> NA	7.75%
<del>\$120,000</del>	NA	8.25%

(4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
-0-	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	<del>\$100,000</del> NA	7.75%
<del>\$100,000</del>	NA	8.25%

**SECTION 39.2.** Section 34.18(b) of S.L. 2001-424 reads as rewritten:

**"SECTION 34.18.(b)** This section becomes effective for taxable years beginning on or after January 1, 2001, and expires for taxable years beginning on or after January 1, 2004, 2001. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this section."

**PART XL. REPAIR AND RENOVATION**

**SECTION 40.1.** Repair and Renovation. – This section authorizes the issuance or incurrence of special indebtedness in a maximum aggregate principal amount of two hundred million dollars (\$200,000,000) to be used only in accordance with this section for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund.

Proceeds of the Repair and Renovation special indebtedness shall be used only for the purposes and in accordance with the procedures provided in G.S. 143-15.3A, the Repairs and Renovations Reserve Account.

Except in the case of an emergency as provided in G.S. 143-15.3A, the Director of the Budget shall use the Repair and Renovations funds only for repairs and renovations that have been approved by an act of the General Assembly or, if the General Assembly is not in session, for repairs and renovations about which the Director of the Budget has first consulted with the Joint Legislative Commission on Governmental Operations under G.S. 143-15.3A(c). The Director of the Budget shall direct the State Treasurer to carry out the financing for repair and renovation projects selected pursuant to this section. Special indebtedness authorized by this section shall be

1 issued or incurred only in accordance with Article 9 of Chapter 142 of the General  
2 Statutes, as enacted by this Part.

3 **SECTION 40.2.** Chapter 142 of the General Statutes is amended by adding a  
4 new Article to read:

5 "Article 9.

6 "State Repair and Renovation Finance Act.

7 **"§ 142-80. Short title.**

8 This Article may be cited as the State Repair and Renovation Finance Act.

9 **"§ 142-81. Findings and purpose.**

10 The General Assembly finds as follows:

- 11 (1) There is a continuing need for repair and renovation of capital facilities  
12 for the State, many of which will continue to be provided on a  
13 "pay-as-you-go" basis by direct appropriations.
- 14 (2) The State will also continue to provide capital facilities through the  
15 issuance of general obligation bonds.
- 16 (3) There is a need, however, for the use of alternative financing methods,  
17 such as authorized in this Article, to facilitate the providing of capital  
18 facilities repair and renovations when circumstances and conditions  
19 warrant the providing of capital facilities repair and renovations  
20 through financing methods in addition to direct appropriations and the  
21 issuance of general obligation bonds.
- 22 (4) The use of these alternative financing methods as authorized in this  
23 Article will provide financing flexibility to the State and permit the  
24 State to take advantage of changing financial and economic  
25 environments.

26 **"§ 142-82. Definitions.**

27 The following definitions apply in this Article:

- 28 (1) Bonded indebtedness. – Limited obligation bonds and bond  
29 anticipation notes, including refunding bonds and notes, authorized to  
30 be issued under this Article.
- 31 (2) Bonds or notes. – Limited obligation bonds and notes authorized to be  
32 issued under this Article.
- 33 (3) Capital facility. – Any one or more of the following:
- 34 a. Any one or more buildings, utilities, structures, or other  
35 facilities or property developments, including streets and  
36 landscaping, and the acquisition of equipment, machinery, and  
37 furnishings in connection with these items.
- 38 b. Additions, extensions, enlargements, renovations, and  
39 improvements to existing buildings, utilities, structures, or other  
40 facilities or property developments, including streets and  
41 landscaping.
- 42 c. Land or an interest in land.
- 43 d. Other infrastructure.
- 44 e. Furniture, fixtures, equipment, vehicles, machinery, and similar  
45 items.
- 46 (4) Certificates of participation. – Certificates or other instruments  
47 delivered by a special corporation evidencing the assignment of  
48 proportionate undivided interests in rights to receive payments  
49 pursuant to a financing contract.
- 50 (5) Certificates of participation indebtedness. – Financing contract  
51 indebtedness incurred by the State under a plan of finance in which a  
52 special corporation obtains funds to pay the cost of a capital facility to  
53 be financed through the delivery by the special corporation of  
54 certificates of participation.

