

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 397  
Committee Substitute Favorable 4/15/03  
Committee Substitute Favorable #2 4/15/03  
Fourth Edition Engrossed 4/16/03  
Senate Appropriations/Base Budget Committee Substitute Adopted 4/28/03**

Short Title: 2003 Budget Act.

(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 A  
SUSTAINABLE RECOVERY THROUGH STRONG EDUCATIONAL AND  
ECONOMIC TOOLS.

The General Assembly of North Carolina enacts:

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

Requested by: Senators Garrou, Dalton, Hagan

**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: Senators Garrou, Dalton, Hagan

**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: Senators Garrou, Dalton, Hagan

**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 659,476,062 662,736,376

9  
 10 Department of Public Instruction 6,029,629,683 6,025,274,564

11  
 12 University of North Carolina – Board of Governors 1,794,573,717 1,829,669,657

13  
 14 **HEALTH AND HUMAN SERVICES**

15  
 16 Department of Health and Human Services

17 Office of the Secretary 82,168,433 80,968,433

18 Division of Aging 27,685,838 27,685,838

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

20 Division of Child Development 258,917,167 259,110,693

21 Division of Education Services 31,806,862 31,670,076

22 Division of Facility Services 10,071,055 10,071,055

23 Division of Medical Assistance 2,269,060,187 2,584,744,370

24 Division of Mental Health 577,558,911 580,411,762

25 NC Health Choice 50,368,030 56,426,280

26 Division of Public Health 124,741,904 122,913,324

27 Division of Social Services 176,189,220 186,039,814

28 Division of Vocation Rehabilitation 40,042,124 40,834,858

29 Total 3,657,912,401 3,990,263,511

30  
 31 **NATURAL AND ECONOMIC RESOURCES**

32  
 33 Department of Agriculture and Consumer Services 48,477,909 48,604,240

34  
 35 Department of Commerce

36 Commerce 45,125,448 33,695,769

37 Commerce State-Aid 10,316,728 10,266,728

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

39 Rural Economic Development Center 4,491,587 4,491,587

40  
 41 Department of Environment and Natural Resources

42 Environment and Natural Resources 147,683,265 153,527,049

43 Clean Water Management Trust Fund 100,000,000 100,000,000

44  
 45 Department of Labor 13,265,454 13,274,104

46  
 47 **JUSTICE AND PUBLIC SAFETY**

48  
 49 Department of Correction 940,198,075 959,902,282

50  
 51 Department of Crime Control and Public Safety 29,034,326 28,139,010

52  
 53 Judicial Department 303,317,883 310,514,697

54 Judicial Department – Indigent Defense 72,674,829 70,741,793

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**GENERAL ASSEMBLY OF NORTH CAROLINA**

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**SESSION 2003**

1	Department of Justice	70,673,310	71,459,312
2			
3	Department of Juvenile Justice and		
4	Delinquency Prevention	130,910,473	130,730,498
5			
6	<b>GENERAL GOVERNMENT</b>		
7			
8	Department of Administration	52,005,520	52,583,907
9			
10	Office of Administrative Hearings	2,409,683	2,411,797
11			
12	Department of State Auditor	10,293,801	10,293,801
13			
14	Office of State Controller	9,694,464	9,719,451
15			
16	Department of Cultural Resources		
17	Cultural Resources	54,532,248	54,253,598
18	Roanoke Island Commission	1,634,905	1,636,559
19			
20	State Board of Elections	7,439,982	4,915,939
21			
22	General Assembly	41,561,463	44,971,305
23			
24	Office of the Governor		
25	Office of the Governor	4,976,503	4,826,503
26	Office of State Budget and Management	4,211,805	4,216,110
27	OSBM – Reserve for Special Appropriations	3,130,000	3,130,000
28	Housing Finance Agency	4,750,945	4,750,945
29			
30	Department of Insurance		
31	Insurance	24,885,739	21,766,272
32	Insurance – Volunteer Safety Workers'		
33	Compensation	4,500,000	4,500,000
34			
35	Office of Lieutenant Governor	601,722	601,722
36			
37	Department of Revenue	73,964,774	74,062,627
38			
39	Rules Review Commission	310,454	310,454
40			
41	Department of Secretary of State	7,857,198	7,816,198
42			
43	Department of State Treasurer		
44	State Treasurer	7,575,029	7,577,784
45	State Treasurer – Retirement for Fire and		
46	Rescue Squad Workers	7,181,179	7,181,179
47			
48	<b>TRANSPORTATION</b>		
49			
50	Department of Transportation	11,429,525	11,460,101
51			
52	<b>RESERVES, ADJUSTMENTS AND DEBT SERVICE</b>		
53			
54	Reserve for Compensation Increases	141,350,000	135,250,000
55			

1	Reserve for State Health Plan	113,418,000	151,225,000
2			
3	Reserve for Retiree Health Benefits	36,800,000	36,800,000
4			
5	Reserve for Teachers' and State Employees'		
6	Retirement Contribution	29,555,000	157,200,000
7			
8	Reserve for Transfer of Various Benefit Plans	(86,250,000)	(3,250,000)
9			
10	Contingency and Emergency	5,000,000	5,000,000
11			
12	Reserve for Salary Adjustments	500,000	500,000
13			
14			
15	Mental Health, Developmental Disabilities and		
16	Substance Abuse Services Trust Fund	15,000,000	0
17			
18	Reserve to Implement HIPAA	2,000,000	0
19			
20	Reserve for Easley Health Initiatives	2,500,000	2,500,000
21			
22	Debt Service		
23	General Debt Service	387,785,920	503,639,452
24	Federal Reimbursement	1,155,948	1,155,948
25			
26	<b>TOTAL CURRENT OPERATIONS –</b>		
27	<b>    GENERAL FUND</b>	<b>15,047,406,352</b>	<b>15,772,181,224</b>

Requested by: Senators Garrou, Dalton, Hagan

**GENERAL FUND AVAILABILITY STATEMENT**

**SECTION 2.2.(a)** The General Fund availability used in developing the 2003-2005 biennial budget is shown below:

	<b>FY 2003-2004</b>	<b>FY 2004-2005</b>
<b>Unappropriated Balance</b>		
<b>Remaining from FY 2002-2003</b>	103,885	0
<b>Beginning Unreserved Credit Balance</b>	375,000,000	0
<b>Revenues Based on Existing Tax Structure</b>	13,384,600,000	14,203,713,917
<b>Nontax Revenues</b>		
Investment Income	113,900,000	132,056,801
Judicial Fees	137,520,000	144,430,000
Disproportionate Share	100,000,000	100,000,000
Insurance	51,900,000	53,900,000
Other Nontax Revenues	116,050,000	120,100,000
Highway Trust Fund/Sales Tax on Vehicles		
Reimbursement Transfer	252,422,125	231,774,330
Highway Fund Transfer	16,379,000	16,166,400
<b>Subtotal Nontax Revenues</b>	<b>788,171,125</b>	<b>798,427,531</b>
<b>Total General Fund Availability</b>	<b>14,547,875,010</b>	<b>15,002,141,448</b>
<b>Adjustments to Availability: 2003 Session</b>		

1	Maintain Sales Tax Rate at 4.5%	346,500,000	388,200,000
2	Maintain Top Income Tax Bracket at 8.25%	37,500,000	92,700,000
3	Delay Increase in the Child Tax Credit	20,300,000	54,100,000
4	Conform to Federal Definition of		
5	Child for State Child Tax Credit	16,800,000	17,000,000
6	Delay Increase in Standard Deduction		
7	(Marriage Penalty)	33,400,000	47,000,000
8	Equalize Insurance Tax Rate		
9	on Article 65 Corporations	19,300,000	14,700,000
10	Conform to Streamline Sales Tax Provision		
11	(Candy, Soft Drinks, Prepared Food &		
12	Modified Software)	30,200,000	30,600,000
13	Tax Soft Drinks in Vending Machines		
14	at 50% of General Rate	(4,700,000)	(4,700,000)
15	Restore Use Tax Line on Individual Returns	3,100,000	3,100,000
16	Revenue: Project Tax Collect	10,000,000	10,000,000
17	Revenue: Project Compliance	38,340,500	74,009,500
18	Divert MSA Settlement Proceeds		
19	from Tobacco Trust Fund	30,000,000	30,000,000
20	Divert MSA Settlement Proceeds		
21	from Health & Wellness Trust Fund	10,000,000	10,000,000
22	Fee Increases	4,959,418	4,959,418
23	Adjust Transfer from		
24	Insurance Regulatory Fund	1,521,462	(1,629,142)
25	Credit to Repairs & Renovations		
26	Reserve Account	(50,000,000)	0
27	Credit to Savings Reserve Account	(19,089,038)	0
28			
29	<b>Subtotal Adjustments to Availability:</b>		
30	<b>2003 Session</b>	528,132,342	770,039,776
31			
32	<b>Revised General Fund Availability</b>	15,076,007,352	15,772,181,224
33			
34	<b>Less: Total General Fund Appropriations</b>	(15,076,007,352)	(15,772,181,224)
35			
36	<b>Unappropriated Balance Remaining</b>	0	0
37			

38           **SECTION 2.2.(b)** Notwithstanding G.S. 143-16.4(a2), of the funds credited  
39 to the Tobacco Trust Account from the Master Settlement Agreement pursuant to  
40 Section 6(2) of S.L. 1999-2 during the 2003-2004 and 2004-2005 fiscal years, the sum  
41 of thirty million dollars (\$30,000,000) shall be transferred from the Department of  
42 Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund) to the  
43 State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to  
44 support General Fund appropriations for the 2003-2004 and 2004-2005 fiscal years.

45           **SECTION 2.2.(c)** Notwithstanding G.S. 143-16.4(a1), of the funds credited  
46 to the Health Trust Account from the Master Settlement Agreement during the  
47 2003-2004 and 2004-2005 fiscal years, the sum of ten million dollars (\$10,000,000) that  
48 would otherwise be deposited in the Fund Reserve established by G.S. 147-86.30(c)  
49 shall be transferred from the Department of State Treasurer, Budget Code 23460  
50 (Health and Wellness Trust Fund) to the State Controller to be deposited in Nontax  
51 Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for  
52 the 2003-2004 and 2004-2005 fiscal years.

53           **SECTION 2.2.(d)** On July 1, 2003, the State Controller shall transfer one  
54 hundred eight million seven hundred ninety-six thousand eight hundred forty-five  
55 dollars (\$108,796,845) from the Disaster Reserve Fund, Budget Code 13017, to the

1 Savings Reserve Account, in accordance with Section 3.1 of S.L. 1999-463, Extra  
2 Session 1999. This is not an "appropriation made by law", as that phrase is used in  
3 Article V, Section 7(1) of the Constitution.

4 **SECTION 2.2.(e)** When the Highway Trust Fund was created in 1989, the  
5 revenue from the sales tax on motor vehicles was transferred from the General Fund to  
6 the Highway Trust Fund. To offset this loss of revenue from the General Fund, the  
7 Highway Trust Fund was required to transfer one hundred seventy million dollars  
8 (\$170,000,000) to the General Fund each year, an amount equal to the revenue in 1989  
9 from the sales tax on motor vehicles. This transfer did not, however, make the General  
10 Fund whole after the transfer of the sales tax revenue because no provision has been  
11 made to adjust the amount for the increased volume of transactions and increased  
12 vehicle prices. The additional funds transferred from the Highway Trust Fund to the  
13 General Fund by this act is an effort to recover a portion of the sales tax revenues that  
14 would have gone to the General Fund over the last 14 years.

15 Notwithstanding G.S. 105-187.9(b)(1), the sum to be transferred from the  
16 Highway Trust Fund to the General Fund for each of the fiscal years 2003-2004 and  
17 2004-2005 is two hundred fifty million dollars (\$250,000,000). The sum to be  
18 transferred to the General Fund for the 2004-2005 fiscal year shall be adjusted to reflect  
19 the scheduled repayment of previously transferred funds in accordance with Section  
20 26.14 of S.L. 2002-126.

21 **SECTION 2.2.(f)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, the  
22 State Controller shall transfer only nineteen million eighty-nine thousand thirty-eight  
23 dollars (\$19,089,038) from the unreserved credit balance to the Savings Reserve  
24 Account on June 30, 2003. This is not an "appropriation made by law", as that phrase is  
25 used in Article V, Section 7(1) of the Constitution. This subsection becomes effective  
26 June 30, 2003.

27 **SECTION 2.2.(g)** Notwithstanding G.S. 147-86.30(c), the Health and  
28 Wellness Trust Fund Commission may expend the balance of funds remaining from  
29 funds transferred from the Fund Reserve to the Health and Wellness Trust Fund  
30 nonreserved funds in the 2002-2003 fiscal year pursuant to Section 2.2(h) of S.L.  
31 2002-126. These funds shall be expended in accordance with G.S. 147-86.30(d) during  
32 the 2003-2005 fiscal biennium.

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

### 37 **PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

38  
39 Requested by: Senators Garrou, Dalton, Hagan

#### 40 **CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND**

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

45	<b>Current Operations – Highway Fund</b>	<b>2003-2004</b>	<b>2004-2005</b>
46	(1) Transportation Admin. (84210)	72,825,987	72,948,211
47	(2) Transportation Operations (84220)	28,190,393	28,150,605
48	(3) Transportation programs (84230)		
49	State Construction		
50	Secondary	89,600,000	90,590,000
51	Urban	28,000,000	14,000,000
52	Public access	2,000,000	2,000,000
53	Spot safety	9,100,000	9,100,000
54	Contingency	15,000,000	10,000,000
55			

1	Federal Aid Match	4,160,000	4,280,000
2	Maintenance	579,757,883	570,231,046
3	Asphalt plant/OSHA	425,000	425,000
4	Capital	-	
5	Ferry Operations	19,677,283	19,677,283
6	Aid to municipalities	89,600,000	90,590,000
7	Rail	15,090,919	15,531,153
8	Public transit	79,705,266	80,302,926
9	(4) Governor's highway safety (84240)	292,449	293,118
10	(5) Transportation regulation (84260)	100,255,703	100,323,363
11	(6) Reserves, transfers, other agencies (84270)	217,249,117	224,514,347
12	<b>TOTAL</b>	<b>1,350,930,000</b>	<b>1,332,957,052</b>

13  
14 Requested by: Senators Garrou, Dalton, Hagan

15 **HIGHWAY FUND AVAILABILITY STATEMENT**

16 **SECTION 3.2.** The Highway Fund availability used in developing the  
17 2003-2005 biennial budget is shown below:

19	<b>Highway Fund Budget Reform Statement</b>	<b>2003-2004</b>	<b>2004-2005</b>
20			
21	Beginning Credit Balance		-
22	Estimated Revenue	\$ 1,350,930,000	\$ 1,373,080,000
23	Estimated Reversions		-
24			
25	<b>Total Highway Fund Availability</b>	<b>\$ 1,350,930,000</b>	<b>\$ 1,373,080,000</b>

26  
27 **PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

28  
29 Requested by: Senators Garrou, Dalton, Hagan

30 **HIGHWAY TRUST FUND APPROPRIATIONS**

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

36	<b>Current Operations – Highway Trust Fund</b>	<b>2003-2004</b>	<b>2004-2005</b>
37			
38	Intrastate System	\$ 422,754,783	\$ 459,363,570
39	Urban Loops	170,944,428	185,747,496
40	Aid to Municipalities	44,356,838	48,197,953
41	Total for Secondary Roads	79,559,266	84,350,953
42	Program Administration	40,001,560	39,636,698
43	Transfer to General Fund	252,422,125	231,774,330
44			
45	<b>GRAND TOTAL CURRENT OPERATIONS</b>		
46	<b>AND EXPANSION</b>	<b>\$1,010,039,000</b>	<b>\$1,049,071,000</b>

47 **PART V. BLOCK GRANTS**

48  
49 Requested by: Senators Purcell, Reeves , Garrou, Dalton, Hagan

50 **DHHS BLOCK GRANTS**

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

53  
54 **COMMUNITY SERVICES BLOCK GRANT**

1	01.	Community Action Agencies	\$ 15,266,973
2			
3	02.	Limited Purpose Agencies	848,165
4			
5	03.	Department of Health and Human Services	
6		to administer and monitor	
7		the activities of the	
8		Community Services Block Grant	848,165
9			
10		TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 16,963,303
11			
12		SOCIAL SERVICES BLOCK GRANT	
13			
14	01.	County departments of social services	\$ 28,868,189
15		(Transfer from TANF – \$4,500,000)	
16			
17	02.	Allocation for in-home services provided	
18		by county departments of	
19		social services	2,101,113
20			
21	03.	Division of Mental Health, Developmental	
22		Disabilities, and Substance Abuse Services	3,234,601
23			
24	04.	Division of Services for the Blind	3,105,711
25			
26	05.	Division of Facility Services	426,836
27			
28	06.	Division of Aging – Home and Community	
29		Care Block Grant	1,840,234
30			
31	07.	Child Care Subsidies	3,000,000
32			
33	08.	Division of Vocational Rehabilitation –	
34		United Cerebral Palsy	71,484
35			
36	09.	State administration	1,693,368
37			
38	10.	Child Medical Evaluation Program	238,321
39			
40	11.	Adult day care services	2,155,301
41			
42	12.	Comprehensive Treatment Services	
43		Program	422,003
44			
45	13.	Department of Administration	
46		for the N.C. State Commission of Indian Affairs	
47		In-Home Services Program for the Elderly	203,198
48			
49	14.	Division of Vocational Rehabilitation Services –	
50		Easter Seals Society	116,779
51			
52	15.	UNC-CH CARES Program for training and	
53		consultation services	247,920
54			
55	16.	Office of the Secretary – Office of Economic	



1	Opportunity for N.C. Senior Citizens'	
2	Federation for outreach services to	
3	low-income elderly persons	41,302
4		
5	17. Division of Social Services – Child	
6	Caring Agencies	1,500,000
7		
8	18. Division of Mental Health,	
9	Developmental Disabilities, and	
10	Substance Abuse Services – Developmentally	
11	Disabled Waiting List for services	5,000,000
12		
13	19. Transfer to Preventive Health Services Block	
14	Grant for HIV/AIDS education, counseling, and	
15	testing	145,819
16		
17	20. Division of Facility Services –	
18	Mental Health Licensure	213,128
19		
20	21. Transfer to the Office of the Secretary –	
21	N.C. Inter-agency Council for Coordinating	
22	Homeless Programs	150,000
23		
24	TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 54,775,307
25		
26	LOW-INCOME ENERGY BLOCK GRANT	
27		
28	01. Energy Assistance Programs	\$ 12,775,323
29		
30	02. Crisis Intervention	9,192,927
31		
32	03. Administration	2,957,339
33		
34	04. Weatherization Program	4,212,740
35		
36	05. Department of Administration –	
37	N.C. State Commission of Indian Affairs	54,840
38		
39	06. Heating Air Repair and Replacement Program	1,966,153
40		
41	TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 31,159,322
42		
43	MENTAL HEALTH SERVICES BLOCK GRANT	
44		
45	01. Provision of community-based	
46	services for severe and persistently	
47	mentally ill adults	\$ 4,546,916
48		
49	02. Provision of community-based	
50	services to children	2,513,141
51		
52	03. Comprehensive Treatment Services	
53	Program for Children	1,500,000
54		
55	04. Group Home Tracking System	986,600

1		
2	05. Administration	693,193
3		
4	TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 10,239,850
5		
6	SUBSTANCE ABUSE PREVENTION	
7	AND TREATMENT BLOCK GRANT	
8		
9	01. Provision of community-based	
10	alcohol and drug abuse services,	
11	tuberculosis services, and services	
12	provided by the Alcohol and Drug Abuse	
13	Treatment Centers	\$ 18,901,711
14		
15	02. Continuation of services for	
16	pregnant women and women	
17	with dependent children	8,069,524
18		
19	03. Continuation of services to	
20	IV drug abusers and others at risk	
21	for HIV diseases	4,616,378
22		
23	04. Provision of services to children	
24	and adolescents	7,740,611
25		
26	05. Juvenile Services – Family Focus	851,156
27		
28	06. Allocation to the Division of Public Health	
29	for HIV/STD Risk Reduction Projects	383,980
30		
31	07. Allocation to the Division of Public Health	
32	for HIV/STD Prevention by County Health	
33	Departments	209,576
34		
35	08. Allocation to the Division of Public Health	
36	for the Maternal and Child Health Hotline	37,779
37		
38	09. Administration	2,596,307
39		
40	TOTAL SUBSTANCE ABUSE PREVENTION	
41	AND TREATMENT BLOCK GRANT	\$ 43,407,022
42		
43	CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	
44		
45	01. Child care subsidies	\$154,713,475
46		
47	02. Quality and availability initiatives	16,449,256
48		
49	03. Administrative expenses	6,969,533
50		
51	04. Transfer from TANF Block Grant for	
52	child care subsidies	79,562,189
53		
54	TOTAL CHILD CARE AND DEVELOPMENT FUND	
55	BLOCK GRANT	\$257,694,453

1		
2	TEMPORARY ASSISTANCE TO NEEDY FAMILIES	
3	(TANF) BLOCK GRANT	
4		
5	01. Work First Cash Assistance	\$129,396,275
6		
7	02. Work First County Block Grants	94,653,315
8		
9	03. Transfer to the Child Care and	
10	Development Fund Block Grant	
11	for child care subsidies	79,562,189
12		
13	04. Child Care Subsidies for TANF Recipients	26,621,241
14		
15	05. Child Welfare Workers for local DSS	11,452,391
16		
17	06. Transfer to Social Services Block Grant for	
18	County Departments of Social Services for	
19	Children's Services	4,500,000
20		
21	07. Support Our Students – Department of	
22	Juvenile Justice and Delinquency	
23	Prevention	1,925,000
24		
25	08. Residential Substance Abuse Services	
26	for Women With Children	2,000,000
27		
28	09. Domestic Violence Services	
29	for Work First Families	1,200,000
30		
31	10. After-School Services for	
32	At-Risk Children	1,925,000
33		
34	11. Division of Social Services –	
35	Administration	400,000
36		
37	12. Child Welfare Training	1,600,000
38		
39	13. TANF Automation Projects	592,500
40		
41	14. Work First/Boys and Girls Clubs	1,000,000
42		
43	15. Work Central Career Advancement Center	550,000
44		
45	16. WCH-Teen Pregnancy Prevention	1,500,000
46		
47	17. Transfer to Social Services Block Grant for Child Caring	
48	Institutions	1,500,000
49		
50	18. Special Children's Adoption Fund	2,000,000
51		
52	19. NC Fast Implementation	630,000
53		
54	20. Maternity Homes	838,000
55		

1	21.	Pregnancy Prevention Coalition of North Carolina	127,500
2			
3	22.	Individual Development Accounts	180,000
4			
5	23.	Reduction of Out-of-Wedlock Births	1,000,000
6			
7	TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES		
8	(TANF) BLOCK GRANT		\$365,153,411
9			
10	MATERNAL AND CHILD HEALTH BLOCK GRANT		
11			
12	01.	Healthy Mothers/Healthy Children	
13		Block Grants to Local Health	
14		Departments	9,838,074
15			
16	02.	High-Risk Maternity Clinic Services,	
17		Perinatal Education and Training,	
18		Childhood Injury Prevention,	
19		Public Information and Education, and	
20		Technical Assistance to Local Health	
21		Departments	2,307,918
22			
23	03.	Services to Children With Special Health	
24		Care Needs	5,078,647
25			
26	TOTAL MATERNAL AND CHILD		
27	HEALTH BLOCK GRANT		\$ 17,224,639
28			
29	PREVENTIVE HEALTH SERVICES BLOCK GRANT		
30			
31	01.	Statewide Health Promotion Programs	\$3,132,810
32			
33	02.	Rape Crisis/Victims' Services	
34		Program – Council for Women	197,112
35			
36	03.	Transfer from Social Services	
37		Block Grant – HIV/AIDS education,	
38		counseling, and testing	145,819
39			
40	04.	Office of Minority Health	159,459
41			
42	05.	Administrative Costs	108,546
43			
44	06.	Osteoporosis Task Force Activities	150,000
45			
46	TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		\$3,893,746
47			

48 **SECTION 5.1.(b)** Decreases in Federal Fund Availability. – If the United  
 49 States Congress reduces federal fund availability in the Social Services Block Grant  
 50 below the amounts appropriated in this section, then the Department of Health and  
 51 Human Services shall allocate these decreases giving priority first to those direct  
 52 services mandated by State or federal law, then to those programs providing direct  
 53 services that have demonstrated effectiveness in meeting the federally and  
 54 State-mandated services goals established for the Social Services Block Grant. The

1 Department shall not include transfers from TANF for specified purposes in any  
2 calculations of reductions to the Social Services Block Grant.