- 1           (6) Cost. – Any of the following in financing the cost of capital facilities  
2 as authorized by this Article:
- 3           a. The cost of constructing, reconstructing, renovating, repairing,  
4 enlarging, acquiring, and improving capital facilities, including  
5 the acquisition of land, rights-of-way, easements, franchises,  
6 equipment, machinery, furnishings, and other interests in real or  
7 personal property acquired or used in connection with a capital  
8 facility.
- 9           b. The cost of engineering, architectural, and other consulting  
10 services.
- 11           c. The cost of providing personnel to ensure effective  
12 management of capital facilities.
- 13           d. Finance charges, reserves for debt service, and other types of  
14 reserves required pursuant to the terms of any special  
15 indebtedness or related documents, interest before and during  
16 construction or acquisition of a capital facility and, if  
17 considered advisable by the State Treasurer, for a period not  
18 exceeding two years after the estimated date of completion of  
19 construction or acquisition.
- 20           e. Administrative expenses and charges.
- 21           f. The cost of bond insurance, investment contracts, credit  
22 enhancement facilities and liquidity facilities, interest rate swap  
23 agreements or other derivative products, financial and legal  
24 consultants, and related costs of the incurrence or issuance of  
25 special indebtedness.
- 26           g. The cost of reimbursing the State, a State agency, or a special  
27 corporation for any payments made for any cost described in  
28 this subdivision.
- 29           h. Any other costs and expenses necessary or incidental to the  
30 purposes of this Article.
- 31           (7) Credit facility. – An agreement that:
- 32           a. Is entered into by the State with a bank, savings and loan  
33 association, or other banking institution, an insurance company,  
34 reinsurance company, surety company, or other insurance  
35 institution, a corporation, investment banking firm, or other  
36 investment institution, or any financial institution or other  
37 similar provider of a credit facility, which provider may be  
38 located within or without the United States of America; and
- 39           b. Provides for prompt payment of all or any part of the principal  
40 or purchase price (whether at maturity, presentment or tender  
41 for purchase, redemption, or acceleration), redemption  
42 premium, if any, and interest with respect to any special  
43 indebtedness payable on demand or tender by the owner in  
44 consideration of the State's agreeing to repay the provider of the  
45 credit facility in accordance with the terms and provisions of  
46 the agreement.
- 47           (8) Department of Administration. – The North Carolina Department of  
48 Administration, created by Article 36 of Chapter 143 of the General  
49 Statutes, or if the Department is abolished or otherwise divested of its  
50 functions under this Article, the public body succeeding it in its  
51 principal functions or upon which are conferred by law the rights,  
52 powers, and duties given by this Article to the Department.
- 53           (9) Financing contract. – A contract entered into pursuant to this Article to  
54 finance capital facilities and constituting a lease-purchase contract,  
55 installment purchase contract, or other similar type installment

1 financing contract. The term does not include, however, a contract that  
2 meets any one of the following conditions:

3 a. It constitutes an operating lease under generally accepted  
4 accounting principles.

5 b. It provides for the payment under the contract over its full term,  
6 including periods that may be added to the original term  
7 through the exercise of options to renew or extend, of an  
8 aggregate principal amount of not in excess of five thousand  
9 dollars (\$5,000) or any greater amount that may be established  
10 by the Council of State if the Council of State determines (i) the  
11 aggregate amount to be paid under these contracts will not have  
12 a significant impact on the State budgetary process or the  
13 economy of the State and (ii) the change will lessen the  
14 administrative burden on the State.

15 c. It is executed and provides for the making of all payments  
16 under the contract, including payment to be made during any  
17 period that may be added to the original term through the  
18 exercise of options to renew or extend, in the same fiscal year.

19 (10) Financing contract indebtedness. – Indebtedness incurred pursuant to a  
20 financing contract, including certificates of participation indebtedness.

21 (11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal  
22 biennium.

23 (12) Fiscal year. – The fiscal year of the State beginning on July 1 of one  
24 calendar year and ending on June 30 of the next calendar year.

25 (13) Limited obligation bond. – A limited obligation bond issued pursuant  
26 to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

27 (14) Par formula. – A provision or formula adopted by the State to provide  
28 for the adjustment, from time to time, of the interest rate or rates borne  
29 or provided for by any special indebtedness, including any of the  
30 following:

31 a. A provision providing for an adjustment so that the purchase  
32 price of special indebtedness in the open market would be as  
33 close to par as possible.

34 b. A provision providing for an adjustment based upon a  
35 percentage or percentages of a prime rate or base rate, which  
36 percentages may vary or be applied for different periods of  
37 time.

38 c. Any provision that the State Treasurer determines is consistent  
39 with this Article and will not materially and adversely affect the  
40 financial position of the State and the marketing of special  
41 indebtedness at a reasonable interest cost to the State.

42 (15) Person. – An individual, a firm, a partnership, an association, a  
43 corporation, a limited liability company, or any other organization or  
44 group acting as a unit.

45 (15b) Repair and renovation. – Any project of the type that may be funded  
46 from the Repairs and Renovations Reserve Account created in G.S.  
47 143-15.3A.

48 (16) Special corporation. – Either of the following:

49 a. A nonprofit corporation created under Chapter 55A of the  
50 General Statutes for the purpose of facilitating the incurrence of  
51 certificates of participation indebtedness by the State under this  
52 Article.

53 b. A private corporation or other entity issuing certificates of  
54 participation pursuant to this Article.

- 1           (17) Special indebtedness. – Financing contract indebtedness and bonded  
2 indebtedness issued or incurred pursuant to this Article.  
3           (18) State. – The State of North Carolina, including any State agency.  
4           (19) State agency. – Any agency, institution, board, commission, bureau,  
5 council, department, division, officer, or employee of the State. The  
6 term does not include counties, municipal corporations, political  
7 subdivisions, local boards of education, or other local public bodies.  
8           (20) State Treasurer. – The incumbent Treasurer, from time to time, of the  
9 State.

10 **"§ 142-83. Authorization of special indebtedness; General Assembly approval.**

11 The State may incur or issue special indebtedness subject to the terms and conditions  
12 provided in this Article for the purpose of financing the cost of capital facilities that  
13 meet one of the following conditions:

- 14           (1) The General Assembly has enacted legislation describing the capital  
15 facility and authorizing its financing by the incurrence or issuance of  
16 special indebtedness up to a specific maximum amount.  
17           (2) The General Assembly has enacted legislation authorizing the  
18 incurrence or issuance of special indebtedness up to a specific  
19 maximum amount for a specific category of capital facilities, and the  
20 capital facility meets all of the conditions set in that legislation.

21 **"§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

22           (a) Notice and Certificate. – Whenever the State or a State agency determines  
23 that special indebtedness is appropriate to finance capital facilities, it shall notify the  
24 Department of Administration. If the Department of Administration concurs, it shall  
25 provide written notice to the State Treasurer advising the State Treasurer of this  
26 determination.

27 After the filing of the notice and after any preliminary conference, the State  
28 Treasurer shall consult with the Office of State Budget and Management as to the  
29 revenues expected by that Office to be available to pay all sums to come due on the  
30 special indebtedness during its term. If, after consulting with the Office of State Budget  
31 and Management, the State Treasurer determines by written certificate that it may be  
32 desirable to use special indebtedness to finance the capital facilities, the Department of  
33 Administration shall request the Council of State to give its preliminary approval of the  
34 use of special indebtedness to finance the capital facilities. The Department of  
35 Administration must promptly file copies of the notice and certificate required by this  
36 subsection with the Governor and the Council of State.

37           (b) Preliminary Approval. – The Council of State, upon receipt of the notice and  
38 certificate required by subsection (a) of this section, shall adopt a resolution granting or  
39 denying preliminary approval of the financing. A resolution granting preliminary  
40 approval may include any other terms, conditions, and restrictions the Council of State  
41 considers appropriate and not inconsistent with the provisions of this Article.

42           (c) Final Approval. – Before any special indebtedness may be incurred or issued  
43 pursuant to this Article, the Council of State must authorize the indebtedness by  
44 resolution, either as part of or separate from the resolution required by subsection (b) of  
45 this section. The resolution must do all of the following:

- 46           (1) Authorize the providing of a particular capital facility or, in general  
47 terms, the types or classifications of capital facilities to be provided.  
48           (2) Set the aggregate principal amount or maximum principal amount of  
49 the special indebtedness authorized.  
50           (3) Set the maturity or maximum maturity of the special indebtedness  
51 authorized.  
52           (4) Set the rate, rates, or maximum rate of interest, which may be fixed or  
53 vary over a period of time, of the special indebtedness authorized.  
54           (5) Include any other conditions or matters not inconsistent with the  
55 provisions of this Article in the discretion of the Council of State.

1           which may include the adoption or approvals as may be authorized in  
2           G.S. 142-88 and G.S. 142-89.

3           (d) Financing Terms. – No special indebtedness shall be incurred or issued  
4           without the prior written approval of the State Treasurer as provided in this subsection,  
5           which is in addition to the certificate given by the State Treasurer pursuant to subsection  
6           (a) of this section. In determining whether to approve the proposed financing, the State  
7           Treasurer may consider any factors the State Treasurer considers relevant in order to  
8           find and determine all of the following:

9           (1)   The amounts to become due under the special indebtedness, including  
10           the interest component or rate, are adequate and not excessive for the  
11           purpose proposed.

12           (2)   The increase, if any, in State revenues, including taxes, necessary to  
13           pay the sums to become due under the special indebtedness, is not  
14           excessive.

15           (3)   The special indebtedness can be incurred or issued on terms desirable  
16           to the State.

17           (e) Designation of Facilities. – If the Council of State authorized in general terms  
18           the types or classifications of capital facilities to be financed, then the particular capital  
19           facilities and the principal amount of special indebtedness to be incurred or issued for  
20           each particular capital facility shall be determined by the Department of Administration  
21           after considering any factors it considers relevant in order to determine that the  
22           particular capital facility to be provided is desirable for the efficient operation of the  
23           State and its agencies and is in the best interests of the State.

24           (f) Type of Debt and Security. – In the absence of a determination by the  
25           Council of State, the State Treasurer, after consultation with the Department of  
26           Administration, shall determine the specific security offered and whether the special  
27           indebtedness to be issued or incurred shall be financing contract indebtedness,  
28           certificates of participation indebtedness, bonded indebtedness, or some combination of  
29           these.

30           (g) Administration. – The State Treasurer, after consultation with the Department  
31           of Administration, shall develop appropriate documents for use under this Article. The  
32           State Treasurer shall employ and designate the financial consultants, fiduciaries and  
33           other agents, underwriters, and bond attorneys to be associated with the incurrence or  
34           issuance of special indebtedness pursuant to this Article.

35           (h) Oversight by Joint Legislative Commission. – After all the requirements for  
36           approval and oversight provided in this section have been met, and at least five days  
37           before the issuance or incurrence of the special indebtedness, the State Treasurer must  
38           report to the Joint Legislative Commission on Governmental Operations. This report  
39           must include the details of the proposed special indebtedness, including the capital  
40           facilities to be financed by the indebtedness, the amount of the proposed indebtedness,  
41           the type of indebtedness to be issued or incurred, and any other information required by  
42           the Commission.