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

10 Decreases in federal fund availability shall be allocated for the Maternal and  
11 Child Health and Preventive Health Services federal block grants by the Department of  
12 Health and Human Services after considering the effectiveness of the current level of  
13 services.

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

20 **SECTION 5.1.(d)** Changes to the budgeted allocations to the block grants  
21 appropriated in this act and new allocations from the block grants not specified in this  
22 act shall be submitted to the Joint Legislative Commission on Governmental Operations  
23 for review prior to the change and shall be reported immediately to the Senate  
24 Appropriations Committee on Health and Human Services, the House of  
25 Representatives Appropriations Subcommittee on Health and Human Services, and the  
26 Fiscal Research Division.

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

30 **SECTION 5.1.(f)** If federal funds are received under the Maternal and Child  
31 Health Block Grant for abstinence education, pursuant to section 912 of Public Law  
32 104-193 (42 U.S.C. § 710), for the 2003-2004 fiscal year, then those funds shall be  
33 transferred to the State Board of Education to be administered by the Department of  
34 Public Instruction. The Department of Public Instruction shall use the funds to establish  
35 an Abstinence Until Marriage Education Program and shall delegate to one or more  
36 persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The  
37 Department of Public Instruction shall carefully and strictly follow federal guidelines in  
38 implementing and administering the abstinence education grant funds.

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

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

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

53 **SECTION 5.1.(i)** The sum of four hundred thousand dollars (\$400,000)  
54 appropriated in this section in the TANF Block Grant to the Department of Health and

1 Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be  
2 used to support administration of TANF-funded programs.

3 **SECTION 5.1.(j)** The sum of two million dollars (\$2,000,000) appropriated  
4 in this section in the TANF Block Grant to the Department of Health and Human  
5 Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse  
6 Services, for the 2003-2004 fiscal year shall be used to provide regional residential  
7 substance abuse treatment and services for women with children. The Department of  
8 Health and Human Services, Division of Social Services and Division of Mental Health,  
9 Developmental Disabilities, and Substance Abuse Services, in consultation with local  
10 departments of social services, area mental health programs, and other State and local  
11 agencies or organizations, shall coordinate this effort in order to facilitate the expansion  
12 of regionally based substance abuse services for women with children. These services  
13 shall be culturally appropriate and designed for the unique needs of TANF women with  
14 children.

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

18 The Department of Health and Human Services, Division of Social Services  
19 and Division of Mental Health, Developmental Disabilities, and Substance Abuse  
20 Services, shall report on its progress in complying with this subsection no later than  
21 October 1, 2003, and March 1, 2004, to the Senate Appropriations Committee on Health  
22 and Human Services, the House of Representatives Appropriations Subcommittee on  
23 Health and Human Services, and the Fiscal Research Division. These reports shall  
24 include all of the following:

- 25 (1) The number and location of additional beds created.
- 26 (2) The types of facilities established.
- 27 (3) The delineation of roles and responsibilities at the State and local  
28 levels.
- 29 (4) Demographics of the women served, the number of women served,  
30 and the cost per client.
- 31 (5) Demographics of the children served, the number of children served,  
32 and the services provided.
- 33 (6) Job placement services provided to women.
- 34 (7) A plan for follow-up and evaluation of services provided with an  
35 emphasis on outcomes.
- 36 (8) Barriers identified to the successful implementation of the expansion.
- 37 (9) Identification of other resources needed to appropriately and  
38 efficiently provide services to Work First recipients.
- 39 (10) Other information as requested.

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

47 **SECTION 5.1.(l)** The sum of one million two hundred thousand dollars  
48 (\$1,200,000) appropriated under this section in the TANF Block Grant to the  
49 Department of Health and Human Services, Division of Social Services, for the  
50 2003-2004 fiscal year shall be used to provide domestic violence services to Work First  
51 recipients. These funds shall be used to provide domestic violence counseling, support,  
52 and other direct services to clients. These funds shall not be used to establish new  
53 domestic violence shelters or to facilitate lobbying efforts. The Division of Social  
54 Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to

1 establish one administrative position within the Division of Social Services to  
2 implement this subsection.

3 Each county department of social services and the local domestic violence  
4 shelter program serving the county shall jointly develop a plan for utilizing these funds.  
5 The plan shall include the services to be provided and the manner in which the services  
6 shall be delivered. The county plan shall be signed by the county social services director  
7 or the director's designee and the domestic violence program director or the director's  
8 designee and submitted to the Division of Social Services by December 1, 2003. The  
9 Division of Social Services, in consultation with the Council for Women, shall review  
10 the county plans and shall provide consultation and technical assistance to the  
11 departments of social services and local domestic violence shelter programs, if needed.

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

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

25 **SECTION 5.1.(m)** The sum of one million nine hundred twenty-five  
26 thousand dollars (\$1,925,000) appropriated in this section in the TANF Block Grant to  
27 the Department of Health and Human Services, Division of Social Services, shall be  
28 used to expand after-school programs and services for at-risk children. The Department  
29 shall develop and implement a grant program to award grants to community-based  
30 programs that demonstrate the ability to reach children at risk of teen pregnancy and  
31 school dropout. The Department shall award grants to community-based organizations  
32 that demonstrate the ability to develop and implement linkages with local departments  
33 of social services, area mental health programs, schools, and other human services  
34 programs in order to provide support services and assistance to the child and family.  
35 These funds may be used to establish one position within the Division of Social  
36 Services to coordinate at-risk after-school programs and shall not be used for other State  
37 administration. The Department shall report no later than March 1, 2004, on its progress  
38 in complying with this section to the Senate Appropriations Committee on Health and  
39 Human Services, the House of Representatives Subcommittee on Health and Human  
40 Services, and the Fiscal Research Division.

41 **SECTION 5.1.(n)** The sum of eleven million four hundred fifty-two  
42 thousand three hundred ninety-one dollars (\$11,452,391) appropriated in this section in  
43 the TANF Block Grant to the Department of Health and Human Services, Division of  
44 Social Services, for the 2003-2004 fiscal year for Child Welfare Improvements shall be  
45 allocated to the county departments of social services for hiring or contracting staff to  
46 investigate and provide services in Child Protective Services cases; to provide foster  
47 care and support services; to recruit, train, license, and support prospective foster and  
48 adoptive families; and to provide interstate and post-adoption services for eligible  
49 families.

50 **SECTION 5.1.(o)** The sum of one million five hundred thousand dollars  
51 (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the  
52 Department of Health and Human Services, Division of Mental Health, Developmental  
53 Disabilities, and Substance Abuse Services, for the 2003-2004 fiscal year and the sum  
54 of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this  
55 section in the Social Services Block Grant to the Department of Health and Human

1 Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to  
2 continue a Comprehensive Treatment Services Program for Children in accordance with  
3 Section 21.60 of S.L. 2001-424, as amended.

4 **SECTION 5.1.(p)** The sum of one million six hundred thousand dollars  
5 (\$1,600,000) appropriated in this section in the TANF Block Grant to the Department of  
6 Health and Human Services, Division of Social Services, for fiscal year 2003-2004 shall  
7 be used to support various child welfare training projects as follows:

- 8 (1) Provide a regional training center in southeastern North Carolina.
- 9 (2) Support the Masters Degree in Social Work/Baccalaureate Degree in  
10 Social Work Collaborative.
- 11 (3) Provide training for residential child care facilities.
- 12 (4) Provide for various other child welfare training initiatives.

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

18 **SECTION 5.1.(r)** The sum of eight hundred thirty-eight thousand dollars  
19 (\$838,000) appropriated in this section in the TANF Block Grant to the Department of  
20 Health and Human Services shall be used to purchase services at maternity homes  
21 throughout the State.

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

33 **SECTION 5.1.(t)** The sum of one million five hundred thousand dollars  
34 (\$1,500,000) appropriated in this act in the TANF Block Grant and transferred to the  
35 Social Services Block Grant to the Department of Health and Human Services, Division  
36 of Social Services, for child caring agencies for the 2003-2004 fiscal year shall be  
37 allocated to the State Private Child Caring Agencies Fund. These funds shall be  
38 combined with all other funds allocated to the State Private Child Caring Agencies Fund  
39 for the reimbursement of the State's portion of the cost of care for the placement of  
40 certain children by the county departments of social services who are not eligible for  
41 federal IV-E funds. These funds shall not be used to match other federal funds.

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

53  
54 Requested by: Senators Weinstein, Metcalf, Queen, Dalton , Garrou, Hagan  
55 **NER BLOCK GRANT FUNDS**



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

3  
 4 **COMMUNITY DEVELOPMENT BLOCK GRANT**

5		
6	01. State Administration	\$1,000,000
7		
8	02. Urgent Needs and Contingency	1,000,000
9		
10	03. Scattered Site Housing	13,200,000
11		
12	04. Economic Development	8,710,000
13		
14	05. Community Revitalization	13,500,000
15		
16	06. State Technical Assistance	450,000
17		
18	07. Housing Development	2,000,000
19		
20	08. Infrastructure	5,140,000
21		

22 **TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT –**  
 23 **2004 Program Year** \$45,000,000

24  
 25           **SECTION 5.2.(b)** Decreases in Federal Fund Availability. – If federal funds  
 26 are reduced below the amounts specified above after the effective date of this act, then  
 27 every program in each of these federal block grants shall be reduced by the same  
 28 percentage as the reduction in federal funds.

29           **SECTION 5.2.(c)** Increases in Federal Fund Availability for Community  
 30 Development Block Grant. – Any block grant funds appropriated by the Congress of the  
 31 United States in addition to the funds specified in this section shall be expended as  
 32 follows: Each program category under the Community Development Block Grant shall  
 33 be increased by the same percentage as the increase in federal funds.

34           **SECTION 5.2.(d)** Limitations on Community Development Block Grant  
 35 Funds. – Of the funds appropriated in this section for the Community Development  
 36 Block Grant, the following shall be allocated in each category for each program year:  
 37 up to one million dollars (\$1,000,000) may be used for State administration; not less  
 38 than fifty thousand dollars (\$50,000) may be used for Urgent Needs and Contingency;  
 39 up to thirteen million two hundred thousand dollars (\$13,200,000) may be used for  
 40 Scattered Site Housing; up to ten million nine hundred sixty thousand dollars  
 41 (\$10,960,000) may be used for Economic Development, including Urban  
 42 Redevelopment grants; not less than twelve million two hundred thousand dollars  
 43 (\$12,200,000) shall be used for Community Revitalization; up to four hundred fifty  
 44 thousand dollars (\$450,000) may be used for State Technical Assistance; up to two  
 45 million dollars (\$2,000,000) may be used for Housing Development; up to five million  
 46 one hundred forty thousand dollars (\$5,140,000) may be used for Infrastructure. If  
 47 federal block grant funds are reduced or increased by the Congress of the United States  
 48 after the effective date of this act, then these reductions or increases shall be allocated in  
 49 accordance with subsection (b) or (c) of this section, as applicable.

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

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

4           **SECTION 5.2.(g)** Department of Commerce Demonstration Grants in  
5 Partnership with Rural Economic Development Center, Inc. – The Department of  
6 Commerce, in partnership with the Rural Economic Development Center, Inc., shall  
7 award up to two million two hundred fifty thousand dollars (\$2,250,000) in  
8 demonstration grants to local governments in very distressed rural areas of the State.  
9 These grants shall be used to address critical infrastructure and entrepreneurial needs  
10 and to provide small business assistance.

11           **SECTION 5.2.(h)** The Department of Commerce shall, in consultation with  
12 local government officials and the University of North Carolina School of Government,  
13 design a regional distribution system for making grants in the Community  
14 Revitalization category in program year 2005. The system shall take into account the  
15 relative lower income, poverty, and housing conditions in every region, target the most  
16 critical needs, and ensure that local governments in every region have equal and fair  
17 access to these funds.

## 18 **PART VI. GENERAL PROVISIONS**

19 Requested by:           Senators Garrou, Dalton, Hagan

### 20 **SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL RECEIPTS,** 21 **AND AUTHORIZATION FOR EXPENDITURES**

22           **SECTION 6.1.** There is appropriated out of the cash balances, federal  
23 receipts, and departmental receipts available to each department, sufficient amounts to  
24 carry on authorized activities included under each department's operations. All these  
25 cash balances, federal receipts, and departmental receipts shall be expended and  
26 reported in accordance with provisions of the Executive Budget Act, except as  
27 otherwise provided by statute, and shall be expended at the level of service authorized  
28 by the General Assembly. If the receipts, other than gifts and grants that are  
29 unanticipated and are for a specific purpose only, collected in a fiscal year by an  
30 institution, department, or agency exceed the receipts certified for it in General Fund  
31 Codes or Highway Fund Codes, then the Director of the Budget shall decrease the  
32 amount he allots to that institution, department, or agency from appropriations from that  
33 Fund by the amount of the excess, unless the Director of the Budget finds that the  
34 appropriations from the Fund are necessary to maintain the function that generated the  
35 receipts at the level anticipated in the certified Budget Codes for that Fund.

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

- 39 (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or
- 40 (2) If the Director of the Budget finds that the new permanent employee  
41 positions are necessary to maintain the function that generated the  
42 receipts at the level anticipated in the certified budget codes for that  
43 Fund. The Director of the Budget shall notify the President Pro  
44 Tempore of the Senate, the Speakers of the House of Representatives,  
45 the Chairs of the Appropriations Committees of the Senate and the  
46 House of Representatives, and the Fiscal Research Division of the  
47 Legislative Services Office that he intends to make such a finding at  
48 least 10 days before he makes the finding. The notification shall set out  
49 the reason the positions are necessary to maintain the function.

50 The Office of State Budget and Management shall report to the Joint  
51 Legislative Commission on Governmental Operations and to the Fiscal Research  
52 Division of the Legislative Services Office within 30 days after the end of each quarter  
53  
54

1 the General Fund Codes or Highway Fund Codes that did not result in a corresponding  
2 reduced allotment from appropriations from that Fund.

3 This section shall expire June 30, 2004.  
4

5 Requested by: Senators Garrou, Dalton, Hagan

6 **NO EXPENDITURE OF UNBUDGETED RECEIPTS**

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

8 **"§ 143-27. Appropriations to educational, charitable and correctional institutions**  
9 **are in addition to receipts by them.**

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

32 The Office of State Budget and Management shall report to the Joint Legislative  
33 Commission on Governmental Operations and to the Fiscal Research Division of the  
34 Legislative Services Office within 30 days after the end of each quarter on expenditures  
35 of receipts in excess of the amounts certified in General Fund Codes, Highway Fund  
36 Codes, or Wildlife Fund Codes, that did not result in a corresponding reduced allotment  
37 from appropriations from that Fund."  
38

39 Requested by: Senators Garrou, Dalton, Hagan

40 **BUDGET DIRECTOR TO REVIEW PRACTICES**

41 **SECTION 6.2A.(a)** The Office of State Budget and Management, in  
42 consultation with the State Controller, shall conduct a review and evaluation of current  
43 practices relative to the following issues:

- 44 (1) The proliferation of nonreverting funds and accounts.
- 45 (2) The designation of selected funds as "off-budget".
- 46 (3) The sources of authority, consistent with Article V, Section 7(1) of the  
47 Constitution, under which expenditures are being made from each  
48 special fund, trust fund, internal service fund, or enterprise fund.
- 49 (4) The proper classification and management of funds as special funds,  
50 trust funds, internal service funds, or enterprise funds consistent with  
51 criteria adopted by the Governmental Accounting Standards Board.
- 52 (5) Appropriate budget planning within special funds, trust funds, internal  
53 service funds, and enterprise funds, including, in particular, the  
54 accurate projection of receipts, expenditures, and fund balances and

1 the presentation of that information for legislative review and  
2 appropriation action.

- 3 (6) The administration of G.S. 143-27, which requires in part that the over  
4 collection of departmental receipts be accompanied by a corresponding  
5 reduction in the allotments to institutions, departments, and agencies.

6 **SECTION 6.2A.(b)** Where the review and evaluation reveals problems or  
7 other failures, the Office of State Budget and Management shall report its findings and  
8 recommendations to the Chairs of the Appropriations Committees of the Senate and  
9 House of Representatives as soon as practicable. In particular, the Office of State  
10 Budget and Management shall transmit to the General Assembly a list of special funds  
11 properly classified together with their estimated beginning balances, estimated receipts  
12 and expenditures, and estimated ending balances, and a list of funds currently classified  
13 as special funds for which the receipts are more appropriately reflected as offsets to total  
14 requirements in General Fund budget codes. The list of special funds properly classified  
15 should include funds currently classified as trust funds that are more appropriately  
16 classified as special funds.

17  
18 Requested by: Senators Garrou, Dalton, Hagan

19 **BUDGET CODE ADJUSTMENTS**

20 **SECTION 6.3.(a)** The Office of State Budget and Management shall  
21 determine and prepare for each General Fund budget code such adjustments as may be  
22 necessary to re-budget line items to reflect historical spending patterns and anticipated  
23 revenues based on actual collections and to provide for more accurate budgeting of  
24 salaries.

25 **SECTION 6.3.(b)** The Office of State Budget and Management shall report  
26 the necessary adjustments to the General Assembly no later than 10 days after the  
27 convening of the 2004 Regular Session of the 2003 General Assembly. The Director of  
28 the Budget shall include the adjustments prepared in accordance with subsection (a) of  
29 this section in the recommended adjustments to the authorized budget for the 2004-2005  
30 fiscal year.

31  
32 Requested by: Senators Garrou, Dalton, Hagan

33 **CONTINGENCY AND EMERGENCY FUND ALLOCATIONS**

34 **SECTION 6.4.** Funds in the amount of five million dollars (\$5,000,000) for  
35 the 2003-2004 fiscal year and five million dollars (5,000,000) for the 2004-2005 fiscal  
36 year are appropriated in this act to the Contingency and Emergency Fund. Of these  
37 funds, no more than two hundred fifty thousand dollars (\$250,000) shall be expended  
38 for statutory purposes other than those set out in G.S. 143-23(a1)(2). The remainder of  
39 these funds shall be expended only for the purposes outlined in G.S. 143-23(a1)(2).

40  
41 Requested by: Senators Garrou, Dalton, Hagan

42 **CHANGE EFFECTIVE DATE - PRIVATE PLATES ON PUBLIC VEHICLES**

43 **SECTION 6.5.(a)** The introductory language to Section 6.14(b) of S.L.  
44 2001-424 reads as rewritten:

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

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

48 "**SECTION 6.14.(h)** Subsection (b) of this section becomes effective October 1,  
49 ~~2003~~. 2004. Except as provided in subsection (c) of this section, the remainder of this  
50 section is effective when it becomes law."

51  
52 Requested by: Senators Garrou, Dalton, Hagan

53 **HIPAA RESERVE**

1           **SECTION 6.6.** Funds in the amount of two million dollars (\$2,000,000) are  
2 appropriated in this act to the Reserve to Implement HIPAA. This reserve shall be  
3 located in the Office of State Budget and Management.  
4

5 Requested by:       Senators Garrou, Dalton, Hagan, Purcell, Reeves

6 **HIPAA IMPLEMENTATION**

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

- 11           (1) Coordinating correspondence between the State and the United States  
12 government on all matters relating to HIPAA Administrative  
13 Simplification requirements under Subtitle F of Title II of HIPAA.
- 14           (2) Coordinating official State comments on proposed federal regulations  
15 and the federal rule-making process pertaining to HIPAA  
16 Administrative Simplification.
- 17           (3) Obtaining from the North Carolina Attorney General legal  
18 interpretations of federal rules pertaining to HIPAA Administrative  
19 Simplification compliance, implementation, and enforcement.
- 20           (4) Establishing deadlines and benchmarks for State agencies to provide  
21 the necessary data required to monitor compliance with HIPAA  
22 Administrative Simplification requirements.

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

27           **SECTION 6.7.(b)** The University of North Carolina System and the  
28 Teachers' and State Employees' Comprehensive Major Medical Plan may develop and  
29 implement HIPAA Administrative Simplification compliance and shall report  
30 bimonthly to the Governor on the status of implementation.

31           **SECTION 6.7.(c)** Funds appropriated to the Reserve to Implement HIPAA  
32 that are unexpended and unencumbered at the end of the fiscal year shall not revert to  
33 the General Fund but shall remain in the Reserve for use in accordance with the  
34 purposes of the Reserve.  
35

36 Requested by:       Senators Swindell, Garrou, Dalton, Hagan

37 **STATE SURPLUS REAL PROPERTY SYSTEM**

38           **SECTION 6.8.(a)** The Department of Administration, in consultation with  
39 the Office of State Budget and Management and other affected State departments, shall  
40 develop and implement a uniform real property disposal system that will continuously  
41 identify, evaluate, and dispose of all unused or underused State-owned land and  
42 buildings. In order to comply with this section, the Department of Administration, in  
43 consultation with the Office of State Budget and Management and other affected State  
44 departments, shall do all of the following:

- 45           (1) Review the current inventory of State-owned land and buildings for  
46 accuracy and completeness.
- 47           (2) Determine how and when State-owned land and buildings should be  
48 declared surplus.
- 49           (3) Determine whether State agencies have the authority to retain funds  
50 from the disposal of surplus real property and whether this is  
51 consistent among agencies and conducive to the disposal of unneeded  
52 property.
- 53           (4) Consider the use of private real estate brokers, auction, and any other  
54 method determined to be suitable in order to efficiently and effectively  
55 dispose of surplus real property.

- 1 (5) Review the real property held by a selected number of State agencies  
2 to determine whether the agency has any property that meets the  
3 criteria as set forth in this section.  
4 (6) Assess the need for additional staff to effectively administer the  
5 system.  
6 (7) Examine current State law to assess the need for changes in order to  
7 support a uniform system to identify, evaluate, and dispose of all  
8 unused or underused State-owned land and buildings.

9 **SECTION 6.8.(b)** Prior to disposal of any property under the system, the  
10 Department shall consider the following factors in making the analysis:

- 11 (1) The condition of the property;  
12 (2) The extent to which it meets the purpose for which it was intended;  
13 (3) The future needs of the Agency to perform the service intended at the  
14 location;  
15 (4) The best and most cost effective manner in which these future needs  
16 can be serviced;  
17 (5) The practicability of moving the function of the services performed at  
18 a location to another area that might reduce acquisition, construction,  
19 and labor cost without diminishing the quality of service;  
20 (6) A recommendation as to whether a respective property should be (i)  
21 sold or retained, (ii) renovated, (iii) expanded for future use, or (iv)  
22 sold with a lease bond for a period not more than 10 years in order to  
23 allow transition; and  
24 (7) Other recommendations regarding use of the property.

25 These recommendations are by way of illustration and not by way of limitation.

26 **SECTION 6.8.(c)** The Department may retain consultants to assist the  
27 accomplishment of the objectives set forth in subsection (a) of this section. The  
28 Department shall report its findings and recommendations to the General Assembly no  
29 later than March 1, 2004.

30  
31 Requested by: Senators Swindell, Garrou, Dalton, Hagan

### 32 **EXPEDITE SALE OF SURPLUS LAND**

33 **SECTION 6.9.** The Department of Administration shall work with all State  
34 departments, agencies, and institutions, including the Department of Transportation and  
35 The University of North Carolina, to identify surplus state-owned real property and to  
36 expedite the sale of that property or the sale and subsequent lease back of that property.  
37 Unless otherwise provided by law, the clear proceeds of the sale of surplus real property  
38 shall be credited to the General Fund. The Department of Administration shall report to  
39 the Joint Legislative Commission on Governmental Operations no later than December  
40 1, 2003, regarding the extraordinary measures being taken to comply with this  
41 provision.

42  
43 Requested by: Senators Garrou, Dalton, Hagan

### 44 **GOVERNMENT AGENCIES TO USE PRODUCTS OF RECYCLED STEEL**

45 **SECTION 6.10.(a)** G.S. 130A-309.14 is amended by adding a new  
46 subsection to read:

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

- 51 (1) The product must be acquired competitively within a reasonable time  
52 frame.  
53 (2) The product must meet appropriate performance standards.  
54 (3) The product must be acquired at a reasonable price."

1           **SECTION 6.10.(b)** The Department of Administration shall report to the  
2 Joint Legislative Commission on Governmental Operations on agencies' compliance  
3 with this section.