43           **"§ 142-85. Security; other requirements.**

44           (a) Security. – In order to secure (i) lease or installment payments to be made to  
45           the lessor, seller, or other person advancing moneys or providing financing under a  
46           financing contract, (ii) payment of the principal of and interest on bonded indebtedness,  
47           or (iii) payment obligations of the State to the provider of bond insurance, a credit  
48           facility, a liquidity facility, or a derivative agreement, special indebtedness may create  
49           any combination of the following:

50           (1)   A lien on or security interest in one or more, all, or any part of the  
51           capital facilities to be financed by the special indebtedness.

52           (2)   If the special indebtedness is to finance construction of improvements  
53           on real property, a lien on or security interest in all or any part of the  
54           land on which the improvements are to be located.



1           (3) If the special indebtedness is to finance renovations or improvements  
2 to existing facilities or the installation of fixtures in existing facilities,  
3 a lien on or security interest in one or more, all, or any part of the  
4 facilities.

5           (b) Value of Security; Multiple Liens. – The estimated value of the property  
6 subject to the lien or security interest need not bear any particular relationship to the  
7 principal amount of the special indebtedness or other obligation it secures. This Article  
8 does not limit the right of the State to grant multiple liens or security interests in a  
9 capital facility or other property to the extent not otherwise limited by the terms of any  
10 special indebtedness.

11           (c) Governor's Budget. – Documentation relating to any special indebtedness  
12 may include provisions requesting the Governor to submit in the Governor's budget  
13 proposal or any amendments or supplements to the budget proposed appropriations  
14 necessary to make the payments required by the special indebtedness.

15           (d) Source of Repayment. – The payment of amounts payable by the State under  
16 special indebtedness or any related documents during any fiscal period shall be limited  
17 to funds appropriated for that purpose by the General Assembly in its discretion.

18           (e) No Deficiency Judgment or Pledge. – No deficiency judgment may be  
19 rendered against the State in any action for breach of any obligation under special  
20 indebtedness or any related documents. The taxing power of the State is not and may  
21 not be pledged directly or indirectly to secure any moneys due under special  
22 indebtedness or any related documents. In the event that the General Assembly does not  
23 appropriate sums sufficient to make payments required under any special indebtedness  
24 or any related documents, the net proceeds received from the sale or other disposition of  
25 the property subject to the lien or security interest shall be applied to satisfy these  
26 payment obligations in accordance with the deed of trust, security agreement, or other  
27 documentation relating to the lien or security interest. These net proceeds are  
28 appropriated for the purpose of making these payments. Any net proceeds in excess of  
29 the amount required to satisfy the obligations of the State under any special  
30 indebtedness or any related documents shall be paid to the State Treasurer for deposit to  
31 the General Fund.

32           (f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness,  
33 or other related document shall not contain a nonsubstitution clause that restricts the  
34 right of the State to (i) continue to provide a service or conduct an activity or (ii) replace  
35 or provide a substitute for any capital facility.

36           (g) Protection of Lender. – Special indebtedness may contain any provisions for  
37 protecting and enforcing the rights and remedies of the person advancing moneys or  
38 providing financing under a financing contract, the owners of bonded indebtedness, or  
39 others to whom the State is obligated under special indebtedness or any related  
40 documents as may be reasonable and proper and not in violation of law. These  
41 provisions may include covenants setting forth the duties of the State in respect of any  
42 of the following:

43           (1) The purposes to which the proceeds of special indebtedness may be  
44 applied.

45           (2) The disposition and application of the revenues of the State, including  
46 taxes.

47           (3) Insuring, maintaining, and other duties with respect to the capital  
48 facilities financed.

49           (4) The disposition of any charges and collection of any revenues and  
50 administrative charges.

51           (5) The terms and conditions of the issuance of additional special  
52 indebtedness.

53           (6) The custody, safeguarding, investment, and application of all moneys.

54           (h) State Property Law Exception. – Chapter 146 of the General Statutes does not  
55 apply to any transfer of the State's interest in property authorized by this Article.

1 whether to a deed of trust trustee or other secured party as security for special  
2 indebtedness, or to a purchaser of property in connection with a foreclosure or similar  
3 conveyance of property to realize upon the security for special indebtedness following  
4 the State's default on its obligations under the special indebtedness.

5 **"§ 142-86. Financing contract indebtedness.**

6 (a) Documentation. – Financing contract indebtedness shall not be incurred until  
7 all documentation providing for its incurrence has been approved by the State Treasurer,  
8 after the State Treasurer has consulted with the Department of Administration.

9 (b) Interest Component. – A financing contract may provide for payments under  
10 the contract to represent principal and interest components of the cost of the capital  
11 facility to be financed, as determined by the State Treasurer.

12 (c) Bidding. – Financing contracts may be entered into pursuant to any applicable  
13 public or competitive bidding process or any private or negotiated process, to the extent  
14 required by applicable law, and if not so required, as may be determined by the  
15 Department of Administration after consulting with the State Treasurer.

16 (d) Party. – All financing contracts shall be executed on behalf of the State by the  
17 State Treasurer or, upon delegation by the State Treasurer after having approved the  
18 financing contract, by the Department of Administration.

19 (e) Credit Facility. – If the State Treasurer determines that it is in the best interest  
20 of the State, the State Treasurer may arrange for the delivery of a credit facility to  
21 secure payment under any financing contract. The State Treasurer may also provide that  
22 payments by the State representing the interest component of the payments to be made  
23 under a financing contract may be calculated based upon a fixed or a variable rate of  
24 interest.

25 (f) Terms and Conditions. – All other conditions set forth elsewhere in this  
26 Article with respect to financing contract indebtedness shall also be satisfied prior to  
27 incurring any financing contract indebtedness. To the extent applicable as conclusively  
28 determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91  
29 apply to financing contract indebtedness.

30 **"§ 142-87. Additional requirements for certificates of participation indebtedness.**

31 (a) Documentation. – A financing contract shall not be used in connection with  
32 the delivery of certificates of participation by a special corporation until all  
33 documentation providing for its use has been approved by the State Treasurer, after the  
34 State Treasurer has consulted with the Department of Administration. All  
35 documentation providing for the delivery and sale of certificates of participation must  
36 be approved by the State Treasurer.

37 (b) Procedure. – The special corporation, if used, shall request the approval of the  
38 State Treasurer in writing and shall furnish any information and documentation relating  
39 to the delivery and sale of the certificates of participation requested by the State  
40 Treasurer. In determining whether to approve the financing in the documentation, the  
41 State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the  
42 effect of the proposed financing upon any scheduled or proposed sale of debt  
43 obligations by the State or a unit of local government in the State.

44 (c) Terms; Interest. – Certificates of participation may be sold by the State  
45 Treasurer in the manner, either at public or private sale, and for any price or prices that  
46 the State Treasurer determines to be in the best interest of the State and to effect the  
47 purposes of this Article, except that the terms of the sale must also be approved by the  
48 special corporation. Interest payable with respect to certificates of participation shall  
49 accrue at the rate or rates determined by the State Treasurer with the approval of the  
50 special corporation.

51 (d) Trust Agreement. – Certificates of participation may be delivered pursuant to  
52 a trust agreement or similar instrument with a corporate trustee approved by the State  
53 Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar  
54 instrument to the extent applicable.

1       (e) Other Conditions. – All other conditions set forth elsewhere in this Article  
2 with respect to certificates of participation indebtedness, including the conditions set  
3 forth in G.S. 142-86, must be satisfied before any certificates of participation  
4 indebtedness is incurred.

5 **"§ 142-88. Bonded indebtedness.**

6       The State Treasurer is authorized, by and with the consent of the Council of State as  
7 provided in this Article, to issue and sell at one time or from time to time bonds of the  
8 State to be designated "State of North Carolina Limited Obligation Bonds, Series \_\_\_\_"  
9 or notes of the State as provided in this Article, for the purpose of providing funds, with  
10 any other available funds, for the uses authorized in this Article.

11 **"§ 142-89. Issuance of limited obligation bonds and notes.**

12       (a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or  
13 term bonds or notes, or any combination of these, may mature in any amounts and at  
14 any times, not exceeding 40 years from their dates, may be payable at any places, either  
15 within or without the United States, in any coin or currency of the United States that at  
16 the time of payment is legal tender for payment of public and private debts, may bear  
17 interest at any rates, which may vary from time to time, and may be made redeemable  
18 before maturity, at the option of the State or otherwise as may be provided by the State,  
19 at any prices, including a price greater than the face amount of the bonds or notes, and  
20 under any terms and conditions, all as may be determined by the State Treasurer, by and  
21 with the consent of the Council of State.

22       (b) Signatures; Form and Denomination; Registration. – Bonds or notes may be  
23 issued in certificated or uncertificated form. If issued in certificated form, bonds or  
24 notes shall be signed on behalf of the State by the Governor or shall bear the Governor's  
25 facsimile signature, shall be signed by the State Treasurer or shall bear the State  
26 Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of  
27 the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures  
28 of the Governor and the State Treasurer, the bonds or notes shall also bear a manual  
29 signature which may be that of a bond registrar, trustee, paying agent, or designated  
30 assistant of the State Treasurer. If any officer whose signature or facsimile signature  
31 appears on bonds or notes issued under this Article ceases to be that officer before the  
32 delivery of the bonds or notes, the signature or facsimile signature shall nevertheless  
33 have the same validity for all purposes as if the officer had remained in office until  
34 delivery of the bonds or notes. Bonds or notes issued under this Article may bear the  
35 facsimile signatures of persons, who at the actual time of the execution of the bonds or  
36 notes, were the proper officers to sign any bond or note although at the date of the bond  
37 or note those persons may not have been officers.

38       The form and denomination of bonds or notes, including the provisions with respect  
39 to registration of the bonds or notes and any system for their registration, shall be as  
40 prescribed by the State Treasurer in conformity with this Article.

41       (c) Manner of Sale; Expenses. – Subject to the approval by the Council of State  
42 as to the manner in which bonds or notes will be offered for sale, whether at public or  
43 private sale, whether within or without the United States, and whether by publishing  
44 notices in certain newspapers and financial journals, mailing notices, inviting bids by  
45 correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is  
46 authorized to sell bonds or notes at one time or from time to time at any rates of interest,  
47 which may vary from time to time, and at any prices, including a price less than the face  
48 amount of the bonds or notes, as the State Treasurer may determine. All expenses  
49 incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the  
50 State Treasurer from the proceeds of bonds or notes or other available moneys.