4  
5 Requested by:           Senators Garrou, Dalton, Hagan

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

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

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

21           **SECTION 6.12.(c)** The Legislative Services Office shall assign professional  
22 and clerical staff to assist the Committee in its work. Members of the Committee shall  
23 receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1,  
24 138-5, or 138-6, as appropriate.

25  
26 Requested by:           Senators Garrou, Dalton, Hagan

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

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

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

41 By May 1, 2004, the Department shall report its findings, conclusions, and  
42 recommendations to the Chairs of the Senate and House of Representatives  
43 Appropriations Committees.

44  
45 Requested by:           Senators Garrou, Dalton, Hagan

46 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

47           **SECTION 6.19.** All funds appropriated by this act into reserves may be  
48 expended only for the purposes for which the reserves were established.

49  
50 Requested by:           Senators Hagan, Garrou, Dalton

51 **TRANSFER OF LAND FOR THE MILLENNIUM CAMPUSES OF**  
52 **UNC-GREENSBORO AND NC A&T STATE UNIVERSITY**

53           **SECTION 6.20.** Notwithstanding G.S. 143-341(4)g. or any other provision  
54 of law, the property currently allocated to the Department of Administration and  
55 previously allocated to the Department of Health and Human Services for the Central

1 School for the Deaf at Greensboro is hereby reallocated to the Board of Governors of  
2 The University of North Carolina. This property shall be used for the establishment of  
3 Millennium Campuses of the University of North Carolina at Greensboro and North  
4 Carolina Agricultural and Technical State University.

5  
6 Requested by: Senators Hagan, Garrou, Dalton

7 **REVISE LAW ON NON-STATE ENTITY REPORTS ON USE OF STATE**  
8 **FUNDS**

9 **SECTION 6.21.(a)** G.S. 143-6.1 reads as rewritten:

10 **"§ 143-6.1. Report on use of State funds by non-State entities.**

11 (a) Disbursement and Use of State Funds. – Every corporation, organization, and  
12 institution that receives, uses, or expends any State funds shall use or expend the funds  
13 only for the purposes for which they were appropriated by the General Assembly or  
14 collected by the State. State funds include federal funds that flow through the State. For  
15 the purposes of this section, the term "grantee" means a corporation, organization, or  
16 institution that receives, uses, or expends any State funds. ~~The funds.~~

17 ~~The State may shall~~ not disburse State funds appropriated by the General Assembly  
18 to any grantee or collected by the State for use by any grantee ~~if unless~~ that grantee has  
19 failed to provide any reports or financial information previously required by this  
20 section. In addition, before disbursing the funds, the Office of State Budget and  
21 Management may require the grantee to supply information demonstrating that the  
22 grantee is capable of managing the funds in accordance with law and has established  
23 adequate financial procedures and controls. ~~grantee:~~

- 24 (1) Provides all reports and financial information required under this  
25 section to the appropriate State agencies and officials; and  
26 (2) Provides any additional information that the Office of State Budget  
27 and Management deems necessary demonstrating that such grantee is  
28 capable of managing the funds in accordance with law and has  
29 established adequate financial procedures and controls.

30 All financial statements furnished to the State Auditor pursuant to this section, and  
31 any audits or other reports prepared by the State Auditor, are public records.

32 (b) ~~State Agency Reports-Responsibilities.~~ – A State agency that receives State  
33 funds and then disburses the State funds to a grantee ~~must identify the grantee to the~~  
34 ~~State Auditor, unless the funds were for the purchase of goods and services. The State~~  
35 ~~agency must submit shall:~~

- 36 (1) Submit documents to the State Auditor in a prescribed format  
37 describing standards of compliance and suggested audit procedures  
38 sufficient to give adequate direction to independent auditors  
39 performing audits.  
40 (2) Annually notify each grantee, in writing, of the reporting requirements  
41 set forth in this section and that the State agency is not authorized to  
42 disburse funds to grantees that fail to comply with the reporting  
43 requirements for funds received during the prior fiscal year;  
44 (3) Provide each grantee with the accounting form and other requirements  
45 prescribed by the State Auditor.  
46 (4) Submit a list to the State Auditor by October 31 each year of every  
47 grantee to which the agency disbursed State funds in the prior fiscal  
48 year, except when the funds were for purchases of goods and services,  
49 the amount disbursed to each grantee and other such information as  
50 required by the State Auditor to comply with the requirements set forth  
51 in this section.  
52 (5) Submit a list to the Office of State Budget and Management by  
53 January 31 each year of every grantee to which the agency disbursed  
54 State funds in the prior fiscal year except when the funds were for  
55 purchases of goods and services and, for each grantee, whether that



1 grantee has filed the sworn accounting required by subsection (c) of  
2 this section and whether the sworn accounting is in compliance with  
3 subsection (c) of this section.

4 (c) Grantee Receipt and Expenditure Reports. – A grantee that receives, uses, or  
5 expends between fifteen thousand dollars (\$15,000) and three hundred thousand dollars  
6 (\$300,000) in State funds annually, except when the funds are for the purchase of goods  
7 or services, must file annually with the State agency that disbursed the funds a sworn  
8 accounting of receipts and expenditures of the State funds and a description of activities  
9 and accomplishments undertaken by the grantee with State funds. This accounting must  
10 be attested to by the treasurer of the grantee and one other authorizing officer of the  
11 grantee. The accounting must be filed within ~~six months~~ 90 days after the end of the  
12 grantee's fiscal year in which the State funds were received. The accounting shall be in  
13 the form required by the State Auditor and provided to the grantee by the disbursing  
14 agency. ~~Each State agency shall develop a format for these accountings and shall obtain~~  
15 ~~the State Auditor's approval of the format.~~

16 (d) Grantee Audit Reports. – A grantee that receives, uses, or expends State  
17 funds in the amount of three hundred thousand dollars (\$300,000) or more annually,  
18 except when the funds are for the purchase of goods or services, must file annually with  
19 the State Auditor a financial statement in the form and on the schedule prescribed by the  
20 State Auditor. These audit reports shall be filed no later than nine months after the close  
21 of the grantee's fiscal year. The financial statement must be audited in accordance with  
22 standards prescribed by the State Auditor to assure that State funds are used for the  
23 purposes provided by law.

24 A grantee that receives, uses, or expends State funds in the amount of three hundred  
25 thousand dollars (\$300,000) or more annually, except when the funds are for the  
26 purchase of goods or services, must file annually with the State agency that disbursed  
27 the funds a description of activities and accomplishments undertaken by the grantee  
28 with State funds. This description must be filed within 90 days after end of the grantee's  
29 fiscal year in which the State funds were received.

30 (d1) State Auditor's Responsibilities. – The State Auditor shall:

- 31 (1) Review each audit submitted pursuant to subsection (d) of this section  
32 and determine that it has been conducted in accordance with generally  
33 accepted audit standards and that the grantee has received a clean audit  
34 opinion.
- 35 (2) Notify disbursing agencies by January 31 each year of all grantees that  
36 are not in compliance with the reporting requirements set forth in this  
37 section.
- 38 (3) Notify disbursing agencies of any material audit findings in the audits  
39 of their grantees.
- 40 (4) Submit a list to the Office of State Budget and Management by  
41 January 31 each year of every grantee that received State funds in the  
42 prior fiscal year and, for each grantee, whether that grantee has  
43 complied with this subsection.

44 (d2) Before a State agency disburses any funds for the fourth quarter of a fiscal  
45 year, the agency shall, in consultation with the Office of State Budget and Management,  
46 verify that the grantee has complied with the reporting requirements of this section. A  
47 State agency shall not disburse funds during the fourth quarter of the fiscal year to any  
48 grantee that has not complied with this section by March 31 of each year.

49 (d3) The Office of State Budget and Management shall report to the Joint  
50 Legislative Commission on Governmental Operations and the Fiscal Research Division  
51 by May 1 on all grantees that failed to comply with this section for the prior fiscal year,  
52 the amount of State funds that were disbursed to each of those grantees during that  
53 fiscal year, and the amount of State funds that were withheld.

54 (e) Federal Reporting Requirements. – Federal law may require a grantee to  
55 make additional reports with respect to funds for which reports are required under this

1 section. Notwithstanding the provisions of this section, a grantee may satisfy the  
 2 reporting requirements of subsection (c) of this section by submitting a copy of the  
 3 report required under federal law with respect to the same funds or by submitting a copy  
 4 of the report described in subsection (d) of this section.

5 (f) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article  
 6 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or  
 7 expends State funds. Such a grantee must, upon request, furnish to the State Auditor for  
 8 audit all books, records, and other information necessary for the State Auditor to  
 9 account fully for the use and expenditure of State funds. The grantee must furnish any  
 10 additional financial or budgetary information requested by the State Auditor."

11 **SECTION 6.21.(b)** G.S. 143-26 reads as rewritten:

12 **"§ 143-26. Director to have discretion as to manner of paying annual**  
 13 **appropriations.**

14 (a) Except as provided in subsection (b) of this section or as otherwise provided  
 15 by State or federal law, it shall be discretionary with the Director of the Budget whether  
 16 any annual appropriation shall be paid in monthly, quarterly or semiannual installments  
 17 or in a single payment.

18 (b) Except as otherwise provided by State or federal law, an annual appropriation  
 19 of ~~one hundred thousand dollars (\$100,000) or less~~ less than fifteen thousand dollars  
 20 (\$15,000) to or for the use of a nonprofit corporation shall be paid in a single annual  
 21 payment. An annual appropriation of ~~more than one hundred thousand dollars~~  
 22 ~~(\$100,000)~~ fifteen thousand dollars (\$15,000) or more to or for the use of a nonprofit  
 23 corporation shall be paid in quarterly or monthly installments, in the discretion of the  
 24 Director of the Budget."  
 25

26 **PART VII. PUBLIC SCHOOLS**

27  
 28 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

29 **TEACHER SALARY SCHEDULES**

30 **SECTION 7.1.(a)** Effective for the 2003-2004 school year, the Director of  
 31 the Budget shall transfer from the Reserve for Experience Step Salary Increase for  
 32 Teachers and Principals in Public Schools for the 2003-2004 fiscal year funds necessary  
 33 to implement the teacher salary schedule set out in subsection (b) of this section,  
 34 including funds for the employer's retirement and social security contributions and  
 35 funds for annual longevity payments at one and one-half percent (1.5%) of base salary  
 36 for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of  
 37 base salary for 15 to 19 years of State service, three and twenty-five hundredths percent  
 38 (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent  
 39 (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2003,  
 40 for all teachers whose salaries are supported from the State's General Fund. These  
 41 funds shall be allocated to individuals according to rules adopted by the State Board of  
 42 Education. The longevity payment shall be paid in a lump sum once a year.

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

47 **2003-2004 MONTHLY SALARY SCHEDULE**

48 **"A" TEACHERS**

49 Years of	"A"	NBPTS
50 Experience	Teachers	Certification
51 0	\$2,525	N/A
52 1	\$2,567	N/A
53 2	\$2,611	N/A
54 3	\$2,764	\$3,096
55 4	\$2,904	\$3,252

1	5	\$3,036	\$3,400
2	6	\$3,164	\$3,544
3	7	\$3,266	\$3,658
4	8	\$3,314	\$3,712
5	9	\$3,362	\$3,765
6	10	\$3,412	\$3,821
7	11	\$3,461	\$3,876
8	12	\$3,511	\$3,932
9	13	\$3,561	\$3,988
10	14	\$3,614	\$4,048
11	15	\$3,667	\$4,107
12	16	\$3,722	\$4,169
13	17	\$3,777	\$4,230
14	18	\$3,834	\$4,294
15	19	\$3,892	\$4,359
16	20	\$3,950	\$4,424
17	21	\$4,011	\$4,492
18	22	\$4,072	\$4,561
19	23	\$4,136	\$4,632
20	24	\$4,200	\$4,704
21	25	\$4,264	\$4,776
22	26	\$4,330	\$4,850
23	27	\$4,398	\$4,926
24	28	\$4,467	\$5,003
25	29	\$4,538	\$5,083
26	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

1	24	\$4,620	\$5,174
2	25	\$4,690	\$5,253
3	26	\$4,763	\$5,335
4	27	\$4,838	\$5,419
5	28	\$4,914	\$5,504
6	29	\$4,992	\$5,591
7	30+	\$4,992	\$5,591

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

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

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

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

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

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

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

47  
48 Requested by:       Senators Lucas, Metcalf, Garrou, Dalton, Hagan

49 **SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

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

**SECTION 7.2.(b)** The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 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

1	21	\$4,737	\$4,811	\$4,963	\$5,042
2	22	\$4,811	\$4,886	\$5,042	\$5,143
3	23	\$4,886	\$4,963	\$5,143	\$5,246
4	24	\$4,963	\$5,042	\$5,246	\$5,351
5	25	\$5,042	\$5,143	\$5,351	\$5,458
6	26	\$5,143	\$5,246	\$5,458	\$5,567
7	27	\$5,246	\$5,351	\$5,567	\$5,678
8	28	\$5,351	\$5,458	\$5,678	\$5,792
9	29	\$5,458	\$5,567	\$5,792	\$5,908
10	30	\$5,567	\$5,678	\$5,908	\$6,026
11	31	\$5,678	\$5,792	\$6,026	\$6,147
12	32	\$5,792	\$5,908	\$6,147	\$6,270
13	33	\$5,908	\$6,026	\$6,270	\$6,395
14	34	\$6,026	\$6,147	\$6,395	\$6,523
15	35	\$6,147	\$6,270	\$6,523	\$6,653
16	36	\$6,270	\$6,395	\$6,653	\$6,786
17	37	\$6,395	\$6,523	\$6,786	\$6,922
18	38	\$6,523	\$6,653	\$6,922	\$7,060
19	39	-	\$6,786	\$7,060	\$7,201
20	40	-	\$6,922	\$7,201	\$7,345
21	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%)

1 more than the highest paid principal receives in State salary in that school unit;  
 2 provided, however, the additional State-paid salary a superintendent who was employed  
 3 by a local school administrative unit for the 1992-1993 fiscal year received because of  
 4 that requirement shall not be reduced because of this subsection for subsequent fiscal  
 5 years that the superintendent is employed by that local school administrative unit so  
 6 long as the superintendent is entitled to at least that amount of additional State-paid  
 7 salary under the rules in effect for the 1992-1993 fiscal year.

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

10 **SECTION 7.2.(h)**

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

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

26 **SECTION 7.2.(i)** Participants in an approved full-time masters in school  
 27 administration program shall receive up to a 10-month stipend at the beginning salary of  
 28 an assistant principal during the internship period of the masters program. For the  
 29 2003-2004 fiscal year, the stipend shall not exceed the difference between the beginning  
 30 salary of an assistant principal and fifty percent (50%) of any fellowship funds received  
 31 by the intern as a full-time student, including awards of the Principal Fellows Program.  
 32 For the 2004-2005 fiscal year and subsequent fiscal years, the stipend shall not exceed  
 33 the difference between the beginning salary of an assistant principal and any fellowship  
 34 funds received by the intern as a full-time student, including awards of the Principal  
 35 Fellows Program. The Principal Fellows Program or the school of education where the  
 36 intern participates in a full-time masters in school administration program shall supply  
 37 the Department of Public Instruction with certification of eligible full-time interns.

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

42  
 43 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

44 **CENTRAL OFFICE SALARIES**

45 **SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant  
 46 superintendents, associate superintendents, directors/coordinators, supervisors, and  
 47 finance officers for the 2003-2004 fiscal year, beginning July 1, 2003. The top of these  
 48 ranges are increased by one and eighty-one hundredths percent (1.81%) annually for  
 49 full-time employees.

50	School Administrator I	\$2,932	\$5,308
51	School Administrator II	\$3,112	\$5,634
52	School Administrator III	\$3,303	\$5,979
53	School Administrator IV	\$3,436	\$6,221
54	School Administrator V	\$3,574	\$6,473
55	School Administrator VI	\$3,792	\$6,869

1 School Administrator VII \$3,945 \$7,147  
 2 The local board of education shall determine the appropriate category and  
 3 placement for each assistant superintendent, associate superintendent,  
 4 director/coordinator, supervisor, or finance officer within the salary ranges and within  
 5 funds appropriated by the General Assembly for central office administrators and  
 6 superintendents. The category in which an employee is placed shall be included in the  
 7 contract of any employee hired on or after July 1, 2003.

8 **SECTION 7.3.(b)** The monthly salary ranges that follow apply to public  
 9 school superintendents for the 2003-2004 fiscal year, beginning July 1, 2003. The top  
 10 of these ranges are increased by one and eighty-one hundredths percent (1.81%)  
 11 annually for full-time employees.

12 Superintendent I	\$4,187	\$7,586
13 Superintendent II	\$4,445	\$8,047
14 Superintendent III	\$4,716	\$8,541
15 Superintendent IV	\$5,005	\$9,062
16 Superintendent V	\$5,312	\$9,618

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

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

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

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

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

39 **SECTION 7.3.(f)** The Director of the Budget shall transfer from the Reserve  
 40 for Compensation Increases created in this act for fiscal year 2003-2004, beginning July  
 41 1, 2003, funds necessary to provide an average annual salary increase of one and  
 42 eighty-one hundredths percent (1.81%), including funds for the employer's retirement  
 43 and social security contributions, commencing July 1, 2003, for all permanent full-time  
 44 personnel paid from the Central Office Allotment. The State Board of Education shall  
 45 allocate these funds to local school administrative units. The local boards of education  
 46 shall establish guidelines for providing their salary increases to these personnel.  
 47

48 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

49 **NONCERTIFIED PERSONNEL**

50 **SECTION 7.4.(a)** The Director of the Budget shall transfer from the  
 51 Reserve for Compensation Increases created in this act for fiscal year 2003-2004,  
 52 commencing July 1, 2003, funds necessary to provide a salary increase of one and  
 53 eighty-one hundredths percent (1.81%), including funds for the employer's retirement  
 54 and social security contribution, commencing July 1, 2003, for all noncertified public  
 55 school employees whose salaries are supported from the State's General Fund.



1           **SECTION 7.4.(b)** Local boards of education shall increase the rates of pay  
2 for all such employees who were employed for all or part of fiscal year 2002-2003 and  
3 who continue their employment for fiscal year 2003-2004 by at least one and eighty-one  
4 hundredths percent (1.81%), commencing July 1, 2003. For part-time employees, the  
5 pay increase shall be pro rata based on the number of hours worked.

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

8           **SECTION 7.4.(d)** The State Board of Education may adopt salary ranges for  
9 noncertified personnel to support increases of one and eighty-one hundredths percent  
10 (1.81%) for the 2003-2004 school year.

11  
12 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

13 **RESERVE FOR EXPERIENCE STEP INCREASE FOR TEACHERS AND**  
14 **PRINCIPALS IN PUBLIC SCHOOLS**

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

21           **SECTION 7.5.(b)** Effective July 1, 2003, any permanent certified personnel  
22 employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of  
23 experience shall receive a one-time bonus equivalent to the average increase of the 26 to  
24 29 year steps. Effective July 1, 2003, any permanent personnel employed on July 1,  
25 2003, and paid at the top of the principal and assistant principal salary schedule shall  
26 receive a one-time bonus equivalent to two percent (2%). For permanent part-time  
27 personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under G.S.  
28 115C-325(a)(5a) are not eligible to receive the bonus.

29  
30 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

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

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

38           **SECTION 7.6.(b)** Use of Funds for Supplemental Funding. – All funds  
39 received pursuant to this section shall be used only: (i) to provide instructional  
40 positions, instructional support positions, teacher assistant positions, clerical positions,  
41 school computer technicians, instructional supplies and equipment, staff development,  
42 and textbooks; (ii) for salary supplements for instructional personnel and instructional  
43 support personnel; and (iii) to pay an amount not to exceed ten thousand dollars  
44 (\$10,000) of the plant operation contract cost charged by the Department of Public  
45 Instruction for services.

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

1 accountability, addressing the needs of at-risk students, and establishing and  
2 maintaining safe schools.

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

- 4 (1) "Anticipated county property tax revenue availability" means the  
5 county-adjusted property tax base multiplied by the effective State  
6 average tax rate.
- 7 (2) "Anticipated total county revenue availability" means the sum of the:  
8 a. Anticipated county property tax revenue availability,  
9 b. Local sales and use taxes received by the county that are levied  
10 under Chapter 1096 of the 1967 Session Laws or under  
11 Subchapter VIII of Chapter 105 of the General Statutes,  
12 c. Sales tax hold harmless reimbursement received by the county  
13 under G.S. 105-521, and  
14 d. Fines and forfeitures deposited in the county school fund for the  
15 most recent year for which data are available.
- 16 (3) "Anticipated total county revenue availability per student" means the  
17 anticipated total county revenue availability for the county divided by  
18 the average daily membership of the county.
- 19 (4) "Anticipated State average revenue availability per student" means the  
20 sum of all anticipated total county revenue availability divided by the  
21 average daily membership for the State.
- 22 (5) "Average daily membership" means average daily membership as  
23 defined in the North Carolina Public Schools Allotment Policy  
24 Manual, adopted by the State Board of Education. If a county contains  
25 only part of a local school administrative unit, the average daily  
26 membership of that county includes all students who reside within the  
27 county and attend that local school administrative unit.
- 28 (6) "County-adjusted property tax base" shall be computed as follows:  
29 a. Subtract the present-use value of agricultural land, horticultural  
30 land, and forestland in the county, as defined in G.S. 105-277.2,  
31 from the total assessed real property valuation of the county,  
32 b. Adjust the resulting amount by multiplying by a weighted  
33 average of the three most recent annual sales assessment ratio  
34 studies,  
35 c. Add to the resulting amount the:  
36 1. Present-use value of agricultural land, horticultural land,  
37 and forestland, as defined in G.S. 105-277.2,  
38 2. Value of property of public service companies,  
39 determined in accordance with Article 23 of Chapter 105  
40 of the General Statutes, and  
41 3. Personal property value for the county.
- 42 (7) "County-adjusted property tax base per square mile" means the  
43 county-adjusted property tax base divided by the number of square  
44 miles of land area in the county.
- 45 (8) "County wealth as a percentage of State average wealth" shall be  
46 computed as follows:  
47 a. Compute the percentage that the county per capita income is of  
48 the State per capita income and weight the resulting percentage  
49 by a factor of five-tenths,  
50 b. Compute the percentage that the anticipated total county  
51 revenue availability per student is of the anticipated State  
52 average revenue availability per student and weight the  
53 resulting percentage by a factor of four-tenths,  
54 c. Compute the percentage that the county-adjusted property tax  
55 base per square mile is of the State-adjusted property tax base

1 per square mile and weight the resulting percentage by a factor  
2 of one-tenth,

3 d. Add the three weighted percentages to derive the county wealth  
4 as a percentage of the State average wealth.

5 (9) "Effective county tax rate" means the actual county tax rate multiplied  
6 by a weighted average of the three most recent annual sales assessment  
7 ratio studies.

8 (10) "Effective State average tax rate" means the average of effective  
9 county tax rates for all counties.

10 (10a) "Local current expense funds" means the most recent county current  
11 expense appropriations to public schools, as reported by local boards  
12 of education in the audit report filed with the Secretary of the Local  
13 Government Commission pursuant to G.S. 115C-447.

14 (11) "Per capita income" means the average for the most recent three years  
15 for which data are available of the per capita income according to the  
16 most recent report of the United States Department of Commerce,  
17 Bureau of Economic Analysis, including any reported modifications  
18 for prior years as outlined in the most recent report.

19 (12) "Sales assessment ratio studies" means sales assessment ratio studies  
20 performed by the Department of Revenue under G.S. 105-289(h).

21 (13) "State average current expense appropriations per student" means the  
22 most recent State total of county current expense appropriations to  
23 public schools, as reported by local boards of education in the audit  
24 report filed with the Secretary of the Local Government Commission  
25 pursuant to G.S. 115C-447.

26 (14) "State average adjusted property tax base per square mile" means the  
27 sum of the county-adjusted property tax bases for all counties divided  
28 by the number of square miles of land area in the State.

29 (14a) "Supplant" means to decrease local per student current expense  
30 appropriations from one fiscal year to the next fiscal year.

31 (15) "Weighted average of the three most recent annual sales assessment  
32 ratio studies" means the weighted average of the three most recent  
33 annual sales assessment ratio studies in the most recent years for which  
34 county current expense appropriations and adjusted property tax  
35 valuations are available. If real property in a county has been revalued  
36 one year prior to the most recent sales assessment ratio study, a  
37 weighted average of the two most recent sales assessment ratios shall  
38 be used. If property has been revalued the year of the most recent sales  
39 assessment ratio study, the sales assessment ratio for the year of  
40 revaluation shall be used.