51       (d) Application of Proceeds. – The proceeds of any bonds or notes shall be used  
52 solely for the purposes for which the bonds or notes were issued and shall be disbursed  
53 in the manner and under the restrictions, if any, that the Council of State may provide in  
54 the resolution authorizing the issuance of, or in any trust agreement securing, the bonds  
55 or notes.

1 Any additional moneys that may be received by means of a grant or grants from the  
2 United States or any agency or department thereof or from any other source to aid in  
3 financing the cost of a capital facility may be disbursed, to the extent permitted by the  
4 terms of the grant or grants, without regard to any limitations imposed by this Article.

5 (e) Notes; Repayment. – By and with the consent of the Council of State, the  
6 State Treasurer is authorized to borrow money and to execute and issue notes of the  
7 State for the same, but only in any of the following circumstances and under the  
8 following conditions:

9 (1) For anticipating the sale of bonds, the issuance of which the Council of  
10 State has approved, if the State Treasurer considers it advisable to  
11 postpone the issuance of the bonds.

12 (2) For the payment of interest on or any installment of principal of any  
13 bonds then outstanding, if there are not sufficient funds in the State  
14 treasury with which to pay the interest or installment of principal as  
15 they respectively become due.

16 (3) For the renewal of any loan evidenced by notes authorized in this  
17 Article.

18 (4) For the purposes authorized in this Article.

19 (5) For refunding bonds or notes or financing contract indebtedness as  
20 authorized in this Article.

21 Funds derived from the sale of limited obligation bonds or notes may be used in the  
22 payment of any bond anticipation notes issued under this Article. Funds provided by the  
23 General Assembly for the payment of interest on or principal of bonds shall be used in  
24 paying the interest on or principal of any notes and any renewals thereof, the proceeds  
25 of which have been used in paying interest on or principal of the bonds.

26 (f) Refunding Bonds and Notes. – By and with the consent of the Council of  
27 State, the State Treasurer is authorized to issue and sell refunding bonds and notes for  
28 the purpose of refunding special indebtedness and to pay the cost of issuance of the  
29 refunding bonds or notes. The refunding bonds and notes may be combined with any  
30 other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or  
31 notes may be issued at any time prior to the final maturity of the debt or obligation to be  
32 refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to  
33 the immediate payment and retirement of the obligations being refunded or, if not  
34 required for the immediate payment of the obligations being refunded, the proceeds  
35 shall be deposited in trust to provide for the payment and retirement of the obligations  
36 being refunded and to pay any expenses incurred in connection with the refunding.  
37 Money in a trust fund may be invested in (i) direct obligations of the United States  
38 government, (ii) obligations the principal of and interest on which are guaranteed by the  
39 United States government, (iii) to the extent then permitted by law, obligations of any  
40 agency or instrumentality of the United States government, or (iv) certificates of deposit  
41 issued by a bank or trust company located in the State if the certificates are secured by a  
42 pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate  
43 market value, exclusive of accrued interest, equal at least to the principal amount of the  
44 certificates so secured. This section does not limit the duration of any deposit in trust for  
45 the retirement of obligations being refunded but that have not matured and are not  
46 presently redeemable, or if presently redeemable, have not been called for redemption.

47 (g) Security. – Payment of the principal of and the interest on bonds and notes  
48 shall be secured as provided in G.S. 142-85.

49 (h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and  
50 notes issued under this Article may be secured by a trust agreement or similar  
51 instrument between the State and a corporate trustee or by a resolution of the Council of  
52 State providing for the appointment of a corporate trustee. The corporate trustee may be,  
53 in either case, any trust company or bank that has the powers of a trust company within  
54 or without the State. The trust agreement or similar instrument or resolution, hereinafter  
55 referred to as "the trust", may provide for security and pledges and assignments that are

1 permitted under this Article and may provide for the granting of a lien or security  
2 interest as authorized by G.S. 142-85. The trust may contain any provisions for  
3 protecting and enforcing the rights and remedies of the owners of any bonds or notes  
4 issued under the trust that are reasonable and not in violation of law, including  
5 covenants setting forth the duties of the State with respect to the purposes for which  
6 bond or note proceeds may be applied, the disposition and application of the revenues or  
7 assets of the State, the duties of the State with respect to the capital facilities financed,  
8 the disposition of any charges and collection of any revenues and administrative  
9 charges, the terms and conditions of the issuance of additional bonds and notes, and the  
10 custody, safeguarding, investment, and application of all moneys. All bonds and notes  
11 issued under this Article pursuant to the same trust shall be equally and ratably secured  
12 as provided in the trust, without priority by reasons of number, dates of bonds or notes,  
13 execution, or delivery, in accordance with the provisions of this Article and of the trust.  
14 The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to  
15 the extent and in the manner prescribed in the trust, be subordinated and junior in  
16 standing, with respect to the payment of principal and interest and to the security of the  
17 payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any  
18 bank or trust company that may act as depository of the proceeds of bonds or notes,  
19 revenues, or any other money under this Article to furnish any indemnifying bonds or to  
20 pledge any securities that may be required by the State Treasurer. The trust may set out  
21 the rights and remedies of the owners of any bonds or notes and of any trustee, and may  
22 restrict the individual rights of action by the owners. In addition to the foregoing, the  
23 trust may contain any other provisions the State Treasurer considers appropriate for the  
24 security of the owners of any bonds or notes. Expenses incurred in carrying out the  
25 provisions of the trust may be treated as a part of the cost of any capital facility or as an  
26 administrative charge and may be paid from the proceeds of the bonds or notes or from  
27 any other available funds.