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

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

54 The funds for the local school administrative units located in whole or in part  
55 in the county shall be allocated to each local school administrative unit located in whole

1 or in part in the county based on the average daily membership of the county's students  
2 in the school units.

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

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

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

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

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

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

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

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

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

50 **SECTION 7.6.(j)** Department of Revenue Reports. – The Department of  
51 Revenue shall provide to the Department of Public Instruction a preliminary report for  
52 the current fiscal year of the assessed value of the property tax base for each county  
53 prior to March 1 of each year and a final report prior to May 1 of each year. The reports  
54 shall include for each county the annual sales assessment ratio and the taxable values of  
55 (i) total real property, (ii) the portion of total real property represented by the

1 present-use value of agricultural land, horticultural land, and forestland as defined in  
2 G.S. 105-277.2, (iii) property of public service companies determined in accordance  
3 with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.  
4

5 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

6 **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

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

- 17 (1) Round all fractions of positions to the next whole position.
- 18 (2) Provide five and one-half additional regular classroom teachers in  
19 counties in which the average daily membership per square mile is  
20 greater than four, and seven additional regular classroom teachers in  
21 counties in which the average daily membership per square mile is  
22 four or fewer.
- 23 (3) Provide additional program enhancement teachers adequate to offer  
24 the standard course of study.
- 25 (4) Change the duty-free period allocation to one teacher assistant per 400  
26 average daily membership.
- 27 (5) Provide a base for the consolidated funds allotment of at least six  
28 hundred sixty-nine thousand seven hundred four dollars (\$669,704),  
29 excluding textbooks.
- 30 (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

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

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

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

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

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

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

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

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

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

46           **SECTION 7.7.(f)** Use of Funds. – Local boards of education are encouraged  
47 to use at least twenty percent (20%) of the funds they receive pursuant to this section to  
48 improve the academic performance of children who are performing at Level I or II on  
49 either reading or mathematics end-of-grade tests in grades 3-8 and children who are  
50 performing at Level I or II on the writing tests in grades 4 and 7. Local boards of  
51 education shall report to the State Board of Education on an annual basis on funds used  
52 for this purpose, and the State Board shall report this information to the Joint  
53 Legislative Education Oversight Committee. These reports shall specify how these  
54 funds were targeted and used to implement specific improvement strategies of each  
55 local school administrative unit and its schools such as teacher recruitment, closing the

1 achievement gap, improving student accountability, addressing the needs of at-risk  
2 students, and establishing and maintaining safe schools.

3  
4 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

5 **APPROPRIATIONS FOR CONTINUALLY LOW-PERFORMING SCHOOLS**

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

- 13 (1) The sum of one million six hundred fifty-seven thousand three  
14 hundred forty-five dollars (\$1,657,345) for the 2003-2004 and  
15 2004-2005 fiscal years shall be used to reduce class size at a  
16 continually low-performing school to ensure that the number of  
17 teachers allotted for students in grades four and five is one for every 17  
18 students, and that the number of teachers allotted in grades six through  
19 eight is one for every 17 students, and that the number of teachers  
20 allotted in grades nine through twelve is one for every 20 students; and  
21 (2) The sum of two hundred ninety-eight thousand seven hundred seventy  
22 dollars (\$298,770) for the 2003-2004 and 2004-2005 fiscal years shall  
23 be used to extend teachers' contracts for a total of 10 days, including  
24 five days of additional instruction with related costs for other than  
25 teachers' salaries for the 2003-2004 and 2004-2005 school years.

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

29  
30 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

31 **IMMEDIATE ASSISTANCE TO THE HIGHEST PRIORITY ELEMENTARY**  
32 **SCHOOLS**

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

- 42 (1) The sum of six million ninety-three thousand one hundred eighty-one  
43 dollars (\$6,093,181) for the 2003-2004 and 2004-2005 fiscal years  
44 shall be used to reduce class size at each of these schools to ensure that  
45 no class kindergarten through third grade has more than 15 students;  
46 (2) The sum of two million two hundred sixty-six thousand twenty-six  
47 dollars (\$2,266,026) for the 2003-2004 and 2004-2005 fiscal years  
48 shall be used to extend all teachers' contracts at these schools for a  
49 total of 10 days, with five days for staff development, including staff  
50 development on methods to individualize instruction in smaller  
51 classes, and preparation for the 2003-2004 and 2004-2005 school  
52 years, and five additional days of instruction with related costs for  
53 other than teachers' salaries; and  
54 (3) The sum of one million seven hundred seventy-five thousand four  
55 hundred dollars (\$1,775,400) for the 2003-2004 and 2004-2005 fiscal

1 years shall be used to provide one additional instructional support  
2 position at each priority school.

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

10 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

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

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

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

32 **SECTION 7.10.(c)** Of funds appropriated from the General Fund to State  
33 Aid to Local School Administrative Units, the sum of five hundred thousand dollars  
34 (\$500,000) for fiscal year 2003-2004 and the sum of five hundred thousand dollars  
35 (\$500,000) for fiscal year 2004-2005 shall be used by the State Board of Education to  
36 contract with an outside organization to evaluate the initiatives set forth in this section.  
37 The evaluation shall include:

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



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

5  
6 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

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

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

12  
13 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

14 **ADDITIONAL TEACHER POSITIONS FOR SECOND GRADE**

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

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

22  
23 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

24 **CHILDREN WITH DISABILITIES**

25 **SECTION 7.13.** The State Board of Education shall allocate funds for  
26 children with disabilities on the basis of two thousand six hundred seventy dollars and  
27 twenty-eight cents (\$2,670.28) per child for a maximum of 165,266 children for the  
28 2003-2004 school year. Each local school administrative unit shall receive funds for the  
29 lesser of (i) all children who are identified as children with disabilities or (ii) twelve and  
30 five-tenths percent (12.5%) of the 2003-2004 allocated average daily membership in the  
31 local school administrative unit.

32 The dollar amounts allocated under this section for children with disabilities  
33 shall also adjust in accordance with legislative salary increments, retirement rate  
34 adjustments, and health benefit adjustments for personnel who serve children with  
35 disabilities.

36  
37 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

38 **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

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

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

50  
51 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

52 **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

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

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

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

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

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

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

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

33  
34 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan  
35 **FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION**

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

- 42 (1) Incentive awards in schools that achieve higher than expected  
43 improvements may be up to:
  - 44 a. One thousand five hundred dollars (\$1,500) for each teacher  
45 and for certified personnel; and
  - 46 b. Five hundred dollars (\$500.00) for each teacher assistant.
- 47 (2) Incentive awards in schools that meet the expected improvements may  
48 be up to:
  - 49 a. Seven hundred fifty dollars (\$750.00) for each teacher and for  
50 certified personnel; and
  - 51 b. Three hundred seventy-five dollars (\$375.00) for each teacher  
52 assistant.

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

1           **SECTION 7.16.(c)** It is the intent of the General Assembly, in future fiscal  
2 years, to address efforts in schools to close the achievement gap by providing an  
3 incentive for schools that make adequate yearly progress as required by the No Child  
4 Left Behind Act of 2001.

5  
6 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

7 **LEA ASSISTANCE PROGRAM**

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

21  
22 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

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

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

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

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

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

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

50  
51 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

52 **FUNDS FOR TEACHER RECRUITMENT INITIATIVES**

53           **SECTION 7.19.** The State Board of Education may use up to two hundred  
54 thousand dollars (\$200,000) of the funds appropriated for State Aid to Local School  
55 Administrative Units each year for the 2003-2004 fiscal year and for the 2004-2005

1 fiscal year to enable teachers who have received NBPTS certification or who have  
2 otherwise received special recognition to advise the State Board of Education on teacher  
3 recruitment and other strategic priorities of the State Board.  
4

5 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

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

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

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

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

29 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

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

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

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

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

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

45 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

46 **LITIGATION RESERVE FUNDS**

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

52 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

53 **LOCAL EDUCATION AGENCY FLEXIBILITY**

54 **SECTION 7.23.** Within 14 days of the date this act becomes law, the State  
55 Board of Education shall notify each local school administrative unit of the amount the

1 unit must reduce from State General Fund appropriations. The State Board shall  
2 determine the amount of the reduction for each unit on the basis of average daily  
3 membership.

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

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

21  
22 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

23 **BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC**  
24 **INSTRUCTION**

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

29  
30 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

31 **REPLACEMENT SCHOOL BUSES FUNDS**

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

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

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

5 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan  
6 **EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES**

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

11 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan  
12 **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

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

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

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

29 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan  
30 **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL**  
31 **EVALUATION**

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

37 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan  
38 **STUDY OF ISSUES RELATED TO RAPID GROWTH IN STUDENT**  
39 **POPULATION**

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

46 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan  
47 **MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS**

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

54           Local boards of education shall use funds allocated for mentor teachers to  
55 provide mentoring support to all State-paid newly certified teachers, second-year

1 teachers who were assigned mentors during the prior school year, and entry-level  
2 instructional support personnel who have not previously been teachers.

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

6 **SECTION 7.30.(c)** Each local board of education with a plan approved  
7 pursuant to subsection (a) of this section shall report to the State Board of Education on  
8 the impact of its mentor program on teacher retention. The State Board of Education  
9 shall report to the Joint Legislative Education Oversight Committee by October 15,  
10 2004, on the characteristics of mentor programs that are most effective in retaining  
11 teachers.

12 **SECTION 7.30.(d)** The Winston-Salem Forsyth, Charlotte Mecklenburg,  
13 and Wake County Public School systems may continue with their existing pilot mentor  
14 programs, but shall submit plans as required in subsection (a) of this section. These  
15 three local boards of education shall report as required in subsection (c) of this section.

16  
17 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

#### 18 **SCHOOL NURSE SERVICES**

19 **SECTION 7.32.** The State Board of Education shall review the standards for  
20 the number of school nurses recommended in the Basic Education Program to determine  
21 whether these standards are being met by the local school administrative units. The  
22 State Board shall compare the current standards with standards recommended by  
23 national health organizations to determine whether the current standards are adequate to  
24 meet the changing needs and demands for health services of the current and projected  
25 school populations. In its review, the Board shall consider the need to change legal  
26 requirements for the provision of health related services to public school students in its  
27 review.

28 The State Board of Education shall make recommendations on the ratio of  
29 school nurses to student populations that it considers necessary, as well as  
30 recommendations for the provision of school nurse services, to the Joint Legislative  
31 Education Oversight Committee by February 15, 2004.

32  
33 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

#### 34 **TRANSFER OF PUBLIC SCHOOL CAPITAL FUND**

35 **SECTION 7.33.(a)** The Public School Building Capital Fund is transferred  
36 from the Office of State Budget and Management to the Department of Public  
37 Instruction, as if by a Type I transfer as defined in G.S. 143A-6, with all the elements of  
38 such a transfer.

39 **SECTION 7.33.(b)** G.S. 115C-546.1(c) reads as rewritten:

40 "(c) The Fund shall be administered by the ~~Office of State Budget and~~  
41 ~~Management, Department of Public Instruction.~~"

42  
43 Requested by: Senators Metcalf, Garrou, Dalton, Hagan

#### 44 **FUNDS FOR REGIONAL EDUCATIONAL SERVICES ALLIANCES**

45 **SECTION 7.34.** Local boards of education may use up to ten percent (10%)  
46 of State funds allocated for staff development to contract with Regional Education  
47 Services Alliances without such funds being subject to the provisions of G.S.  
48 115C-105.30.

49 Additional funds distributed pursuant to G.S. 115C-105.30 may also be used  
50 to contract with Regional Education Services Alliances.

51  
52 Requested by: Senators Hagan, Lucas, Metcalf, Garrou, Dalton

#### 53 **PILOT PROGRAMS ON FINANCIAL LITERACY**

54 **SECTION 7.35.** The State Board of Education shall establish a pilot  
55 program authorizing and assisting up to five local school administrative units in the

1 implementation of programs on teaching personal financial literacy. The purpose of the  
2 pilot program is to determine the best methods of equipping students with the  
3 knowledge and skills they need, before they become self-supporting, to make critical  
4 decisions regarding their personal finances. The components of personal financial  
5 literacy covered in the pilot program shall include, at a minimum, consumer financial  
6 education, personal finance, and personal credit.

7 Prior to selecting the pilot units, the State Board of Education shall develop a  
8 curriculum, materials, and guidelines for local boards of education to use in  
9 implementing a program of instruction on personal financial literacy. The State Board  
10 shall also provide information to local boards of education on securing public and  
11 private grant funds and on using other public and private assets to implement the  
12 instructional program.

13 The State Board of Education shall report to the Joint Legislative Education  
14 Oversight Committee prior to January 1, 2004, on the implementation of the program in  
15 the pilot units.

## 16 17 **PART VIII. COMMUNITY COLLEGES**

18  
19 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

### 20 **COMMUNITY COLLEGE FUNDING FLEXIBILITY**

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

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

32  
33 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

### 34 **FLEXIBILITY TO IMPLEMENT BUDGET REDUCTIONS**

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

40  
41 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

### 42 **STATE BOARD OF COMMUNITY COLLEGE MANAGEMENT** 43 **FLEXIBILITY**

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

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



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

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

12  
13 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

14 **REGISTRATION FEES FOR OCCUPATIONAL CONTINUING EDUCATION**  
15 **OR FOCUSED INDUSTRIAL TRAINING**

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

26  
27 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

28 **SUMMER SCHOOL FUNDING**

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

35  
36 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

37 **CARRY FORWARD FOR EQUIPMENT**

38 **SECTION 8.6.(a)** Subject to cash availability, the North Carolina  
39 Community Colleges System may carry forward an amount not to exceed five million  
40 dollars (\$5,000,000) of the operating funds held in reserve that were not reverted in  
41 fiscal year 2002-2003 to be reallocated to the State Board of Community Colleges'  
42 Equipment Reserve Fund. These funds should be distributed to colleges consistent with  
43 G.S. 115D-31.

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

45  
46 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

47 **HOSIERY CENTER FUNDS**

48 **SECTION 8.7.** Notwithstanding any other provision of law, all fees  
49 collected by the Hosiery Technology Center of Catawba Valley Community College for  
50 the testing of hosiery products shall be retained by the Center and used for the  
51 operations of the Center. Purchases made by the Center using these funds are not  
52 subject to the provisions of Article 3 of Chapter 143 of the General Statutes.

53  
54 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

55 **SCHOLARSHIPS FOR PROSPECTIVE TEACHERS**

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

9           This provision is contingent upon receipt of one million dollars (\$1,000,000)  
10 for this purpose from the Glaxo Smith Kline Foundation and applies only to the  
11 2003-2004 fiscal year.

12  
13 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

14 **MANAGEMENT INFORMATION SYSTEM FUNDS**

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

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

19  
20 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

21 **USE OF LITERACY FUNDS FOR LITERACY LABS**

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

25  
26 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

27 **FACULTY AND PROFESSIONAL STAFF SALARIES**

28           **SECTION 8.11.** Three million two hundred fifty thousand dollars  
29 (\$3,250,000) in the Reserve for Compensation Increases in Section 2.1 of this act shall  
30 be used to increase faculty and professional staff salaries by an average of one-half  
31 percent (0.5%). These increases are in addition to the one and eighty-one hundredths  
32 percent (1.81%) provided by Section 30.11 of this act. These funds shall be used to  
33 increase faculty and professional staff salaries by an average of at least two and  
34 thirty-one hundredths percent (2.31%). Colleges may provide additional increases from  
35 funds available.

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

40  
41 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

42 **EVALUATION OF THE COMPREHENSIVE ARTICULATION AGREEMENT**

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

50           **SECTION 8.12.(b)** The Joint Legislative Education Oversight Committee  
51 shall contract with a credible independent source, individual, or organization to study  
52 the Comprehensive Articulation Agreement. The contractor shall not be (i) a current  
53 employee of The University of North Carolina, Office of the President, the North  
54 Carolina Community College System, or any of the North Carolina independent

1 schools/colleges participating in the Comprehensive Articulation Agreement or (ii) a  
2 current or past member of the Transfer Advisory Committee.

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

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

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

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

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

34 **SECTION 8.12.(f)** Within 30 days of completing the study, the contractor  
35 shall submit a final report to the Joint Legislative Education Oversight Committee, the  
36 vice-president of academic affairs of The University of North Carolina, Office of the  
37 President, the vice-president of academic affairs of the North Carolina Community  
38 College System Office, and the cochairs of the Transfer Advisory Committee. The Joint  
39 Legislative Education Oversight Committee, vice-president of academic affairs of The  
40 University of North Carolina, Office of the President, and the vice-president of  
41 academic affairs of the North Carolina Community College System Office may, in their  
42 discretion, schedule a formal presentation of the report when it is submitted.

43 **SECTION 8.12.(g)** The University of North Carolina, Office of the  
44 President, and the North Carolina Community College System shall provide the  
45 contractor with access and use of information databases to the extent that such access  
46 and use is necessary for the study and does not violate legal and ethical codes or create  
47 disruptions of normal operations.

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

52  
53 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan

54 **AUTOMOTIVE TRAINING INCENTIVE**

1           **SECTION 8.13.** Of the funds appropriated in this act for the State Board of  
2 Community Colleges for the 2003-2004 fiscal year, the sum of one hundred twenty-five  
3 thousand dollars (\$125,000) shall be used for a nonrecurring grant to the North Carolina  
4 Community College Foundation provided that a like amount is provided by the North  
5 Carolina Automotive Dealers Association to match these funds on a dollar-for-dollar  
6 basis. The North Carolina Community College Foundation shall use these funds to  
7 provide incentive programming at the colleges that offer Automotive Systems  
8 Technology. The incentive programming shall consist of one or more of the following:

- 9           (1) Increasing awareness of careers available in the franchised automobile  
10           and truck industry in North Carolina;
- 11           (2) Increasing awareness within North Carolina's middle school and high  
12           school guidance counselors and workforce development coordinators;
- 13           (3) Increasing public awareness of teaching opportunities in North  
14           Carolina's high schools and community colleges in the area of  
15           automotive technology;
- 16           (4) Increasing opportunities in continuing education for automotive  
17           technology high school and community college instructors;
- 18           (5) Providing a program coordinator to work with the franchised car and  
19           truck dealers and with community college and high school automotive  
20           professionals to ensure that the automotive curriculum is uniform and  
21           appropriate; and
- 22           (6) Increasing resources to assist high schools and community colleges in  
23           gaining and maintaining certification for their respective automotive  
24           technology programs.

25  
26 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

27 **COMMUNITY COLLEGES TRUST FUND**

28           **SECTION 8.14.(a)** Article 3 of Chapter 115D of the General Statutes is  
29 amended by adding a new section to read:

30 **"§ 115D-42. North Carolina Community Colleges Instructional Trust Fund.**

31           (a) There is established the North Carolina Community Colleges Instructional  
32 Trust Fund. The purpose of this Trust Fund is to supplement the funds raised by  
33 community college foundations to enhance the academic missions of community  
34 colleges.

35           (b) The State Board of Community Colleges is authorized to allocate funds from  
36 the Instructional Trust Fund to the community colleges and to adopt rules to implement  
37 the provisions of this section.

38           (c) State funds from the Trust Fund and matching funds raised by foundations  
39 shall be used by the board of trustees of a community college only to enhance the  
40 academic mission of the college. State funds shall be used only for scholarships or  
41 financial aid for needy students.

42           Expenditures of the matching funds raised by foundations shall directly relate to  
43 education and shall be used only for:

- 44           (1) Resource center materials;
- 45           (2) Professional development of instructional faculty and staff in cases in  
46 which (i) professional development will improve the quality of  
47 performance provided by the employee and (ii) the employee makes a  
48 commitment to remain at the college for a prescribed period of time;
- 49           (3) Professional development of instructional faculty and staff in cases in  
50 which professional development is necessary to enhance the  
51 employee's ability to meet newly mandated instructional or  
52 performance requirements; and
- 53           (4) Other purposes authorized by the State Board of Community Colleges  
54 that are consistent with the college's mission.

1       (d) Every two dollars (\$2.00) raised by the community college foundations for  
2 the Trust Fund during the 2003-2004 fiscal year shall be matched with one dollar  
3 (\$1.00) of State funds. The maximum matching contribution from the State shall not  
4 exceed twenty-five thousand dollars (\$25,000) for each of the 58 community colleges.  
5 These funds shall be reserved for each community college and held in escrow in the  
6 Trust Fund. A community college foundation may apply for matching funds after it  
7 raises twenty-five thousand dollars (\$25,000). The chairperson of each community  
8 college foundation shall certify to the North Carolina Community College System  
9 Office that (i) new funds have been raised by the community college foundation to  
10 match the amount of funds held in escrow in the Trust Fund, (ii) the amount raised by  
11 the community college foundation has not been used previously for matching purposes,  
12 (iii) the amount raised by the college shall be used only as provided in subsection (c) of  
13 this section, and (iv) matching State funds shall be used only for scholarships or  
14 financial aid for needy students.

15       (e) The State Board of Community Colleges may request an audit of the State  
16 funds expended under this section from any community college foundation."

17       **SECTION 8.14.(b)** There is appropriated from the Escheat Fund to the State  
18 Board of Community Colleges the sum of one million four hundred fifty thousand  
19 dollars (\$1,450,000) for the 2003-2004 fiscal year to provide matching State funds for  
20 the Community Colleges Instructional Trust Fund established in subsection (a) of this  
21 section.  
22

23 Requested by:       Senators Lucas, Metcalf, Garrou, Dalton, Hagan

#### 24 **FOCUSED INDUSTRIAL TRAINING FUNDS**

25       **SECTION 8.15.** Notwithstanding any other provision of law, for the  
26 2003-2004 fiscal year only, the State Board of Community Colleges may transfer up to  
27 one million four hundred fifty thousand dollars (\$1,450,000) from New and Expanding  
28 Industry Training to Focused Industrial Training.  
29

### 30 **PART IX. UNIVERSITIES**

31 Requested by:       Senators Lucas, Metcalf, Garrou, Dalton, Hagan

#### 32 **UNC FLEXIBILITY GUIDELINES**

33       **SECTION 9.1.** The Chancellor of each constituent institution shall report to  
34 the Board of Governors of The University of North Carolina on the reductions made to  
35 the General Fund budget codes in order to meet the reduction reserve amounts for that  
36 institution. The President of The University of North Carolina shall report to the Board  
37 of Governors of The University of North Carolina on the reductions made to the  
38 General Fund budget codes controlled by the Board in order to meet the reduction  
39 reserve amounts for those entities. The Board of Governors shall make a summary  
40 report to the Office of State Budget and Management and the Fiscal Research Division  
41 by December 31, 2003, on all reductions made by these entities and constituent  
42 institutions in order to reduce the budgets by the targeted amounts.  
43  
44

45 Requested by:       Senators Lucas, Metcalf, Garrou, Dalton, Hagan

#### 46 **ESCHEAT FUNDS**

47       **SECTION 9.2.(a)** There is appropriated from the Escheat Fund to the Board  
48 of Governors of The University of North Carolina the sum of twenty-three million  
49 seven hundred fifty thousand dollars (\$23,750,000) for each year of the 2003-2005  
50 fiscal biennium and to the State Board of Community Colleges the sum of ten million  
51 two hundred sixty-two thousand eight hundred six dollars (\$10,262,806) for each year  
52 of the 2003-2005 fiscal biennium. These funds shall be allocated by the State  
53 Educational Assistance Authority for need-based student financial aid in accordance  
54 with G.S. 116B-7 and this act.

1           **SECTION 9.2.(b)** The Director of the Budget shall include General Fund  
2 appropriations in the amounts provided in subsection (a) of this section in the proposed  
3 2005-2007 fiscal biennium continuation budget for the purposes provided in G.S.  
4 116B-7.

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

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

18  
19 Requested by:           Senators Lucas, Metcalf, Garrou, Dalton, Hagan

20 **UNC BOND PROJECT MODIFICATIONS**

21           **SECTION 9.3.(a)** 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 Elizabeth City State University by  
24 substituting a project entitled "Campus Improvements" for "Doles Residence Hall –  
25 Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as a residence  
26 hall that has been provided for from housing receipts and campus infrastructure  
27 improvements will allow energy conservation and savings. Section 2(a) of S.L. 2000-3  
28 is therefore amended in the portion under Elizabeth City State University by deleting  
29 "Doles Residence Hall – Comprehensive Renovation...\$1,722,500" and by substituting  
30 "Campus Improvements...\$1,722,500".

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

- 45           (1) In the portion entitled "Pearson Cafeteria – Comprehensive  
46 Renovation" under North Carolina Central University, by deleting  
47 "Comprehensive Renovation" and by substituting "Expansion" and by  
48 adding \$7,730,700 for the project so that it reads "Pearson Cafeteria –  
49 Expansion...\$8,994,300".
- 50           (2) In the portion under North Carolina Central University, by deleting  
51 "Old Senior Dorm – Conversion to Academic Use...\$2,130,700".
- 52           (3) In the portion entitled "Farrison-Newton Building – Comprehensive  
53 Renovation of Classroom Building" under North Carolina Central  
54 University, by decreasing by \$5,600,000 the \$7,048,700 for the project

1 so that it reads "Farrison-Newton Building – Comprehensive  
2 Renovation of Classroom Building...\$1,448,700".

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

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

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

- 41 (1) In the portion entitled "Anderson Center – Comprehensive Renovation  
42 & Change of Use for Early Childhood/Gerontology Programs" under  
43 Winston-Salem State University, by deleting "& Change of Use for  
44 Early Childhood/Gerontology Programs" and by decreasing by \$1.9  
45 million the \$6,917,900 for the project so that it reads "Anderson  
46 Center – Comprehensive Renovation...\$5,017,900".
- 47 (2) In the portion under Winston-Salem State University, by adding a new  
48 project "Coltrane Hall – Renovation to House  
49 Gerontology...\$400,000".
- 50 (3) In the portion under Winston-Salem State University, by adding a new  
51 project "New Facility for the Early Childhood Program...\$1,500,000".

52 **SECTION 9.3.(f)** Pursuant to Section 2(b) of S.L. 2000-3, the General  
53 Assembly finds that it is in the best interest of the State to respond to current  
54 educational and research program requirements at Winston-Salem State University by  
55 substituting a project entitled "New Student Health Center" for "Health Center Bldg. &

1 Old Nursing Bldg. – Comprehensive Renovation for Student Health", as contained in  
2 Section 2(a) of S.L. 2000-3, and by using the existing project budget for a new health  
3 facility, as it has been determined that the two existing buildings are in poor condition  
4 and have been recommended for future demolition. Section 2(a) of S.L. 2000-3 is  
5 therefore amended in the portion under Winston-Salem State University by deleting  
6 "Health Center Bldg. and Old Nursing Bldg. – Comprehensive Renovation for Student  
7 Health" and by substituting "New Student Health Center".

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

11 **SECTION 9.3.(h)** This section becomes effective January 1, 2004.

12  
13 Requested by: Senators Hagan, Garrou, Dalton

14 **SCHOOL OF SCIENCE MATH/COLLEGE SCHOLARSHIPS**

15 **SECTION 9.4.(a)** Article 29 of Chapter 116 of the General Statutes is  
16 amended by adding a new section to read:

17 **"§ 116-238.1. Full tuition grant for graduates who attend a State university.**

18 (a) There is granted to each State resident who graduates from the North Carolina  
19 School of Science and Mathematics and who enrolls as a full-time student in a  
20 constituent institution of The University of North Carolina a sum to be determined by  
21 the General Assembly as a tuition grant. The tuition grant shall be for four consecutive  
22 academic years and shall cover the tuition cost at the constituent institution in which the  
23 student is enrolled. The tuition grant shall be distributed to the student as provided by  
24 this section.

25 (b) The tuition grants provided for in this section shall be administered by the  
26 State Education Assistance Authority pursuant to rules adopted by the State Education  
27 Assistance Authority not inconsistent with this section. The State Education Assistance  
28 Authority shall not approve any grant until it receives proper certification from the  
29 appropriate constituent institution that the student applying for the grant is an eligible  
30 student. Upon receipt of the certification, the State Education Assistance Authority shall  
31 remit at the times it prescribes the grant to the constituent institution on behalf, and to  
32 the credit, of the student.

33 (c) In the event a student on whose behalf a grant has been paid is not enrolled  
34 and carrying a minimum academic load as of the tenth classroom day following the  
35 beginning of the school term for which the grant was paid, the institution shall refund  
36 the full amount of the grant to the State Education Assistance Authority.

37 (d) In the event there are not sufficient funds to provide each eligible student  
38 with a full grant:

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

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

46 (e) Any remaining funds shall revert to the General Fund."

47 **SECTION 9.4.(b)** This section applies to students graduating in the  
48 2004-2005 academic year and each subsequent academic year.

49  
50 Requested by: Senators Garrou, Dalton, Hagan

51 **FILM INDUSTRY FEASIBILITY STUDY**

52 **SECTION 9.5.** The Board of Governors of The University of North Carolina  
53 shall conduct a feasibility study to assess the strategic opportunities in the arts and  
54 entertainment industry in Forsyth County and its environs in the creation of programs,  
55 facilities, job opportunities, and tourism demand related to the film industry. The study



1 shall include, but not be limited to: (i) the development of a program in digital media,  
2 and (ii) the development of a tourist destination film industry studio backlot.

3 The Board of Governors shall consult with the faculty and staff of the North  
4 Carolina School of the Arts and other experts in the arts and entertainment fields in  
5 conducting the feasibility study. The Board of Governors shall report the results of the  
6 study and any recommendations the Board makes related to the study to the 2003  
7 General Assembly by April 1, 2004.

8  
9 Requested by: Senators Lucas, Metcalf, Garrou, Dalton, Hagan  
10 **DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND**

11 **SECTION 9.6.(a)** G.S. 116-41.15 reads as rewritten:

12 "**§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation;**  
13 **administration.**

14 (a) As used in this Part, "focused growth institution" means Elizabeth City State  
15 University, Fayetteville State University, North Carolina Agricultural and Technical  
16 University, North Carolina Central University, the University of North Carolina at  
17 Pembroke, Western Carolina University, and Winston-Salem State University. As used  
18 in this Part, "special needs institution" means the North Carolina School of the Arts and  
19 the University of North Carolina at Asheville.

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

- 23 (1) On the basis of one three hundred thirty-four thousand dollar  
24 (\$334,000) challenge grant for each six hundred sixty-six thousand  
25 dollars (\$666,000) raised from private sources; or  
26 (2) On the basis of one one hundred sixty-seven thousand dollar  
27 (\$167,000) challenge grant for each three hundred thirty-three  
28 thousand dollars (\$333,000) raised from private sources.

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

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

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

45 **SECTION 9.6.(b)** G.S. 116-41.16 reads as rewritten:

46 "**§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution**  
47 **commitments.**

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

- 51 (1) A commitment to make a donation of at least six hundred sixty-six  
52 thousand dollars (\$666,000), as prescribed by G.S. 143-31.4, and an  
53 initial payment of one hundred eleven thousand dollars (\$111,000) to  
54 receive a grant described in G.S. 116-41.15(b)(1); or

1           (2) A commitment to make a donation of at least three hundred  
2           thirty-three thousand dollars (\$333,000), as prescribed by G.S.  
3           143-31.4, and an initial payment of fifty-five thousand five hundred  
4           dollars (\$55,500) to receive a grant described in G.S. 116-41.15(b)(2);  
5           and if the initial payment is accompanied by a written pledge to provide the balance  
6           within five years after the date of the initial payment. Each payment on the balance shall  
7           be no less than the amount of the initial payment and shall be made on or before the  
8           anniversary date of the initial payment. Pledged contributions may not be matched prior  
9           to the actual collection of the total funds. Once the income from the institution's  
10          Distinguished Professors Endowment Trust Fund can be effectively used pursuant to  
11          G.S. 116-41.17, the institution shall proceed to implement plans for establishing an  
12          endowed chair.

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

## 17 18 **PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### 19 20 **SUBPART 1. ADMINISTRATION**

21  
22 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 23 **PETROLEUM OVERCHARGE FUNDS ALLOCATION**

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

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

34  
35 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 36 **OFFICE OF POLICY AND PLANNING**

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

- 43           (1) Coordinate the development of departmental policies, plans, and rules,  
44           in consultation with the Divisions of the Department.
- 45           (2) Development of a departmental process for the development and  
46           implementation of new policies, plans, and rules.
- 47           (3) Development of a departmental process for the review of existing  
48           policies, plans, and rules to ensure that departmental policies, plans,  
49           and rules are relevant.
- 50           (4) Coordination and review of all departmental policies before  
51           dissemination to ensure that all policies are well-coordinated within  
52           and across all programs.
- 53           (5) Implementation of ongoing strategic planning that integrates budget,  
54           personnel, and resources with the mission and operational goals of the  
55           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: Senators Purcell, Reeves, Garrou, Dalton, Hagan

**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: Senators Purcell, Reeves, Garrou, Dalton, Hagan

**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:

	Medical Eye	<u>Rehabilitation Except</u>	
<u>Family Size</u>	<u>Care Adults</u>	<u>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
6	8,220	21,228	8,300

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

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

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

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

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

33 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

34 **SENIOR CARES PROGRAM ADMINISTRATION**

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

40 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

41 **PHYSICIAN SERVICES**

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

51 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

52 **LIABILITY INSURANCE**

53 **SECTION 10.7.(a)** The Secretary of the Department of Health and Human  
 54 Services, the Secretary of the Department of Environment and Natural Resources, and  
 55 the Secretary of the Department of Correction may provide medical liability coverage

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

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

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

25  
26 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

27 **BUTNER COMMUNITY LAND RESERVATION**

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

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

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

41  
42 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

43 **DHHS CENTRALIZE INFORMATION TECHNOLOGY OPERATIONS**

44 **SECTION 10.8A.(a)** The Department of Health and Human Services shall  
45 conduct a thorough, department-wide examination and analysis of its Information  
46 Technology (IT) infrastructure, including IT expenditures and management functions.  
47 The purpose of the examination is to enable the General Assembly and the Office of  
48 State Budget to readily determine the amount of State funds being expended annually  
49 on each and all IT functions. Upon completion of its examination and analysis, the  
50 Department shall develop a plan for the establishment of a Central IT Operations Unit  
51 encompassing all IT operations and functions that are common to all divisions, offices,  
52 and programs of the Department. The Central IT Operations Unit shall be organized  
53 such that all IT expenditures and personnel are readily identifiable. The Department  
54 may exclude from the Central IT Operations Unit those IT functions that are unique to  
55 one or more individual divisions, offices, or programs, provided that such separate IT

1 functions are readily identifiable in terms of expenditures and personnel, and the  
2 separation allows for combining the expenditures and personnel data with expenditures  
3 and personnel data of the Central IT Operations Unit. The Department shall identify all  
4 excluded IT functions and provide reasons why it is more beneficial to the State to  
5 exclude those functions from the Central IT Operations Unit.

6 **SECTION 10.8A.(b)** The Office of State Budget and Management and the  
7 Department of Health and Human Services shall identify the amount of State  
8 appropriations necessary to fully fund from the General Fund the current budget for the  
9 Division of Information Resources. Having determined the amount of General Fund  
10 dollars needed, the Office of State Budget and Management shall develop and  
11 recommend a plan for providing the necessary funds.

12 **SECTION 10.8A.(c)** The Department of Health and Human Services shall  
13 report on the development of the Central IT Operations Unit to the Senate  
14 Appropriations Committee on Health and Human Services, the House of  
15 Representatives Appropriations Subcommittee on Health and Human Services, and the  
16 Fiscal Research Division by January 1, 2004. The Office of State Budget and  
17 Management shall report on the identification of funds required under subsection (b) of  
18 this section to the Senate Appropriations Committee on Health and Human Services, the  
19 House of Representatives Appropriations Subcommittee on Health and Human  
20 Services, and the Fiscal Research Division by January 1, 2004.

21  
22 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

23 **EDUCATION AND AWARENESS OF INFANT HOMICIDE PREVENTION**  
24 **ACT**

25 **SECTION 10.8B.(a)** The Department of Health and Human Services,  
26 Division of Public Health and the Division of Social Services, shall incorporate  
27 education and awareness of the Infant Homicide Prevention Act pursuant to S.L.  
28 2001-291, into other State-funded programs at the local level.

29 **SECTION 10.8B.(b)** The Department shall report on its activities to the  
30 House of Representatives Appropriations Subcommittee on Health and Human  
31 Services, the Senate Appropriations Committee on Health and Human Services, and the  
32 Fiscal Research Division not later than April 1, 2004.

33  
34 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

35 **MEDICAL CARE COMMISSION TEMPORARY RULE-MAKING**  
36 **AUTHORITY EXTENDED**

37 **SECTION 10.8C.** Section 6.(d) of S.L. 2002-160 reads as rewritten:

38 "**SECTION 6.(d)** Notwithstanding 26 NCAC 2C .0102(11), the ~~Commission for~~  
39 ~~Health Services and the~~ Medical Care Commission may adopt temporary rules as  
40 provided in this section until 1 July ~~2003,2004.~~"

41  
42 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

43 **IMPLEMENT A PILOT PROJECT FOR LONG-TERM CARE COMMUNITY**  
44 **SERVICE COORDINATION**

45 **SECTION 10.8D.(a)** In accordance with the recommendations in the final  
46 report from the Institute of Medicine Task Force on Long-Term Care and the study  
47 report recommendations resulting from S.L. 2001-491, Part XXII, the Department of  
48 Health and Human Services shall implement a communications and coordination  
49 initiative to support local coordination of long-term care and shall pilot the  
50 establishment of local lead agencies to facilitate the long-term care coordination process  
51 at the county or regional level. For those counties that voluntarily participate, the local  
52 long-term care coordination initiative shall aid in the development of core services,  
53 coordinate local services, and streamline access to services. The initiative shall  
54 eliminate fragmentation and barriers to information and services; provide a seamless

1 connection among State agencies and local entities, regardless of funding sources; and  
2 allow consumers to efficiently and effectively navigate among long-term care services.

3 **SECTION 10.8D.(b)** The Department shall submit an interim report on the  
4 pilot project for local long-term care coordination to the North Carolina Study  
5 Commission on Aging by October 1, 2004, and a final report by October 1, 2005.

6  
7 **SUBPART 2. DIVISION OF MENTAL HEALTH, DEVELOPMENTAL**  
8 **DISABILITIES, AND SUBSTANCE ABUSE SERVICES**  
9

10 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

11 **MENTAL HEALTH, DEVELOPMENTAL DISABILITY, AND SUBSTANCE**  
12 **ABUSE SERVICES TRUST FUND FOR SYSTEM REFORM BRIDGE AND**  
13 **CAPITAL FUNDING NEEDS AND OLMSTEAD**

14 **SECTION 10.9.** Moneys in the Trust Fund established pursuant to G.S.  
15 143-15.3D shall be used to establish or expand community-based services only if  
16 sufficient recurring funds can be identified within the Department of Health and Human  
17 Services from funds currently budgeted for mental health, developmental disabilities,  
18 and substance abuse services, area mental health programs or county programs, or local  
19 government.

20  
21 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

22 **EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM**  
23 **CONTINGENT UPON FUNDS APPROPRIATED BY THE 2005 GENERAL**  
24 **ASSEMBLY**

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

27 "**SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July 1,  
28 2002. Section 2 of this act becomes effective only if funds are appropriated by the ~~2003~~  
29 2005 General Assembly for that purpose. Section 2 of this act becomes effective July 1  
30 of the fiscal year for which funds are appropriated by the ~~2003-2005~~ General Assembly  
31 for that purpose. The remainder of this act is effective when it becomes law."  
32

33 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

34 **SUBSTANCE ABUSE PREVENTION SERVICES REPORTING**

35 **SECTION 10.11.** The Department of Health and Human Services shall  
36 report on its activities under Section 10.24 of S.L. 2002-126 to the House of  
37 Representatives Appropriations Subcommittee on Health and Human Services, the  
38 Senate Appropriations Committee on Health and Human Services, and the Fiscal  
39 Research Division not later than December 1, 2003.  
40

41 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

42 **TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

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

- 51 (1) Individuals shall be provided acute psychiatric care in non-State  
52 facilities when appropriate.  
53 (2) Individuals shall be provided acute psychiatric care in State facilities  
54 only when non-State facilities are unavailable.

1 (3) Individuals shall receive evidenced-based psychiatric services and care  
2 that are cost-efficient.

3 (4) The State shall minimize cost shifting to other State and local facilities  
4 or institutions.

5 **SECTION 10.12.(b)** The Department of Health and Human Services shall  
6 conduct an analysis of the individual patient service needs and shall develop and  
7 implement an individual transition plan, as appropriate, for patients in each hospital.  
8 The State shall ensure that each individual transition plan, as appropriate, shall take into  
9 consideration the availability of appropriate alternative placements based on the needs  
10 of the patient and within resources available for the mental health, developmental  
11 disabilities, and substance abuse services system. In developing each plan, the  
12 Department shall consult with the patient and the patient's family or other legal  
13 representative.

14 **SECTION 10.12.(c)** In accordance with the plan established in subsections  
15 (a) and (b) of this section, any nonrecurring savings in State appropriations that result  
16 from reductions in beds or services shall be placed in the Trust Fund for Mental Health,  
17 Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.  
18 These funds shall be used to facilitate the transition of clients into appropriate  
19 community-based services and supports in accordance with G.S. 143-15.3D. Recurring  
20 savings realized through implementation of this section shall be retained by the  
21 Department of Health and Human Services, Division of Mental Health, Developmental  
22 Disabilities, and Substance Abuse Services (i) for implementation of subsections (a) and  
23 (b) of this section, and (ii) to support the recurring costs of additional community-based  
24 placements from Division facilities in accordance with Olmstead vs. L.C. & E.W.

25 **SECTION 10.12.(d)** The Department of Health and Human Services shall  
26 submit reports on the status of implementation of this section to the Joint Legislative  
27 Commission on Governmental Operations, the Senate Appropriations Committee on  
28 Health and Human Services, the House of Representatives Appropriations  
29 Subcommittee on Health and Human Services, and the Fiscal Research Division. These  
30 reports shall be submitted on December 1, 2003, and May 1, 2004.

31  
32 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

### 33 **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

34 **SECTION 10.13.** The Department of Health and Human Services shall  
35 report on its continuing implementation of the Comprehensive Treatment Services  
36 Program established pursuant to Section 21.60 of S.L. 2001-424. The Department shall  
37 submit an interim report on December 1, 2003, and a final report not later than April 1,  
38 2004, to the House of Representatives Appropriations Subcommittee on Health and  
39 Human Services, the Senate Appropriations Committee on Health and Human Services,  
40 and the Fiscal Research Division.

41  
42 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

### 43 **MENTAL RETARDATION CENTER DOWNSIZING**

44 **SECTION 10.14.(a)** In accordance with the Department of Health and  
45 Human Services' plan for downsizing the State's regional mental retardation facilities by  
46 four percent (4%) each year, the Department shall implement cost-containment and  
47 reduction strategies to ensure the corresponding financial and staff downsizing of each  
48 facility. The Department shall manage the client population of the mental retardation  
49 centers in order to ensure that placements for ICF/MR level of care shall be made in  
50 non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last  
51 resort and only upon approval of the Department. The corresponding budgets for each  
52 of the State mental retardation centers shall be reduced, and positions shall be  
53 eliminated as the census of each facility decreases. At no time shall mental retardation  
54 center positions be transferred to other units within a facility or assigned nondirect care  
55 activities such as outreach.



1           **SECTION 10.14.(b)** Any savings in State appropriations in each year of the  
2 2003-2005 fiscal biennium that result from reductions in beds or services shall be  
3 applied as follows:

- 4           (1) Nonrecurring savings shall be placed in the Trust Fund for Mental  
5 Health, Developmental Disabilities, and Substance Abuse Services and  
6 Bridge Funding Needs and shall be used to facilitate the transition of  
7 clients into appropriate community-based services and support in  
8 accordance with G.S. 143-15.3D, and  
9           (2) Recurring savings realized through implementation of this section  
10 shall be retained by the Department of Health and Human Services,  
11 Division of Mental Health, Developmental Disabilities, and Substance  
12 Abuse Services to support the recurring costs of additional  
13 community-based placements from Division facilities in accordance  
14 with Olmstead vs. L.C. & E.W. In determining the savings in this  
15 section, savings shall include all savings realized from the downsizing  
16 of the State mental retardation centers including both the savings in  
17 direct State appropriations in the budgets of the State mental  
18 retardation centers as well as the savings in the State matching portion  
19 of reduced Medicaid payments associated with downsizing.

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

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

32  
33 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

34 **MENTAL RETARDATION CENTER TRANSITION PLAN**

35           **SECTION 10.15.(a)** The Department of Health and Human Services shall  
36 develop and implement a plan for the reorganization of outreach services performed by  
37 the State mental retardation centers. The plan shall provide for the elimination of  
38 self-referrals by the mental retardation centers and shall include the following:

- 39           (1) The area and county mental health programs shall have exclusive  
40 authority for referring to the mental retardation centers persons in the  
41 community who are in need of specialized services.  
42           (2) The mental retardation centers shall coordinate the transition of  
43 residents from the mental retardation centers to area and county mental  
44 health programs, and shall provide technical assistance to community  
45 service providers and families who care for transitioned residents, and  
46 to others in the community, as appropriate, for the purpose of  
47 furthering community services and placement.  
48           (3) The method for allocating savings in State appropriations from the  
49 mental retardation centers across the area and county mental health  
50 programs.

51           **SECTION 10.15.(b)** In accordance with the plan established in subsection  
52 (a) of this section, any recurring and nonrecurring savings in State appropriations that  
53 result from the transfer of referral activities in the mental retardation centers to area and  
54 county mental health programs shall be transferred from the Division of Mental Health,

1 Developmental Disabilities, and Substance Abuse Services to area and county mental  
2 health programs for referral activities.

3 **SECTION 10.15.(c)** The Department of Health and Human Services shall  
4 report on the implementation of this section to the Senate Appropriations Committee on  
5 Health and Human Services, the House of Representatives Appropriations  
6 Subcommittee on Health and Human Services, and the Fiscal Research Division. This  
7 report shall be submitted on February 1, 2004.

8  
9 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

10 **SERVICES TO MULTIPLY-DIAGNOSED ADULTS**

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

- 16 (1) Implement the following guiding principles for the provision of  
17 services:  
18 a. Service delivery system must be outcome oriented and  
19 evaluation based.  
20 b. Services should be delivered as close as possible to the  
21 consumer's home.  
22 c. Services selected should be those that are most efficient in  
23 terms of cost and effectiveness.  
24 d. Services should not be provided solely for the convenience of  
25 the provider or the client.  
26 e. Families and consumers should be involved in decision making  
27 throughout treatment planning and delivery; and  
28 (2) Provide those treatment services that are medically necessary.  
29 (3) Implement utilization review of services provided.

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

- 32 (1) Preauthorization for all services except emergency services.  
33 (2) Criteria for determining medical necessity.  
34 (3) Clinically appropriate services.  
35 (4) Not later than May 1, 2004, conduct a State review of (i)  
36 individualized service plans for former Thomas S. class members and  
37 for adults whose service plan exceeds one hundred thousand dollars  
38 (\$100,000) to ensure that service plans focus on delivery of  
39 appropriate services rather than optimal treatment and habilitation  
40 plans, and (ii) staffing patterns of residential services.

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

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

48  
49 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

50 **AREA MENTAL HEALTH ADMINISTRATIVE COSTS**

51 **SECTION 10.17.(a)** Area mental health, developmental disabilities, and  
52 substance abuse authorities or counties administering mental health, developmental  
53 disabilities, and substance abuse services shall develop and implement plans to reduce  
54 local administrative costs. The plans shall be developed in accordance with guidelines  
55 adopted by the Secretary, in consultation with the Local Government Commission and

1 the North Carolina Association of County Commissioners, and in accordance with the  
2 following:

- 3 (1) Administrative costs for area mental health, developmental disabilities,  
4 and substance abuse services programs shall not exceed thirteen  
5 percent (13%).
- 6 (2) Administrative costs for counties administering mental health,  
7 developmental disabilities, and substance abuse services through a  
8 county program shall not exceed thirteen percent (13%).