28 **"§ 142-90. Variable rate demand bonds and notes and financing contract**  
29 **indebtedness.**

30 (a) In fixing the details of special indebtedness, the State Treasurer may make the  
31 special indebtedness subject to any of the following conditions:

- 32 (1) It is payable from time to time on demand or tender for purchase by  
33 the owner thereof, if a credit facility supports the special indebtedness,  
34 unless the State Treasurer specifically determines that a credit facility  
35 is not required upon a determination by the State Treasurer that the  
36 absence of a credit facility will not materially and adversely affect the  
37 financial position of the State or the marketing of the bonds or notes or  
38 financing contract indebtedness at a reasonable interest cost to the  
39 State.
- 40 (2) It is additionally supported by a credit facility.
- 41 (3) It is subject to redemption or mandatory tender for purchase prior to  
42 maturity.
- 43 (4) It bears interest at a rate or rates that may be fixed or may vary over  
44 any period of time, as may be provided in the proceedings providing  
45 for the issuance or incurrence of the special indebtedness, including  
46 any variations that may be permitted pursuant to a par formula.
- 47 (5) It is the subject of a remarketing agreement under which an attempt is  
48 made to remarket special indebtedness to new purchasers before its  
49 presentment for payment to the provider of the credit facility or to the  
50 State.

51 (b) If the aggregate principal amount payable by the State under a credit facility  
52 is in excess of the aggregate principal amount of special indebtedness secured by the  
53 credit facility, whether as a result of the inclusion in the credit facility of a provision for  
54 the payment of interest for a limited period of time or the payment of a redemption  
55 premium or for any other reason, then the amount of authorized but unissued bonds or

1 notes and financing contract indebtedness during the term of the credit facility shall not  
2 be less than the amount of the excess, unless the payment of the excess is otherwise  
3 provided for by agreement of the State executed by the State Treasurer.

4 **"§ 142-91. Other agreements.**

5 The State Treasurer may authorize, execute, obtain, or otherwise provide for bond  
6 insurance, investment contracts, credit and liquidity facilities, credit enhancement  
7 facilities, interest rate swap agreements and other derivative products, and any other  
8 related instruments and matters the State Treasurer determines are desirable in  
9 connection with the issuance of special indebtedness. The State Treasurer is authorized  
10 to employ and designate any financial consultants, underwriters, fiduciaries, and bond  
11 attorneys to be associated with any incurrence or issuance of special indebtedness under  
12 this Article as the State Treasurer considers appropriate.

13 **"§ 142-92. Tax exemption.**

14 Special indebtedness shall at all times be free from taxation by the State or any  
15 political subdivision or any of their agencies, excepting estate, inheritance, and gift  
16 taxes; income taxes on the gain from the transfer of the indebtedness; and franchise  
17 taxes. The interest component of any payments made by the State under special  
18 indebtedness, including the interest component of any certificates of participation, is not  
19 subject to taxation as to income.

20 **"§ 142-93. Investment eligibility.**

21 Special indebtedness are securities or obligations in which all of the following may  
22 invest, including capital in their control or belonging to them: public officers, agencies,  
23 and public bodies of the State and its political subdivisions; insurance companies, trust  
24 companies, investment companies, banks, savings banks, savings and loan associations,  
25 credit unions, pension or retirement funds, and other financial institutions engaged in  
26 business in the State; and executors, administrators, trustees, and other fiduciaries.  
27 Special indebtedness are securities or obligations that may properly and legally be  
28 deposited with and received by any officer or agency of the State or political  
29 subdivision of the State for any purpose for which the deposit of bonds, notes, or  
30 obligations of the State or any political subdivision is now or may later be authorized by  
31 law.

32 **"§ 142-94. Procurement of capital facilities.**

33 The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General  
34 Statutes and any other laws or rules of the State that relate to the acquisition and  
35 construction of State property apply to the financing of capital facilities through the use  
36 of special indebtedness pursuant to this Article. This section does not apply to the  
37 construction and lease-purchase, including leases with an option to purchase at the end  
38 of the lease term for a nominal sum, of State office buildings pursuant to proposals  
39 submitted before the effective date of this Article in response to requests for proposals,  
40 to the extent any of those proposals, as they may be supplemented or amended, are  
41 approved by the Department of Administration and any of these leases or lease-purchase  
42 agreements are approved by the Council of State in accordance with G.S.  
43 143-341(4)d2."

44 **SECTION 40.3.** G.S. 143-341(4) is amended by adding a new  
45 sub-subdivision to read:

46 "d2. To purchase or finance the purchase of buildings, utilities,  
47 structures, or other facilities or property developments,  
48 including streets and landscaping, the acquisition of land,  
49 equipment, machinery, and furnishings in connection therewith;  
50 additions, extensions, enlargements, renovations, and  
51 improvements to existing buildings, utilities, structures, or other  
52 facilities or property developments, including streets and  
53 landscaping; land or any interest in land; other infrastructure;  
54 furniture, fixtures, equipment, vehicles, machinery, and similar  
55 items; or any combination of the foregoing, through installment

1 purchase, lease-purchase, or other similar type installment  
2 financing agreements in the manner and to the extent provided  
3 in Article 9 of Chapter 142 of the General Statutes. Any  
4 contract entered into or any proceeding instituted contrary to the  
5 provisions of this paragraph is voidable in the discretion of the  
6 Council of State."