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

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

24 **SECTION 10.17.(c)** The Department may implement alternative approaches  
25 to establish reasonable administrative cost limitations for Local Management Entities  
26 (LMEs), including both county programs and area authority models, and service  
27 providers in accordance with system reform and changes in system funding structures.  
28

29 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

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

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

39 **SECTION 10.18.(b)** If a private agency fails to timely and accurately  
40 complete the required agency-wide uniform cost finding in a manner acceptable to the  
41 Department's controller's office, the Department may suspend all Department funding  
42 and payment to the private agency until such time as an acceptable cost finding has been  
43 completed by the private agency and approved by the Department's controller's office.  
44

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

46 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

### 47 **MEDICAID**

48 **SECTION 10.19.(a)** Funds appropriated in this act for services provided in  
49 accordance with Title XIX of the Social Security Act (Medicaid) are for both the  
50 categorically needy and the medically needy. Funds appropriated for these services shall  
51 be expended in accordance with the following schedule of services and payment bases.  
52 All services and payments are subject to the language at the end of this subsection.  
53

54 Services and payment bases:

- 1 (1) Hospital-Inpatient. – Payment for hospital inpatient services will be  
2 prescribed in the State Plan as established by the Department of Health  
3 and Human Services.
- 4 (2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a  
5 prospective reimbursement plan as established by the Department of  
6 Health and Human Services.
- 7 (3) Nursing Facilities. – Payment for nursing facility services will be  
8 prescribed in the State Plan as established by the Department of Health  
9 and Human Services. Nursing facilities providing services to Medicaid  
10 recipients who also qualify for Medicare must be enrolled in the  
11 Medicare program as a condition of participation in the Medicaid  
12 Program. State facilities are not subject to the requirement to enroll in  
13 the Medicare program. Residents of nursing facilities who are eligible  
14 for Medicare coverage of nursing facility services must be placed in a  
15 Medicare certified bed. Medicaid shall cover facility services only  
16 after the appropriate services have been billed to Medicare. The  
17 Division of Medical Assistance shall allow nursing facility providers  
18 sufficient time from the effective date of this act to certify additional  
19 Medicare beds if necessary. In determining the date that the  
20 requirements of this subdivision become effective, the Division of  
21 Medical Assistance shall consider the regulations governing  
22 certification of Medicare beds and the length of time required for this  
23 process to be completed.
- 24 (4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed  
25 in the State Plan as established by the Department of Health and  
26 Human Services.
- 27 (5) Drugs. – Drug costs as allowed by federal regulations plus a  
28 professional services fee per month excluding refills for the same drug  
29 or generic equivalent during the same month. Reimbursement shall be  
30 available for up to six prescriptions per recipient, per month, including  
31 refills. Payments for drugs are subject to the provisions of subsection  
32 (h) of this section and to the provisions at the end of subsection (a) of  
33 this section, or in accordance with the State Plan adopted by the  
34 Department of Health and Human Services consistent with federal  
35 reimbursement regulations. Payment of the professional services fee  
36 shall be made in accordance with the State Plan adopted by the  
37 Department of Health and Human Services, consistent with federal  
38 reimbursement regulations. The professional services fee shall be five  
39 dollars and sixty cents (\$5.60) per prescription for generic drugs and  
40 four dollars (\$4.00) per prescription for brand name drugs.  
41 Adjustments to the professional services fee shall be established by the  
42 General Assembly.
- 43 (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified  
44 Nurse Midwife Services, Nurse Practitioners. – Fee schedules as  
45 developed by the Department of Health and Human Services.  
46 Payments for dental services are subject to the provisions of subsection  
47 (g) of this section.
- 48 (7) Community Alternative Program, EPSDT Screens. – Payment to be  
49 made in accordance with the rate schedule developed by the  
50 Department of Health and Human Services.
- 51 (8) Home Health and Related Services, Private Duty Nursing, Clinic  
52 Services, Prepaid Health Plans, Durable Medical Equipment. –  
53 Payment to be made according to reimbursement plans developed by  
54 the Department of Health and Human Services.
- 55 (9) Medicare Buy-In. – Social Security Administration premium.

- 1 (10) Ambulance Services. – Uniform fee schedules as developed by the  
2 Department of Health and Human Services. Public ambulance  
3 providers will be reimbursed at cost.
- 4 (11) Hearing Aids. – Actual cost plus a dispensing fee.
- 5 (12) Rural Health Clinic Services. – Provider-based, reasonable cost;  
6 nonprovider-based, single-cost reimbursement rate per clinic visit.
- 7 (13) Family Planning. – Negotiated rate for local health departments. For  
8 other providers, see specific services, for instance, hospitals,  
9 physicians.
- 10 (14) Independent Laboratory and X-Ray Services. – Uniform fee schedules  
11 as developed by the Department of Health and Human Services.
- 12 (15) Optical Supplies. – One hundred percent (100%) of reasonable  
13 wholesale cost of materials.
- 14 (16) Ambulatory Surgical Centers. – Payment as prescribed in the  
15 reimbursement plan established by the Department of Health and  
16 Human Services.
- 17 (17) Medicare Crossover Claims. – An amount up to the actual coinsurance  
18 or deductible or both, in accordance with the State Plan, as approved  
19 by the Department of Health and Human Services.
- 20 (18) Physical Therapy and Speech Therapy. – Services limited to  
21 EPSDT-eligible children. Payments are to be made only to qualified  
22 providers at rates negotiated by the Department of Health and Human  
23 Services. Physical therapy (including occupational therapy) and speech  
24 therapy services are subject to prior approval and utilization review.
- 25 (19) Personal Care Services. – Payment in accordance with the State Plan  
26 approved by the Department of Health and Human Services.
- 27 (20) Case Management Services. – Reimbursement in accordance with the  
28 availability of funds to be transferred within the Department of Health  
29 and Human Services.
- 30 (21) Hospice. – Services may be provided in accordance with the State Plan  
31 developed by the Department of Health and Human Services.
- 32 (22) Other Mental Health Services. – Unless otherwise covered by this  
33 section, coverage is limited to:
- 34 a. Services as defined by the Division of Mental Health,  
35 Developmental Disabilities, and Substance Abuse Services and  
36 approved by the Centers for Medicare and Medicaid Services  
37 (CMS) when provided in agencies meeting the requirements of  
38 the rules established by the Commission for Mental Health,  
39 Developmental Disabilities, and Substance Abuse Services, and  
40 reimbursement is made in accordance with a State Plan  
41 developed by the Department of Health and Human Services  
42 not to exceed the upper limits established in federal regulations,  
43 and
- 44 b. For children eligible for EPSDT services:
- 45 1. Licensed or certified psychologists, licensed clinical  
46 social workers, certified clinical nurse specialists in  
47 psychiatric mental health advanced practice, and nurse  
48 practitioners certified as clinical nurse specialists in  
49 psychiatric mental health advanced practice, when  
50 Medicaid-eligible children are referred by the Carolina  
51 ACCESS primary care physician or the area mental  
52 health program, and
- 53 2. Institutional providers of residential services as defined  
54 by the Division of Mental Health, Developmental  
55 Disabilities, and Substance Abuse Services and approved

1 by the Centers for Medicare and Medicaid Services  
2 (CMS) for children and Psychiatric Residential  
3 Treatment Facility services that meet federal and State  
4 requirements as defined by the Department.

5 Notwithstanding G.S. 150B-21.1(a), the Department of Health and  
6 Human Services may adopt temporary rules in accordance with  
7 Chapter 150B of the General Statutes further defining the  
8 qualifications of providers and referral procedures in order to  
9 implement this subdivision. Coverage policy for services defined by  
10 the Division of Mental Health, Developmental Disabilities, and  
11 Substance Abuse Services under sub-subdivisions a. and b.2. of this  
12 subdivision shall be established by the Division of Medical Assistance.

13 (23) Medically Necessary Prosthetics or Orthotics for EPSDT-Eligible  
14 Children. – Reimbursement in accordance with the State Plan  
15 approved by the Department of Health and Human Services.

16 (24) Health Insurance Premiums. – Payments to be made in accordance  
17 with the State Plan adopted by the Department of Health and Human  
18 Services consistent with federal regulations.

19 (25) Medical Care/Other Remedial Care. – Services not covered elsewhere  
20 in this section include related services in schools; health professional  
21 services provided outside the clinic setting to meet maternal and infant  
22 health goals; and services to meet federal EPSDT mandates. Services  
23 addressed by this paragraph are limited to those prescribed in the State  
24 Plan as established by the Department of Health and Human Services.

25 (26) Pregnancy-Related Services. – Covered services for pregnant women  
26 shall include nutritional counseling, psychosocial counseling, and  
27 predelivery and postpartum home visits by maternity care coordinators  
28 and public health nurses.

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

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

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

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

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

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

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

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

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

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

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

**SECTION 10.19.(f)** ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

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

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

**SECTION 10.19.(h)** Dispensing of Generic Drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical

1 Assistance Program (Title XIX of the Social Security Act), and except as otherwise  
2 provided in this subsection for atypical antipsychotic drugs and drugs listed in the  
3 narrow therapeutic index, a prescription order for a drug designated by a trade or brand  
4 name shall be considered to be an order for the drug by its established or generic name,  
5 except when the prescriber has determined, at the time the drug is prescribed, that the  
6 brand name drug is medically necessary and has written on the prescription order the  
7 phrase "medically necessary". An initial prescription order for an atypical antipsychotic  
8 drug or a drug listed in the narrow therapeutic drug index that does not contain the  
9 phrase "medically necessary" shall be considered an order for the drug by its established  
10 or generic name, except that a pharmacy shall not substitute a generic or established  
11 name prescription drug for subsequent brand or trade name prescription orders of the  
12 same prescription drug without explicit oral or written approval of the prescriber given  
13 at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the  
14 Medical Assistance Program rather than trade or brand name drugs. As used in this  
15 subsection, "brand name" means the proprietary name the manufacturer places upon a  
16 drug product or on its container, label, or wrapping at the time of packaging; and  
17 "established name" has the same meaning as in section 502(e)(3) of the Federal Food,  
18 Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

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

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

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

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

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

49 **SECTION 10.19.(n)** The Department of Health and Human Services shall  
50 provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and  
51 regulations.

52 **SECTION 10.19.(o)** The Department of Health and Human Services shall  
53 provide coverage to pregnant women and to children according to the following  
54 schedule:



- 1 (1) Pregnant women with incomes equal to or less than one hundred  
2 eighty-five percent (185%) of the federal poverty guidelines as revised  
3 each April 1 shall be covered for Medicaid benefits. In determining  
4 income eligibility under this subdivision, the income of a minor's  
5 parents shall be counted if the minor is residing in the home.
- 6 (2) Infants under the age of one with family incomes equal to or less than  
7 one hundred eighty-five percent (185%) of the federal poverty  
8 guidelines as revised each April 1 shall be covered for Medicaid  
9 benefits.
- 10 (3) Children aged one through five with family incomes equal to or less  
11 than one hundred thirty-three percent (133%) of the federal poverty  
12 guidelines as revised each April 1 shall be covered for Medicaid  
13 benefits.
- 14 (4) Children aged six through 18 with family incomes equal to or less than  
15 the federal poverty guidelines as revised each April 1 shall be covered  
16 for Medicaid benefits.
- 17 (5) The Department of Health and Human Services shall provide Medicaid  
18 coverage for adoptive children with special or rehabilitative needs  
19 regardless of the adoptive family's income.
- 20 (6) Infants under the age of one whose family income is above one  
21 hundred eighty-five percent (185%) through two hundred percent  
22 (200%) of the federal poverty level. Coverage under this subdivision  
23 shall be paid for from federal funds received under Title XXI of the  
24 Social Security Act, and State matching funds, to implement the  
25 Health Insurance Program for Children under Part 8 of Article 2 of  
26 Chapter 108A of the General Statutes.
- 27 (7) Children aged one through five whose family income is above one  
28 hundred thirty-three percent (133%) through two hundred percent  
29 (200%) of the federal poverty level. Coverage under this subdivision  
30 shall be paid for from federal funds received under Title XXI of the  
31 Social Security Act, and State matching funds, to implement the  
32 Health Insurance Program for Children under Part 8 of Article 2 of  
33 Chapter 108A of the General Statutes.

34 Services to pregnant women eligible under this subsection continue  
35 throughout the pregnancy but include only those related to pregnancy and to those other  
36 conditions determined by the Department as conditions that may complicate pregnancy.  
37 In order to reduce county administrative costs and to expedite the provision of medical  
38 services to pregnant women, to infants, and to children described in subdivisions (3) and  
39 (4) of this subsection, no resources test shall be applied.

40 **SECTION 10.19.(p)** Medicaid enrollment of categorically needy families  
41 with children shall be continuous for one year without regard to changes in income or  
42 assets.

43 **SECTION 10.19.(q)** The Department of Health and Human Services shall  
44 disregard earned income for recipients who would otherwise lose Medicaid eligibility  
45 under section 1931 of Title XIX of the Social Security Act due to earnings. This  
46 disregard shall be applied for a maximum of 12 consecutive months.

47 **SECTION 10.19.(r)** The Division of Medical Assistance, Department of  
48 Health and Human Services, may provide incentives to counties that successfully  
49 recover fraudulently spent Medicaid funds by sharing State savings with counties  
50 responsible for the recovery of the fraudulently spent funds.

51 **SECTION 10.19.(s)** If first approved by the Office of State Budget and  
52 Management, the Division of Medical Assistance, Department of Health and Human  
53 Services, may use funds that are identified to support the cost of development and  
54 acquisition of equipment and software through contractual means to improve and  
55 enhance information systems that provide management information and claims

1 processing. The Department of Health and Human Services shall identify adequate  
2 funds to support the implementation and first year's operational costs that exceed the  
3 currently allocated funds for the new contract for the fiscal agent for the Medicaid  
4 Management Information System.

5 **SECTION 10.19.(t)** The Department of Health and Human Services may  
6 adopt temporary rules according to the procedures established in G.S. 150B-21.1 when  
7 it finds that these rules are necessary to maximize receipt of federal funds within  
8 existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and  
9 abuse. Prior to the filing of these temporary rules with the Office of Administrative  
10 Hearings, the Department shall consult with the Office of State Budget and  
11 Management on the possible fiscal impact of the temporary rule and its effect on State  
12 appropriations and local governments.

13 **SECTION 10.19.(u)** The Department shall report to the Fiscal Research  
14 Division of the Legislative Services Office and to the House of Representatives  
15 Appropriations Subcommittee on Health and Human Services and the Senate  
16 Appropriations Committee on Health and Human Services or the Joint Legislative  
17 Health Care Oversight Committee on any change it anticipates making in the Medicaid  
18 program that impacts the type or level of service, reimbursement methods, or waivers,  
19 any of which require a change in the State Plan or other approval by the Centers for  
20 Medicare and Medicaid Services (CMS). The reports shall be provided at the same time  
21 they are submitted to CMS for approval.

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

28 **SECTION 10.19.(w)** The Department of Health and Human Services,  
29 Division of Medical Assistance, shall use the latest audited cost reporting data available  
30 when establishing Medicaid provider rates or when making changes to the  
31 reimbursement methodology. For hospital services, the Division shall use the latest  
32 audited cost reporting data available, supplemented by additional financial information  
33 available to the Division if and to the extent that the Division concludes that the  
34 information is reliable and relevant, when establishing rates or when making changes to  
35 the reimbursement methodology.

36 **SECTION 10.19.(x)** The Department of Health and Human Services,  
37 Division of Medical Assistance, shall implement a new coding system for therapeutic  
38 mental health services as required by the Health Insurance Portability and  
39 Accountability Act of 1996. In implementing the new coding system, the Division shall  
40 ensure that the new coding system does not discriminate between providers of  
41 therapeutic mental health services with similar qualifications and training. In meeting  
42 the requirements of this subsection, the Division shall consult with the Division of  
43 Mental Health, Developmental Disabilities, and Substance Abuse Services and the  
44 professional licensing boards responsible for licensing the affected professionals.

45 **SECTION 10.19.(y)** The Department of Health and Human Services may  
46 apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the  
47 Social Security Act, including the attachment of liens, to real property excluded as  
48 "income producing", tenancy-in-common, or nonhomesite property made "income  
49 producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer  
50 of assets policy shall apply only to an institutionalized individual or the individual's  
51 spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This  
52 subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset  
53 policies and attachment of liens to properties excluded as tenancy-in-common or as  
54 nonhomesite property made "income producing" in accordance with this subsection  
55 shall become effective not earlier than November 1, 2002.

1           **SECTION 10.19.(z)** When implementing the Supplemental Security Income  
2 (SSI) method for considering equity value of income producing property, the  
3 Department shall, to the maximum extent possible, employ procedures to mitigate the  
4 hardship to Medicaid enrollees occurring from application of the Supplemental Security  
5 Income (SSI) method.

6           **SECTION 10.19.(aa)** The Department shall not change medical policy  
7 affecting the amount, sufficiency, duration, and scope of health care services and who  
8 may provide services until the Division of Medical Assistance has prepared a five-year  
9 fiscal analysis documenting the increased cost of the proposed change in medical policy  
10 and submitted it for Departmental review. If the fiscal impact indicated by the fiscal  
11 analysis for any proposed medical policy change exceeds three million dollars  
12 (\$3,000,000) in total requirements for a given fiscal year, then the Department shall  
13 submit the proposed policy change with the fiscal analysis to the Office of State Budget  
14 and Management and the Fiscal Research Division.

15           **SECTION 10.19.(bb)** The Department shall develop, amend, and adopt  
16 medical coverage policy in accordance with the following:

- 17           (1) During the development of new medical coverage policy or  
18           amendment to existing medical coverage policy, consult with and seek  
19           the advice of the Physician Advisory Group of the North Carolina  
20           Medical Society and other organizations the Secretary deems  
21           appropriate.
- 22           (2) At least 45 days prior to the adoption of new or amended medical  
23           coverage policy, the Department shall:
  - 24           a. Publish the proposed new or amended medical coverage policy  
25           on the Department's web site;
  - 26           b. Notify all Medicaid providers of the proposed, new, or amended  
27           policy; and
  - 28           c. Upon request, provide persons copies of the proposed medical  
29           coverage policy.
- 30           (3) During the 45-day period immediately following publication of the  
31           proposed new or amended medical coverage policy, accept oral and  
32           written comments on the proposed new or amended policy.
- 33           (4) If, following the comment period, the proposed new or amended  
34           medical coverage policy is modified, then the Department shall, at  
35           least 15 days prior to its adoption:
  - 36           a. Notify all Medicaid providers of the proposed policy;
  - 37           b. Upon request, provide persons notice of amendments to the  
38           proposed policy; and
  - 39           c. Accept additional oral or written comments during this 15-day  
40           period.

41  
42 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 43 **MEDICAID RESERVE FUND TRANSFER**

44           **SECTION 10.20.** Of the funds transferred to the Department of Health and  
45 Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of  
46 thirty-seven million five hundred thousand dollars (\$37,500,000) for the 2003-2004  
47 fiscal year and the sum of thirty-seven million five hundred thousand dollars  
48 (\$37,500,000) for the 2004-2005 fiscal year shall be allocated as prescribed by G.S.  
49 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S.  
50 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall  
51 replace the reduction in general revenue funding effected in this act.

52  
53 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

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

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

4           **SECTION 10.21.(b)** For each year of the 2003-2005 fiscal biennium, as it  
5 receives funds associated with Disproportionate Share Payments from State hospitals,  
6 the Department of Health and Human Services, Division of Medical Assistance, shall  
7 deposit up to one hundred million dollars (\$100,000,000) of these Disproportionate  
8 Share Payments to the Department of State Treasurer for deposit as nontax revenue.  
9 Any Disproportionate Share Payments collected in excess of one hundred million  
10 dollars (\$100,000,000) shall be reserved by the State Treasurer for future  
11 appropriations.

12  
13 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

14 **COUNTY MEDICAID COST SHARE**

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

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

23  
24 Requested by:           Senators Purcell, Reeves, Pittenger, Garrou, Dalton, Hagan

25 **MEDICAID COST CONTAINMENT ACTIVITIES**

26           **SECTION 10.23.(a)** The Department of Health and Human Services may  
27 use not more than six million dollars (\$6,000,000) for the 2003-2004 fiscal year in  
28 Medicaid funds budgeted for program services to support the cost of administrative  
29 activities when cost-effectiveness and savings are demonstrated. The funds shall be  
30 used to support activities that will contain the cost of the Medicaid Program, including  
31 contracting for services or hiring additional staff. Medicaid cost-containment activities  
32 may include prospective reimbursement methods, incentive-based reimbursement  
33 methods, service limits, prior authorization of services, periodic medical necessity  
34 reviews, revised medical necessity criteria, service provision in the least costly settings,  
35 plastic magnetic stripped Medicaid identification cards for issuance to Medicaid  
36 enrollees, fraud detection software or other fraud detection activities, and other  
37 cost-containment activities. Funds may be expended under this section only after the  
38 Office of State Budget and Management has approved a proposal for the expenditure  
39 submitted by the Department. Proposals for expenditure of funds under this section shall  
40 include the cost of implementing the cost-containment activity and documentation of  
41 the amount of savings expected to be realized from the cost-containment activity. The  
42 Department shall provide a copy of proposals for expenditures under this section to the  
43 Fiscal Research Division.

44           **SECTION 10.23.(b)** As part of any efforts to contain Medicaid Program  
45 costs, the Department of Health and Human Services, Division of Medical Assistance,  
46 shall establish reimbursement rates that will allow efficient Medicaid providers to  
47 comply with certification requirements, licensure rules, or other mandated quality or  
48 safety standards.

49  
50 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

51 **INCREASES IN FEDERAL MEDICAID FUNDS**

52           **SECTION 10.24.(a)** Notwithstanding any other provision of law to the  
53 contrary, the total amount of State funds that become available to the Department of  
54 Health and Human Services for the 2003-2004 fiscal year due to an increase in federal  
55 Medicaid funds resulting from increases in the Federal Financial Participation rate shall

1 be used to increase funds appropriated to the Department for the 2003-2004 fiscal year  
 2 for the Medicaid program without any reduction in what is otherwise allocated to the  
 3 Department from appropriated funds.

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

- 7 (1) Congress approves enhanced Federal Financial Participation for State  
 8 Medicaid programs.
- 9 (2) Receipt of the enhanced Federal Financial Participation is dependent  
 10 on a State's maintenance of effort in Medicaid eligibility.
- 11 (3) The Department has concluded that the enacted policy changes render  
 12 the State ineligible for the enhanced Federal Financial Participation.
- 13 (4) Enhanced Federal Financial Participation receipts exceed the  
 14 anticipated savings in State funds from the enacted policy changes.

15  
 16 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

17 **TRANSFER OF PROPERTY TO QUALIFY FOR MEDICAID**

18 **SECTION 10.26.** G.S. 108A-58 reads as rewritten:

19 "**§ 108A-58. Transfer of property for purposes of qualifying for medical**  
 20 **assistance; periods of ineligibility.**

21 (a) Any person, otherwise eligible, who, either while receiving medical  
 22 assistance benefits or ~~within one year prior to the date of applying for medical~~  
 23 ~~assistance benefits, unless some other within the time period is mandated by controlling~~  
 24 federal law, sells, gives, assigns or transfers countable real or personal property or an  
 25 interest in real or personal property for the purpose of retaining or establishing  
 26 eligibility for medical assistance benefits, shall be ineligible to receive medical  
 27 assistance benefits as set forth in ~~subsection (e) of this section~~ section 1917(c) of the  
 28 Social Security Act. Countable real and personal property includes real property,  
 29 excluding a homesite, unless other applicable federal or State law requires the homesite  
 30 to be counted for transfer of property purposes, intangible personal property,  
 31 nonessential motor and recreational vehicles, nonincome producing business equipment,  
 32 boats and motors. The provisions of this act shall not apply to the sale, gift, assignment  
 33 or transfer of real or personal property if and to the extent that the person applying for  
 34 medical assistance would have been eligible for such assistance notwithstanding  
 35 ownership of such property or an interest therein.