7 **SECTION 40.4.** Interpretation of Part. (a) Additional Method. – This Part  
8 provides an additional and alternative method for the doing of the things authorized by  
9 this Part and shall be regarded as supplemental and additional to powers conferred by  
10 other laws. Except where expressly provided, this Part shall not be regarded as in  
11 derogation of any powers now existing. The authority granted in this Part is in addition  
12 to other laws now or hereinafter enacted authorizing the State to issue or incur  
13 indebtedness.

14 **SECTION 40.4.(b)** Statutory References. – References in this Part to  
15 specific sections or Chapters of the General Statutes are intended to be references to  
16 those sections or Chapters as they may be amended from time to time by the General  
17 Assembly.

18 **SECTION 40.4.(c)** Liberal Construction. – This Part, being necessary for  
19 the health and welfare of the people of the State, shall be liberally construed to effect its  
20 purposes.

21 **SECTION 40.4.(d)** Severability. – If any provision of this Part or its  
22 application to any person or circumstance is held invalid, that invalidity does not affect  
23 other provisions or applications of the Part that can be given effect without the invalid  
24 provision or application, and to this end the provisions of this Part are severable.

## 25 26 **PART XLI. GENERAL PROVISIONS**

27 **SECTION 41.1.** Parts 32 through 40 of this act do not affect the rights or  
28 liabilities of the State, a taxpayer, or another person arising under a statute amended or  
29 repealed by those parts before the effective date of its amendment or repeal; nor does it  
30 affect the right to any refund or credit of a tax that accrued under the amended or  
31 repealed statute before the effective date of its amendment or repeal.

32 **SECTION 41.2.** Except as otherwise provided in this act, Parts 32 through  
33 41 of this act are effective when it becomes law.

## 34 35 **PART XLII. MISCELLANEOUS PROVISIONS**

36  
37 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
38 Owens, Wright

### 39 **EXECUTIVE BUDGET ACT APPLIES**

40 **SECTION 42.1.** The provisions of the Executive Budget Act, Chapter 143,  
41 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect  
42 and are incorporated in this act by reference.

43  
44 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
45 Owens, Wright

### 46 **COMMITTEE REPORT**

47 **SECTION 42.2.(a)** The House Appropriations Committee Report on the  
48 Continuation, Expansion and Capital Budgets, dated April 14, 2003, which was  
49 distributed in the House of Representatives and used to explain this act, shall indicate  
50 action by the General Assembly on this act and shall therefore be used to construe this  
51 act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes  
52 shall be considered a part of this act and as such shall be printed as a part of the Session  
53 Laws.

54 **SECTION 42.2.(b)** The budget enacted by the General Assembly for the  
55 maintenance of the various departments, institutions, and other spending agencies of the

1 State for the 2003-2005 fiscal biennium is a line item budget, in accordance with the  
2 Budget Code Structure and the State Accounting System Uniform Chart of Accounts set  
3 out in the Administrative Policies and Procedures Manual of the Office of the State  
4 Controller. This budget includes the appropriations made from all sources including the  
5 General Fund, Highway Fund, special funds, cash balances, federal receipts, and  
6 departmental receipts.

7 The General Assembly amended the itemized budget requests submitted to  
8 the General Assembly by the Director of the Budget and the Advisory Budget  
9 Commission, in accordance with the House Appropriations Committee Report on the  
10 Continuation, Expansion and Capital Budgets, dated April 14, 2003, together with any  
11 accompanying correction sheets.

12 The budget enacted by the General Assembly shall be interpreted in  
13 accordance with the special provisions in this act and in accordance with other  
14 appropriate legislation.

15 In the event that there is a conflict between the line item budget certified by  
16 the Director of the Budget and the budget enacted by the General Assembly, the budget  
17 enacted by the General Assembly shall prevail.

18  
19 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
20 Owens, Wright

21 **MOST TEXT APPLIES ONLY TO THE 2003-2005 FISCAL BIENNIUM**

22 **SECTION 42.3.** Except for statutory changes or other provisions that clearly  
23 indicate an intention to have effects beyond the 2003-2005 fiscal biennium, the textual  
24 provisions of this act apply only to funds appropriated for, and activities occurring  
25 during, the 2003-2005 fiscal biennium.

26  
27 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
28 Owens, Wright

29 **EFFECT OF HEADINGS**

30 **SECTION 42.4.** The headings to the parts and sections of this act are a  
31 convenience to the reader and are for reference only. The headings do not expand,  
32 limit, or define the text of this act, except for effective dates referring to a Part.

33  
34 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
35 Owens, Wright

36 **SEVERABILITY CLAUSE**

37 **SECTION 42.5.** If any section or provision of this act is declared  
38 unconstitutional or invalid by the courts, it does not affect the validity of this act as a  
39 whole or any part other than the part so declared to be unconstitutional or invalid.

40  
41 Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady,  
42 Owens, Wright

43 **EFFECTIVE DATE**

44 **SECTION 42.6.** Except as otherwise provided, this act becomes effective  
45 July 1, 2003.