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

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

- 52 (1) ~~For uncompensated value of at least one thousand dollars (\$1,000) but~~  
 53 ~~not more than six thousand dollars (\$6,000), a one year period of~~  
 54 ~~ineligibility from date of sale, gift, assignment or transfer;~~

- 1           ~~(2) For uncompensated value of more than six thousand dollars (\$6,000)~~  
2           ~~but not more than twelve thousand dollars (\$12,000), a two year~~  
3           ~~period of ineligibility from date of sale, gift, assignment or transfer;~~  
4           ~~(3) For uncompensated value of more than twelve thousand dollars~~  
5           ~~(\$12,000), a two year period of ineligibility from date of sale, gift,~~  
6           ~~assignment or transfer, plus one additional month of ineligibility for~~  
7           ~~each five hundred dollar (\$500.00) increment or portion thereof by~~  
8           ~~which the uncompensated value exceeds twelve thousand dollars~~  
9           ~~(\$12,000), but in no event to exceed three years.~~

10           (d) The sale, gift, assignment or transfer for a consideration less than fair market  
11 value, less encumbrances, of any tangible personal property which was acquired with  
12 the proceeds of sale, assignment or transfer of real or intangible personal property  
13 described in subsection (a) of this section or in exchange for such real or intangible  
14 personal property shall be presumed to have been for the purpose of evading the  
15 provisions of this section if the acquisition and sale, gift, assignment or transfer of the  
16 tangible personal property is by or on behalf of a person receiving medical assistance or  
17 within the time period mandated by controlling federal law ~~one year of making~~  
18 ~~application for such assistance~~ and the consequences of the sale, gift, assignment or  
19 transfer of such tangible personal property shall be determined under the provisions of  
20 subsections ~~(e), (f) and (g)~~ (c) and (f) of this section.

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

26           (f) For the purpose of establishing uncompensated value under subsection (c),  
27 the value of property or an interest therein shall be the fair market value of the property  
28 or interest at the time of the sale, gift, assignment or transfer, less the amount of  
29 compensation, if any, received for the property or interest. There shall be a rebuttable  
30 presumption that the fair market value of real property is the most recent property tax  
31 value of the property, as ascertained according to Subchapter II of Chapter 105 of the  
32 General Statutes. Fair market value for purpose of this subsection shall be such value,  
33 determined as above set out, less any legally enforceable encumbrances to which the  
34 property is subject.

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

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

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

47  
48 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

49 **MEDICARE ENROLLMENT REQUIRED**

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

52 **"§ 108A-55.1. Medicare enrollment required.**

53 The Department shall require State Medical Assistance Program recipients who  
54 qualify for Medicare to enroll in Medicare, in accordance with Title XIX of the Social  
55 Security Act, in order to pay medical expenditures that qualify for payment under

1 Medicare Part B. Failure to enroll in Medicare shall result in nonpayment of these  
 2 expenditures under the State Medical Assistance Program. A provider may seek  
 3 payment for services from Medicaid enrollees who are eligible for but not enrolled in  
 4 Medicare Part B."

5  
 6 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan  
 7 **MEDICAID ASSESSMENT PROGRAM FOR SKILLED NURSING**  
 8 **FACILITIES**

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

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

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

23  
 24 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan  
 25 **HEALTH CHOICE**

26 **SECTION 10.29.(a)** G.S. 108A-70.19 reads as rewritten:

27 "**§ 108A-70.19. Short title; purpose; no entitlement.**

28 This Part may be cited as "The Health Insurance Program for Children Act of 1998."  
 29 The purpose of this Part is to provide comprehensive health insurance coverage to  
 30 uninsured low-income children who are residents of this State. Coverage shall be  
 31 provided from federal funds received, State funds appropriated, and other  
 32 nonappropriated funds made available for this purpose. Funds received, appropriated, or  
 33 otherwise made available for the Program shall be used to cover:

- 34 (1) Children eligible under G.S. 108A-70.21;  
 35 (2) Infants under the age of one year whose family income is from one  
 36 hundred eighty-five percent (185%) through two hundred percent  
 37 (200%) of the federal poverty level who receive services under the  
 38 State Medical Assistance Program; and  
 39 (3) Children age one year through five years whose family income is  
 40 above one hundred thirty-three percent (133%) through two hundred  
 41 percent (200%) of the federal poverty level who receive service under  
 42 the State Medical Assistance Program.

43 ~~Nothing~~ Except for infants and children described in subdivisions (2) and (3) of this  
 44 section who receive services under the State Medical Assistance Program, nothing in  
 45 this Part shall be construed as obligating the General Assembly to appropriate funds for  
 46 the Program or as entitling any person to coverage under the Program."

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

48 "(a) Eligibility. – The Department may enroll eligible children based on  
 49 availability of funds. Following are eligibility and other requirements for participation  
 50 in the Program:

- 51 (1) Children must:  
 52 a. Be under the age of 19;  
 53 b. Be ineligible for Medicaid, Medicare, or other federal  
 54 government-sponsored health insurance;  
 55 c. Be uninsured;

1 d. ~~Be in a family that meets the following family income~~  
2 ~~requirements:~~

3 1. ~~Infants under the age of one year whose family income is~~  
4 ~~from one hundred eighty five percent (185%) through~~  
5 ~~two hundred percent (200%) of the federal poverty level;~~

6 2. ~~Children age one year through five years whose family~~  
7 ~~income is above one hundred thirty three percent (133%)~~  
8 ~~through two hundred percent (200%) of the federal~~  
9 ~~poverty level; and~~

10 3. ~~Children~~

11 ~~Be age six years through eighteen years whose family income is~~  
12 ~~above one hundred percent (100%) through two hundred~~  
13 ~~percent (200%) of the federal poverty level;~~

14 e. ~~Be a resident of this State and eligible under federal law; and~~

15 f. ~~Have paid the Program enrollment fee required under this Part.~~

16 (2) ~~Proof of family income and residency and declaration of uninsured~~  
17 ~~status shall be provided by the applicant at the time of application for~~  
18 ~~Program coverage. The family member who is legally responsible for~~  
19 ~~the children enrolled in the Program has a duty to report any change in~~  
20 ~~the enrollee's status within 60 days of the change of status.~~

21 (3) ~~If a responsible parent is under a court order to provide or maintain~~  
22 ~~health insurance for a child and has failed to comply with the court~~  
23 ~~order, then the child is deemed uninsured for purposes of determining~~  
24 ~~eligibility for Program benefits if at the time of application the~~  
25 ~~custodial parent shows proof of agreement to notify and cooperate~~  
26 ~~with the child support enforcement agency in enforcing the order.~~

27 ~~If health insurance other than under the Program is provided to the~~  
28 ~~child after enrollment and prior to the expiration of the eligibility~~  
29 ~~period for which the child is enrolled in the Program, then the child is~~  
30 ~~deemed to be insured and ineligible for continued coverage under the~~  
31 ~~Program. The custodial parent has a duty to notify the Department~~  
32 ~~within 10 days of receipt of the other health insurance, and the~~  
33 ~~Department, upon receipt of notice, shall disenroll the child from the~~  
34 ~~Program. As used in this paragraph, the term "responsible parent"~~  
35 ~~means a person who is under a court order to pay child support.~~

36 (4) ~~Except as otherwise provided in this section, enrollment shall be~~  
37 ~~continuous for one year. At the end of each year, applicants may~~  
38 ~~reapply for Program benefits."~~

39 **SECTION 10.29.(c)** ~~G.S. 108A-70.21(b) reads as rewritten:~~

40 "(b) Benefits. – ~~Except as otherwise provided for eligibility, fees, deductibles,~~  
41 ~~copayments, and other cost-sharing charges, health benefits coverage provided to~~  
42 ~~children eligible under the Program shall be equivalent to coverage provided for~~  
43 ~~dependents under the North Carolina Teachers' and State Employees' Comprehensive~~  
44 ~~Major Medical Plan, including optional prepaid plans. ~~Prescription drug providers shall~~~~  
45 ~~accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the~~  
46 ~~average wholesale price for the prescription drug or the amounts published by the~~  
47 ~~Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and~~  
48 ~~sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per~~  
49 ~~prescription for brand name drugs. All other health care providers providing services to~~  
50 ~~Program enrollees shall accept as payment in full for services rendered the maximum~~  
51 ~~allowable charges under the North Carolina Teachers' and State Employees'~~  
52 ~~Comprehensive Major Medical Plan for services less any copayments assessed to~~  
53 ~~enrollees under this Part. No child enrolled in the Plan's self-insured indemnity program~~  
54 ~~shall be required by the Plan to change health care providers as a result of being~~  
55 ~~enrolled in the Program.~~



1 In addition to the benefits provided under the Plan, the following services and  
2 supplies are covered under the Health Insurance Program for Children established under  
3 this Part:

- 4 (1) Dental: Oral examinations, teeth cleaning, and scaling twice during a  
5 12-month period, full mouth X-rays once every 60 months,  
6 supplemental bitewing X-rays showing the back of the teeth once  
7 during a 12-month period, fluoride applications twice during a  
8 12-month period, sealants, simple extractions, therapeutic  
9 pulpotomies, prefabricated stainless steel crowns, and routine fillings  
10 of amalgam or other tooth-colored filling material to restore diseased  
11 teeth. No benefits are to be provided for services under this subsection  
12 that are not performed by or upon the direction of a dentist, doctor, or  
13 other professional provider approved by the Plan nor for services and  
14 materials that do not meet the standards accepted by the American  
15 Dental Association.
- 16 (2) Vision: Scheduled routine eye examinations once every 12 months,  
17 eyeglass lenses or contact lenses once every 12 months, routine  
18 replacement of eyeglass frames once every 24 months, and optical  
19 supplies and solutions when needed. Optical services, supplies, and  
20 solutions must be obtained from licensed or certified ophthalmologists,  
21 optometrists, or optical dispensing laboratories. Eyeglass lenses are  
22 limited to single vision, bifocal, trifocal, or other complex lenses  
23 necessary for a Plan enrollee's visual welfare. Coverage for oversized  
24 lenses and frames, designer frames, photosensitive lenses, tinted  
25 contact lenses, blended lenses, progressive multifocal lenses, coated  
26 lenses, and laminated lenses is limited to the coverage for single  
27 vision, bifocal, trifocal, or other complex lenses provided by this  
28 subsection. Eyeglass frames are limited to those made of zylonite,  
29 metal, or a combination of zylonite and metal. All visual aids covered  
30 by this subsection require prior approval of the Plan. Upon prior  
31 approval by the Plan, refractions may be covered more often than once  
32 every 12 months.
- 33 (3) Hearing: Auditory diagnostic testing services and hearing aids and  
34 accessories when provided by a licensed or certified audiologist,  
35 otolaryngologist, or other hearing aid specialist approved by the Plan.  
36 Prior approval of the Plan is required for hearing aids, accessories,  
37 earmolds, repairs, loaners, and rental aids.

38 The Department may provide services to children enrolled in the Program through  
39 the State Medical Assistance managed care program. Services provided through the  
40 managed care program shall be paid for from Program funds."

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

42 "(d) Cost-Sharing. – There shall be no deductibles, copayments, or other  
43 cost-sharing charges for families covered under the Program whose family income is at  
44 or below one hundred fifty percent (150%) of the federal poverty level, ~~level~~, except  
45 that fees for outpatient prescription drugs are applicable and shall be one dollar (\$1.00)  
46 for each outpatient generic prescription drug and for each outpatient brand-name  
47 prescription drug for which there is no generic substitution available. The fee for each  
48 outpatient brand-name prescription drug for which there is a generic substitution  
49 available is three dollars (\$3.00). Families covered under the Program whose family  
50 income is above one hundred fifty percent (150%) of the federal poverty level shall be  
51 responsible for copayments to providers as follows:

- 52 (1) Five dollars (\$5.00) per child for each visit to a provider, except that  
53 there shall be no copayment required for well-baby, well-child, or  
54 age-appropriate immunization services;
- 55 (2) Five dollars (\$5.00) per child for each outpatient hospital visit;

1 (3) ~~A six-dollar (\$6.00) fee for each outpatient prescription drug~~  
 2 ~~purchased; one-dollar (\$1.00) fee for each outpatient generic~~  
 3 ~~prescription drug and for each outpatient brand-name prescription drug~~  
 4 ~~for which there is no generic substitution available. The fee for each~~  
 5 ~~outpatient brand-name prescription drug for which there is a generic~~  
 6 ~~substitution available is ten dollars (\$10.00).~~

7 (4) Twenty dollars (\$20.00) for each emergency room visit unless:  
 8 a. The child is admitted to the hospital, or  
 9 b. No other reasonable care was available as determined by the  
 10 Claims Processing Contractor of the North Carolina Teachers'  
 11 and State Employees' Comprehensive Major Medical Plan.

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

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

15 "**§ 108A-70.24. Claims processing; payments.**

16 (a) The North Carolina Teachers' and State Employees' Comprehensive Major  
 17 Medical Plan shall be responsible for the administration and processing of claims for  
 18 benefits under the Program, as provided under Part 5 of Article 3 of Chapter 135 of the  
 19 General Statutes.

20 (b) ~~The~~ After reserving sufficient funds made available for this Program to cover  
 21 the cost of State Medical Assistance Program services to infants under the age of one  
 22 year whose family income is from one hundred eighty-five percent (185%) through two  
 23 hundred percent (200%) of the federal poverty level, and children age one year through  
 24 five years whose family income is above one hundred thirty-three percent (133%)  
 25 through two hundred percent (200%) of the federal poverty level, the Department shall,  
 26 from State and federal appropriations, and from any other funds made available for this  
 27 purpose, make premium payments to the North Carolina Teachers' and State Employees'  
 28 Comprehensive Major Medical Plan as determined by the Plan for its administration,  
 29 claims processing, and other services authorized to provide coverage for acute medical  
 30 care to children eligible for benefits under this Part.

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

36 **SECTION 10.29.(f)** G.S. 108A-70.23(c) reads as rewritten:

37 "(c) Services Provided. – The services authorized to be provided to children  
 38 eligible under this section are as follows:

39 (1) The same level of services as provided for special needs children under  
 40 the Medical Assistance Program as authorized in the Current  
 41 Operations Appropriations Act ~~except that that:~~

42 ~~a. No services for long-term care shall be provided under this~~  
 43 ~~section, and section;~~

44 ~~b. except that services~~ Services for respite care shall be provided  
 45 only under emergency circumstances; and

46 ~~c. The Department may limit services for special needs children~~  
 47 ~~after consultation with the Commission on Children with~~  
 48 ~~Special Health Care Needs.~~

49 (2) Only those services eligible under this section that are not covered or  
 50 otherwise provided under Part 5 of Article 3 of Chapter 135 of the  
 51 General Statutes."

52 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan  
 53

1 **COLLABORATION AMONG DHHS, DPI, AND LEAS TO ENSURE**  
2 **MEDICAID-RELATED SERVICES FOR ELIGIBLE PUBLIC SCHOOL**  
3 **STUDENTS WITH DISABILITIES**

4 **SECTION 10.29A.** Part 6 of Article 2 of Chapter 108A of the General  
5 Statutes is amended by adding the following new section to read:

6 **"§ 108A-55.1. Collaboration among agencies to ensure Medicaid-related services**  
7 **payments to eligible students with disabilities in public schools.**

8 The Department shall work with the Department of Public Instruction and local  
9 education agencies to develop efficient, effective, and appropriate administrative  
10 procedures and guidelines to provide maximum funding for Medicaid-related services  
11 for Medicaid-eligible students with disabilities. The procedures and guidelines shall be  
12 streamlined to ensure that local education agencies receive Medicaid reimbursement in  
13 a timely manner for Medicaid-related services and administrative outreach to  
14 Medicaid-eligible students with disabilities."

15  
16 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

17 **AUDIT OF CAP/DA PROGRAMS BY STATE AUDITOR**

18 **SECTION 10.29B.(a)** The State Auditor shall perform an audit of the  
19 Community Alternatives Program for Disabled Adults (CAP/DA). The audit shall build  
20 upon the results of the study conducted in accordance with S.L. 2002-126, Section  
21 10.16(c), by the North Carolina Institute of Medicine and shall provide information  
22 necessary to determine whether CAP/DA is operating within waiver guidelines and  
23 program goals. The State Auditor shall report the results of the audit to the North  
24 Carolina Study Commission on Aging by January 1, 2004.

25 **SECTION 10.29B.(b)** The Department of Health and Human Services shall  
26 continue to examine CAP/DA and shall make a report of its findings to the North  
27 Carolina Study Commission on Aging by January 1, 2004. The report shall include the  
28 following information:

- 29 (1) A review of the current assessment process for CAP/DA clients,  
30 including an explanation of how assessments are conducted and a  
31 comparison of the assessment process for CAP/DA clients with the  
32 assessment process for nursing home and adult care home clients.  
33 (2) A description of total program costs to the State and counties for  
34 clients receiving CAP/DA payments and an analysis of per-client costs  
35 in CAP/DA to per-client costs in nursing homes and adult care homes.  
36 This analysis shall include the costs of all forms of assistance received  
37 by CAP/DA clients, such as food stamps and housing assistance.  
38 (3) A description of total program costs and an analysis of per-participant  
39 costs for individuals in the State-County In-Home Program. The  
40 analysis shall include a comparison of per-client costs for participants  
41 in the In-Home Program to pe-client costs in adult care homes.  
42 (4) A description of the monitoring of quality of care for CAP/DA clients.  
43 (5) An evaluation of the current waiting list procedures.  
44

45 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

46 **BLUE RIBBON COMMISSION ON MEDICAID REFORM**

47 **SECTION 10.29C.(a)** There is established the North Carolina Blue Ribbon  
48 Commission on Medicaid Reform (Commission). The Commission shall examine the  
49 State's Medicaid program and make comprehensive recommendations for fundamental  
50 reform. The Commission shall consider:

- 51 (1) Methods to responsibly restrain the growth in Medicaid spending.  
52 (2) Best practices in both the public and private sectors in managing and  
53 administering health care.  
54 (3) Options for maximizing existing resources while controlling Medicaid  
55 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) The impact on the Medicaid program of expanding eligibility and  
7 services in order to maximize federal funds to replace State and county  
8 funds for Medicaid programs.  
9 (7) The role of Medicaid in the State's economy, including:  
10 a. The role played by Medicaid in ensuring an adequate and  
11 effective health care delivery system;  
12 b. The role of an adequate and effective health care delivery  
13 system in economic development;  
14 c. Jobs created by Medicaid programs; and  
15 d. The adverse effects of inadequate Medicaid payments and  
16 reduced Medicaid eligibility on private sector health benefit  
17 plans.  
18 (8) Any other matter relating to reform of the State Medicaid program.

19 **SECTION 10.29C.(b)** The Commission shall consist of 12 members  
20 appointed as follows:

- 21 (1) Six members appointed by the Speaker of the House of  
22 Representatives, including one member who shall be designated as  
23 House Cochair. No more than three may be legislators.  
24 (2) Six members appointed by the President Pro Tempore of the Senate,  
25 including one member who shall be designated as Senate Cochair. No  
26 more than three may be legislators.

27 The appointing officer shall fill vacancies. The Commission shall meet at the  
28 call of the Cochairs. Members of the Commission shall receive per diem, subsistence,  
29 and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The  
30 Commission may contract for consultant services as provided in G.S. 120-32.02. Upon  
31 approval of the Legislative Services Commission, the Legislative Services Officer shall  
32 assign professional staff to assist the Commission in its work. Clerical staff shall be  
33 furnished to the Commission through the offices of the House of Representatives and  
34 Senate Directors of Legislative Assistants. The Commission may meet in the Legislative  
35 Building or the Legislative Office Building. The Commission may exercise all of the  
36 powers provided under G.S. 120-19 through G.S. 120-19.4 while in the discharge of its  
37 official duties. The Department of Health and Human Services shall transfer funding  
38 from the Medicaid program to cover the cost of the Commission's study.

39 **SECTION 10.29C.(c)** By April 1, 2004, the Commission shall make an  
40 interim report to the 2003 General Assembly. The Commission shall make its final  
41 report to the 2005 General Assembly by February 1, 2005, and shall expire upon  
42 submitting that report.

#### 43 44 **SUBPART 4. DIVISION OF PUBLIC HEALTH**

45  
46 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 47 **IMMUNIZATION PROGRAM FUNDING**

48 **SECTION 10.30.(a)** Of the funds appropriated in this act to the Department  
49 of Health and Human Services for childhood immunization programs for positions,  
50 operating support, equipment, and pharmaceuticals, the sum of one million dollars  
51 (\$1,000,000) for the 2003-2004 fiscal year and the sum of one million dollars  
52 (\$1,000,000) for the 2004-2005 fiscal year may be used for projects and activities that  
53 are also designed to increase childhood immunization rates in North Carolina. These  
54 projects and activities shall include the following:

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

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

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

12  
13          Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

14          **AIDS DRUG ASSISTANCE PROGRAM (ADAP)**

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

21          **SECTION 10.31.(b)** The Department of Health and Human Services shall  
22          make an interim report on ADAP program utilization by January 1, 2004, and a final  
23          report on ADAP program utilization by May 1, 2004, to the Senate Appropriations  
24          Committee on Health and Human Services, the House of Representatives  
25          Appropriations Subcommittee on Health and Human Services, and the Fiscal Research  
26          Division on ADAP. The reports shall include the following:

- 27          (1) ADAP program utilization:  
28               a. Monthly data on total cumulative AIDS/HIV cases reported in  
29               North Carolina.  
30               b. Monthly data on the number of individuals who have applied to  
31               participate in ADAP that have been determined to be ineligible.  
32               c. Monthly data on the income level of participants in ADAP and  
33               of individuals who have applied to participate in ADAP who  
34               have been determined to be ineligible.  
35               d. Monthly data on fiscal year-to-date expenditures of ADAP. The  
36               interim report shall contain monthly data on the calendar  
37               year-to-date expenditures of ADAP.  
38               e. An update on the status of the information management system.  
39               f. Monthly data on ADAP usage patterns and demographics of  
40               participants in ADAP.  
41               g. Fiscal year-to-date budget information.

42  
43          Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

44          **NEWBORN HEARING SCREENING PROGRAM REPORT**

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

- 47               (1) Unduplicated number of infants screened.  
48               (2) Number of infants who failed the second hearing screening.  
49               (3) Number of infants receiving the diagnostic evaluation.  
50               (4) Number and types of services provided.  
51               (5) Number and types of follow-up services provided to children.

52          The Department shall submit the report not later than May 1, 2004, to the Senate  
53          Appropriations Committee on Health and Human Services, the House of  
54          Representatives Appropriations Subcommittee on Health and Human Services, and the  
55          Fiscal Research Division.

1  
2 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

3 **EMPLOYEES EXAMINED FOR ASBESTOSIS OR SILICOSIS UNDER**  
4 **WORKERS COMPENSATION STATUTE.**

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

6 **§ 97-61.1. First examination of and report on employee having asbestosis or**  
7 **silicosis.**

8 When an employee and the Industrial Commission are advised by the Department of  
9 ~~Health and Human Services~~ that an employee has asbestosis or silicosis, the employer  
10 shall be notified by the Industrial Commission, and the employee, when ordered by the  
11 Industrial Commission, shall go to a place designated by the Industrial Commission and  
12 submit to X rays and a physical examination by the advisory medical committee, at least  
13 one of whom shall conduct the examination, and the member or members of the  
14 advisory medical committee conducting the examination shall forward the X rays and  
15 findings to the member or members of the committee not present for the physical  
16 examination. The employer shall pay the expenses connected with the examination in  
17 such amounts as shall be directed by the Industrial Commission. Within 30 days after  
18 the completion of the examination, the advisory medical committee shall make a written  
19 report signed by all of its members setting forth:

- 20 (1) The X rays and clinical procedures used by the committee in arriving  
21 at its findings.  
22 (2) Whether or not the claimant has contracted asbestosis or silicosis.  
23 (3) The committee's opinion expressed in percentages of the impairment  
24 of the employee's ability to perform normal labor in the same or any  
25 other employment.  
26 (4) Any other matter deemed pertinent by the committee.

27 When a competent physician certifies to the Industrial Commission that the  
28 employee's physical condition is such that his movement to the place of examination  
29 ordered by the Industrial Commission as herein provided in G.S. 97-61.1, 97-61.3 and  
30 97-61.4 would be harmful or injurious to the health of the employee, the Industrial  
31 Commission shall cause the examination of the employee to be made by the advisory  
32 medical committee as herein provided at some place in the vicinity of the residence of  
33 the employee suitable for the purposes of making such examination."

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

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

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

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

46  
47 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

48 **RENAME NORTH CAROLINA HEART DISEASE AND STROKE**  
49 **PREVENTION TASK FORCE**

50 **SECTION 10.33B.** G.S. 143B-216.60 reads as rewritten:

51 **"§ 143B-216.60. North Carolina The Ed Warren Heart Disease and Stroke**  
52 **Prevention Task Force.**

53 (a) The ~~North Carolina~~ Ed Warren Heart Disease and Stroke Prevention Task  
54 Force is created in the Department of Health and Human Services.

1 (b) The Task Force shall have 27 members. The Governor shall appoint the  
2 Chair, and the Vice-Chair shall be elected by the Task Force. The Director of the  
3 Department of Health and Human Services, the Director of the Division of Medical  
4 Assistance in the Department of Health and Human Services, and the Director of the  
5 Division of Aging in the Department of Health and Human Services, or their designees,  
6 shall be members of the Task Force. Appointments to the Task Force shall be made as  
7 follows:

8 (1) By the General Assembly upon the recommendation of the President  
9 Pro Tempore of the Senate, as follows:

- 10 a. Three members of the Senate;  
11 b. A heart attack survivor;  
12 c. A local health director;  
13 d. A certified health educator;  
14 e. A hospital administrator; and  
15 f. A representative of the North Carolina Association of Area  
16 Agencies on Aging.

17 (2) By the General Assembly upon the recommendation of the Speaker of  
18 the House of Representatives, as follows:

- 19 a. Three members of the House of Representatives;  
20 b. A stroke survivor;  
21 c. A county commissioner;  
22 d. A licensed dietitian/nutritionist;  
23 e. A pharmacist; and  
24 f. A registered nurse.

25 (3) By the Governor, as follows:

- 26 a. A practicing family physician, pediatrician, or internist;  
27 b. A president or chief executive officer of a business upon  
28 recommendation of a North Carolina wellness council which is  
29 a member of the Wellness Councils of America;  
30 c. A news director of a newspaper or television or radio station;  
31 d. A volunteer of the North Carolina Affiliate of the American  
32 Heart Association;  
33 e. A representative from the North Carolina Cooperative  
34 Extension Service;  
35 f. A representative of the Governor's Council on Physical Fitness  
36 and Health; and  
37 g. Two members at large.

38 (c) Each appointing authority shall assure insofar as possible that its appointees  
39 to the Task Force reflect the composition of the North Carolina population with regard  
40 to ethnic, racial, age, gender, and religious composition.

41 (d) The General Assembly and the Governor shall make their appointments to the  
42 Task Force not later than 30 days after the adjournment of the 1995 General Assembly,  
43 Regular Session 1995. A vacancy on the Task Force shall be filled by the original  
44 appointing authority, using the criteria set out in this section for the original  
45 appointment.

46 (e) The Task Force shall meet at least quarterly or more frequently at the call of  
47 the Chair.

48 (f) The Task Force Chair may establish committees for the purpose of making  
49 special studies pursuant to its duties, and may appoint non-Task Force members to serve  
50 on each committee as resource persons. Resource persons shall be voting members of  
51 the committees and shall receive subsistence and travel expenses in accordance with  
52 G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to  
53 accomplish the purposes of this section.

54 (g) Members of the Task Force shall receive per diem and necessary travel and  
55 subsistence expenses in accordance with G.S. 120-3.1, 138-5 and 138-6, as applicable.

1 (h) A majority of the Task Force shall constitute a quorum for the transaction of  
2 its business.

3 (i) The Task Force may use funds allocated to it to establish two positions and  
4 for other expenditures needed to assist the Task Force in carrying out its duties.

5 (j) ~~The Heart Disease and Stroke Prevention~~ Task Force has the following  
6 duties:

7 (1) To undertake a statistical and qualitative examination of the incidence  
8 of and causes of heart disease and stroke deaths and risks, including  
9 identification of subpopulations at highest risk for developing heart  
10 disease and stroke, and establish a profile of the heart disease and  
11 stroke burden in North Carolina.

12 (2) To publicize the profile of the heart disease and stroke burden and its  
13 preventability in North Carolina.

14 (3) To identify priority strategies which are effective in preventing and  
15 controlling risks for heart disease and stroke.

16 (4) To identify, examine limitations of, and recommend to the Governor  
17 and the General Assembly changes to existing laws, regulations,  
18 programs, services, and policies to enhance heart disease and stroke  
19 prevention by and for the people of North Carolina.

20 (5) To determine and recommend to the Governor and the General  
21 Assembly the funding and strategies needed to enact new or to modify  
22 existing laws, regulations, programs, services, and policies to enhance  
23 heart disease and stroke prevention by and for the people of North  
24 Carolina.

25 (6) To adopt and promote a statewide comprehensive Heart Disease and  
26 Stroke Prevention Plan to the general public, State and local elected  
27 officials, various public and private organizations and associations,  
28 businesses and industries, agencies, potential funders, and other  
29 community resources.

30 (7) To identify and facilitate specific commitments to help implement the  
31 Plan from the entities listed in subdivision (6) above.

32 (8) To facilitate coordination of and communication among State and local  
33 agencies and organizations regarding current or future involvement in  
34 achieving the aims of the Heart Disease and Stroke Prevention Plan.

35 (9) To receive and consider reports and testimony from individuals, local  
36 health departments, community-based organizations, voluntary health  
37 organizations, and other public and private organizations statewide, to  
38 learn more about their contributions to heart disease and stroke  
39 prevention, and their ideas for improving heart disease and stroke  
40 prevention in North Carolina.

41 (k) Notwithstanding Section 11.57 of S.L. 1999-237, the Task Force shall submit  
42 a final report to the Governor and the General Assembly by June 30, 2003, and a report  
43 to each subsequent regular legislative session within one week of its convening."  
44

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

46  
47 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

### 48 **CHILD CARE FUNDS MATCHING REQUIREMENT**

49 **SECTION 10.34.** No local matching funds may be required by the  
50 Department of Health and Human Services as a condition of any locality's receiving any  
51 State child care funds appropriated by this act unless federal law requires a match. This  
52 shall not prohibit any locality from spending local funds for child care services.  
53

54 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

### 55 **CHILD CARE SUBSIDY RATES**



1           **SECTION 10.35.(a)** The maximum gross annual income for initial  
2 eligibility, adjusted biennially, for subsidized child care services shall be seventy-five  
3 percent (75%) of the State median income, adjusted for family size.

4           **SECTION 10.35.(b)** Fees for families who are required to share in the cost  
5 of care shall be established based on a percent of gross family income and adjusted for  
6 family size. Fees shall be determined as follows:

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

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

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

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

- 33           (1) Except as applicable in subdivision (2) of this subsection, payment  
34           rates shall be set at the statewide or regional market rate for licensed  
35           child care centers and homes.
- 36           (2) If it can be demonstrated that the application of the statewide or  
37           regional market rate to a county with fewer than 50 children in each  
38           age group is lower than the county market rate and would inhibit the  
39           ability of the county to purchase child care for low-income children,  
40           then the county market rate may be applied.

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

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

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

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

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

- 13 (1) The child for whom a child care subsidy is sought is receiving child  
14 protective services or foster care services.
- 15 (2) The child for whom a child care subsidy is sought is developmentally  
16 delayed or at risk of being developmentally delayed.
- 17 (3) The child for whom a child care subsidy is sought is a citizen of the  
18 United States.

19  
20 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 21 **CHILD CARE ALLOCATION FORMULA**

22 **SECTION 10.36.(a)** The Department of Health and Human Services shall  
23 allocate child care subsidy voucher funds to pay the costs of necessary child care for  
24 minor children of needy families. The mandatory thirty percent (30%) Smart Start  
25 subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each  
26 county's child care subsidy allocation. The Department of Health and Human Services  
27 shall use the following method when allocating federal and State child care funds, not  
28 including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- 29 (1) Funds shall be allocated based upon the projected cost of serving  
30 children in a county under age 11 in families with all parents working  
31 who earn less than seventy-five percent (75%) of the State median  
32 income.
- 33 (2) No county's allocation shall be less than ninety percent (90%) of its  
34 State Fiscal Year 2001-2002 initial child care subsidy allocation.

35 **SECTION 10.36.(b)** The Department of Health and Human Services may  
36 reallocate unused child care subsidy voucher funds in order to meet the child care needs  
37 of low-income families. Any reallocation of funds shall be based upon the expenditures  
38 of all child care subsidy voucher funding, including Smart Start funds, within a county.

39  
40 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 41 **CHILD CARE REVOLVING LOAN**

42 **SECTION 10.37.** Notwithstanding any law to the contrary, funds budgeted  
43 for the Child Care Revolving Loan Fund may be transferred to and invested by the  
44 financial institution contracted to operate the Fund. The principal and any income to the  
45 Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral  
46 for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's  
47 cost of administering the program.

48  
49 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 50 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES** 51 **ENHANCEMENTS**

52 **SECTION 10.38.(a)** Administrative costs shall be equivalent to, on an  
53 average statewide basis for all local partnerships, not more than eight percent (8%) of  
54 the total statewide allocation to all local partnerships. For purposes of this subsection,  
55 administrative costs shall include costs associated with partnership oversight, business

1 and financial management, general accounting, human resources, budgeting,  
2 purchasing, contracting, and information systems management.

3 **SECTION 10.38.(b)** The North Carolina Partnership for Children, Inc., and  
4 all local partnerships shall use competitive bidding practices in contracting for goods  
5 and services on contract amounts as follows:

- 6 (1) For amounts of five thousand dollars (\$5,000) or less, the procedures  
7 specified by a written policy to be developed by the Board of Directors  
8 of the North Carolina Partnership for Children, Inc.
- 9 (2) For amounts greater than five thousand dollars (\$5,000), but less than  
10 fifteen thousand dollars (\$15,000), three written quotes.
- 11 (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less  
12 than forty thousand dollars (\$40,000), a request for proposal process.
- 13 (4) For amounts of forty thousand dollars (\$40,000) or more, request for  
14 proposal process and advertising in a major newspaper.

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

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

52 Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year  
53 shall result in a dollar-for-dollar reduction in the appropriation for the Program for a  
54 subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be  
55 responsible for compiling information on the private cash and in-kind contributions into

1 a report that is submitted to the Joint Legislative Commission on Governmental  
2 Operations in a format that allows verification by the Department of Revenue. The same  
3 match requirements shall apply to any expansion funds appropriated by the General  
4 Assembly.

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

7 **SECTION 10.38.(e)** The Department of Health and Human Services and the  
8 North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds  
9 for Early Childhood Education and Development Initiatives for State fiscal years  
10 2003-2004 and 2004-2005 shall be administered and distributed in the following  
11 manner:

- 12 (1) The North Carolina Partnership for Children, Inc., shall develop a  
13 policy to allocate the reduction of funds for Early Childhood  
14 Education and Development Initiatives for the 2003-2004 and  
15 2004-2005 fiscal years.
- 16 (2) Capital expenditures and playground equipment expenditures are  
17 prohibited for fiscal years 2003-2004 and 2004-2005. For the purposes  
18 of this section, "capital expenditures" means expenditures for capital  
19 improvements as defined in G.S. 143-34.40.
- 20 (3) Expenditures of State funds for advertising and promotional activities  
21 are prohibited for fiscal years 2003-2004 and 2004-2005.

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

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

29 **SECTION 10.38.(g)** For the 2003-2004 fiscal year, the local partnerships  
30 shall spend an amount for child care subsidies that provides at least fifty-two million  
31 dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child  
32 Care Development Fund and Block Grant match requirement.

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

37 **SECTION 10.38.(i)** The North Carolina Partnership for Children, Inc., shall  
38 develop a plan to incorporate a penalty into a local partnership's allocation based upon  
39 poor audit results.

40 **SECTION 10.38.(j)** The North Carolina Partnership for Children, Inc., shall  
41 report on activities and directives of this act by March 1, 2004, to the House of  
42 Representatives Appropriations Subcommittee on Health and Human Services, the  
43 Senate Appropriations Committee on Health and Human Services, and the Fiscal  
44 Research Division.

45 **SECTION 10.38.(k)** G.S. 143B-168.12(a)(1) reads as rewritten:

- 46 "(1) The North Carolina Partnership shall have a Board of Directors  
47 consisting of the following 25 members:
- 48 a. The Secretary of Health and Human Services, ex officio, or the  
49 Secretary's designee;
  - 50 b. Repealed by Session Laws 1997, c. 443, s. 11A.105.
  - 51 c. The Superintendent of Public Instruction, ex officio, or the  
52 Superintendent's designee;
  - 53 d. The President of the Community Colleges System, ex officio, or  
54 the President's designee;

- 1 e. Three members of the public, including one child care provider,  
2 one other who is a parent, and one other who is a board chair of  
3 a local partnership serving on the North Carolina Partnership  
4 local partnership advisory committee, appointed by the General  
5 Assembly upon recommendation of the President Pro Tempore  
6 of the Senate;
- 7 f. Three members of the public, including one who is a parent,  
8 one other who is a representative of the faith community, and  
9 one other who is a board chair of a local partnership serving on  
10 the North Carolina Partnership local partnership advisory  
11 committee, appointed by the General Assembly upon  
12 recommendation of the Speaker of the House of  
13 Representatives;
- 14 g. Twelve members, appointed by the Governor. Three of these 12  
15 members shall be members of the party other than the  
16 Governor's party, appointed by the Governor. Seven of these 12  
17 members shall be appointed as follows: one who is a child care  
18 provider, one other who is a pediatrician, one other who is a  
19 health care provider, one other who is a parent, one other who is  
20 a member of the business community, one other who is a  
21 member representing a philanthropic agency, and one other who  
22 is an early childhood educator;
- 23 h. Repealed by Session Laws 1998-212, s. 12.37B(a), effective  
24 October 30, 1998.
- 25 h1. The Chair of the North Carolina Partnership Board shall be  
26 appointed by the Governor;
- 27 i. Repealed by Session Laws 1998-212, s. 12.37B(a), effective  
28 October 30, 1998.
- 29 j. One member of the public appointed by the General Assembly  
30 upon recommendation of the Majority Leader of the Senate;
- 31 k. One member of the public appointed by the General Assembly  
32 upon recommendation of the Majority Leader of the House of  
33 Representatives;
- 34 l. One member of the public appointed by the General Assembly  
35 upon recommendation of the Minority Leader of the Senate;  
36 and
- 37 m. One member of the public appointed by the General Assembly  
38 upon recommendation of the Minority Leader of the House of  
39 Representatives.

40 All members appointed to succeed the initial members and  
41 members appointed thereafter shall be appointed for three-year terms.  
42 Members may succeed themselves.

43 All appointed board members shall avoid conflicts of interests and  
44 the appearance of impropriety. Should instances arise when a conflict  
45 may be perceived, any individual who may benefit directly or  
46 indirectly from the North Carolina Partnership's disbursement of funds  
47 shall abstain from participating in any decision or deliberations by the  
48 North Carolina Partnership regarding the disbursement of funds.

49 All ex officio members are voting members. Each ex officio  
50 member may be represented by a designee. These designees shall be  
51 voting members. No members of the General Assembly shall serve as  
52 members.

53 The North Carolina Partnership may establish a nominating  
54 committee and, in making their recommendations of members to be  
55 appointed by the General Assembly or by the Governor, the President

1 Pro Tempore of the Senate, the Speaker of the House of  
 2 Representatives, the Majority Leader of the Senate, the Majority  
 3 Leader of the House of Representatives, the Minority Leader of the  
 4 Senate, the Minority Leader of the House of Representatives, and the  
 5 Governor shall consult with and consider the recommendations of this  
 6 nominating committee.

7 The North Carolina Partnership may establish a policy on  
 8 members' attendance, which policy shall include provisions for  
 9 reporting absences of at least three meetings immediately to the  
 10 appropriate appointing authority.

11 Members who miss more than three consecutive meetings without  
 12 excuse or members who vacate their membership shall be replaced by  
 13 the appropriate appointing authority, and the replacing member shall  
 14 serve either until the General Assembly and the Governor can appoint  
 15 a successor or until the replaced member's term expires, whichever is  
 16 earlier.

17 The North Carolina Partnership shall establish a policy on  
 18 membership of the local board, ~~which policy shall include the~~  
 19 ~~requirement that all local board members, other than any member~~  
 20 ~~appointed because of a position held by that individual, be residents of~~  
 21 ~~the county or the partnership region they are representing boards.~~ No  
 22 member of the General Assembly shall serve as a member of a local  
 23 board. Within these requirements for local board membership, the  
 24 North Carolina Partnership shall allow local partnerships that are  
 25 regional to have flexibility in the composition of their boards so that  
 26 all counties in the region have adequate representation.

27 All appointed local board members shall avoid conflicts of interests  
 28 and the appearance of impropriety. Should instances arise when a  
 29 conflict may be perceived, any individual who may benefit directly or  
 30 indirectly from the partnership's disbursement of funds shall abstain  
 31 from participating in any decision or deliberations by the partnership  
 32 regarding the disbursement of funds."

33 **SECTION 10.38.(l)** G.S. 143B-168.12(a)(8) reads as rewritten:

34 " ...  
 35 (8) The North Carolina Partnership shall establish a local partnership  
 36 advisory committee comprised of 15 members. Eight of the members  
 37 shall be chosen from past board chairs or duly elected officers  
 38 currently serving on local partnerships' board of directors, and seven  
 39 directors at the time of appointment and shall serve three-year terms.  
 40 Seven of the members shall be staff of local partnerships. Members  
 41 shall be chosen by the Chair of the North Carolina Partnership from a  
 42 pool of candidates nominated by their respective boards of directors.  
 43 The local partnership advisory committee shall serve in an advisory  
 44 capacity to the North Carolina Partnership and shall establish a  
 45 schedule of regular meetings. Members shall be chosen from local  
 46 partnerships on a rotating basis. The advisory committee shall annually  
 47 elect a chair from among its members.  
 48 " ..."

49 **SECTION 10.38.(m)** G.S. 143B-168.12 is amended by adding a new  
 50 subsection to read:

51 "(f) The North Carolina Partnership for Children, Inc., shall establish uniform  
 52 guidelines and reporting format for local partnerships to document the qualifying  
 53 expenses occurring at the contractor level. Local partnerships shall monitor qualifying  
 54 expenses to ensure they have occurred and meet the requirements prescribed in this  
 55 subsection."

1  
2 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

3 **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES**  
4 **EVALUATION**

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

- 8 (1) Evaluation of the Early Childhood Education and Development  
9 Initiatives, including the ongoing review of quality child care efforts  
10 and child care providers' progress in preparing children to be ready to  
11 enter school and succeed.  
12 (2) Continuation of technical assistance to local partnerships in data  
13 collection and evaluation.  
14

15 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

16 **DEPARTMENT PLAN FOR FAMILY CHILD CARE HOME FEES**

17 **SECTION 10.39A.** The Department of Health and Human Services,  
18 Division of Child Development, shall develop a plan proposing fees for the licensing of  
19 family child care homes. The Department shall report on the plan to the Senate  
20 Appropriations Committee on Health and Human Services, the House of  
21 Representatives Appropriations Subcommittee on Health and Human Services, and the  
22 Fiscal Research Division not later than April 1, 2004.  
23

24 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

25 **MORE AT FOUR PROGRAM**

26 **SECTION 10.40.(a)** Of the funds appropriated to the Department of Health  
27 and Human Services the sum of forty-three million one hundred twenty-one thousand  
28 eight hundred dollars (\$43,121,800) in the 2003-2004 fiscal year and the sum of  
29 forty-one million nine hundred twenty-one thousand eight hundred dollars  
30 (\$41,921,800) in the 2004-2005 fiscal year shall be used to implement "More At Four",  
31 a voluntary prekindergarten program for at-risk four-year-olds.

32 **SECTION 10.40.(b)** The Department of Health and Human Services and the  
33 Department of Public Instruction shall establish the "More At Four" Pre-K Task Force  
34 to oversee development and implementation of the pilot program. The membership shall  
35 include:

- 36 (1) Parents of at-risk children.  
37 (2) Representatives with expertise in early childhood development.  
38 (3) Classroom teachers who are certified in early childhood education.  
39 (4) Representatives of the private not-for-profit and for-profit child care  
40 providers in North Carolina.  
41 (5) Employees of the Department of Health and Human Services who are  
42 knowledgeable in the areas of early childhood development, current  
43 State and federally funded efforts in child development, and providing  
44 child care.  
45 (6) Representatives of local Smart Start partnerships.  
46 (7) Representatives of local school administrative units.  
47 (8) Representatives of Head Start prekindergarten programs in North  
48 Carolina.  
49 (9) Employees of the Department of Public Instruction.

50 **SECTION 10.40.(c)** The Department of Health and Human Services and the  
51 Department of Public Instruction, with guidance from the Task Force, shall continue the  
52 implementation of the "More At Four" prekindergarten program for at-risk  
53 four-year-olds who are at risk of failure in kindergarten. The program is available  
54 statewide to all counties that choose to participate, including underserved areas. The  
55 goal of the program is to provide quality prekindergarten services to a greater number of

1 at-risk children in order to enhance kindergarten readiness for these children. The  
2 program shall be consistent with standards and assessments established jointly by the  
3 Department of Health and Human Services, the Department of Public Instruction, and  
4 the Task Force and may consider the "More At Four" Pre-K Task Force  
5 recommendations. The program shall include:

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



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

3 **SECTION 10.40.(d)** During the 2003-2004 fiscal year, the Department of  
4 Health and Human Services shall plan for expansion of the "More At Four" program  
5 within existing resources to include four and five star rated centers and schools serving  
6 four-year-olds and develop guidelines for these programs. The Department shall analyze  
7 guidelines for use of the "More At Four" funds, State subsidy funds, and Smart Start  
8 subsidy funds and devise a complementary plan for administration of funds for all  
9 four-year-old classrooms. The four and five star centers that choose to become a "More  
10 at Four" program shall, at a minimum, receive curricula and access to training and  
11 workshops for "More at Four" programs and be considered along with other "More at  
12 Four" programs for T.E.A.C.H. funding. The Department shall ensure that no individual  
13 receives funding from more than one source for the same purpose or activity during the  
14 same funding period. For purposes of this subsection, sources shall include T.E.A.C.H.,  
15 W.A.G.E.\$., and T.E.A.C.H. Health Insurance programs for individual recipients.

16 The Department may use nonobligated "More At Four" funds for the  
17 2003-2004 fiscal year to reduce the waiting list for subsidy, with priority given to  
18 four-year-olds attending three star or better centers. If there are funds remaining after  
19 the waiting list for four-year-olds has been satisfied, then the waiting list for other  
20 children may be addressed with the remaining funds.

21 **SECTION 10.40.(e)** The Department of Health and Human Services, the  
22 Department of Public Instruction, and the Task Force shall submit a progress report by  
23 January 1, 2004, and May 1, 2004, to the Joint Legislative Commission on  
24 Governmental Operations, the Joint Legislative Education Oversight Committee, the  
25 Senate Appropriations Committee on Health and Human Services, the House of  
26 Representatives Appropriations Subcommittee on Health and Human Services, and the  
27 Fiscal Research Division. This final report shall include the following:

- 28 (1) The number of children participating in the program.  
29 (2) The number of children participating in the program who have never  
30 been served in other early education programs, such as child care,  
31 public or private preschool, Head Start, Early Head Start, or early  
32 intervention programs.  
33 (3) The expected expenditures for the programs and the source of the local  
34 match for each grantee.  
35 (4) The location of program sites and the corresponding number of  
36 children participating in the program at each site.  
37 (5) Activities involving Child Find in counties.  
38 (6) A comprehensive cost analysis of the program, including the cost per  
39 child served by the program.  
40 (7) The plan for expansion of "More At Four" through existing resources  
41 as outlined in this section.  
42

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

44  
45 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

### 46 **RESIDENTIAL SCHOOLS REPORTING**

47 **SECTION 10.41.** The Office of Education Services shall report not later  
48 than December 1, 2003, to the Senate Appropriations Committee on Health and Human  
49 Services, the House of Representatives Appropriations Subcommittee on Health and  
50 Human Services, and the Fiscal Research Division on the activities of the Eastern North  
51 Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at  
52 Morganton, and the Governor Morehead School for the Blind. The report shall include  
53 enrollment numbers at the schools, the budgets, and the academic status of the schools  
54 as defined under the ABCs program.  
55

**SUBPART 7. DIVISION OF AGING**

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

**SENIOR CENTER OUTREACH**

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

- (1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or
- (2) To provide start-up funds for new senior centers.

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

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

- (1) Formally endorse the need for such a center;
- (2) Formally agree on the sponsoring agency for the center; and
- (3) Make a formal commitment to use local funds to support the ongoing operation of the center.

**SECTION 10.42.(c)** State funding shall not exceed seventy-five percent (75%) of reimbursable costs.

**SUBPART 8. DIVISION OF SOCIAL SERVICES**

Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

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

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

- (1) Services that will be provided by the facility or under contract with the facility, including assistance with daily medication.
- (2) Access of clients to mental health, developmental disabilities, and substance abuse services provided in the community, including transportation to services outside of the client's residence in the adult care home facility.
- (3) Physical plant additions or changes necessary to provide for independent living of residents.
- (4) Methods for assuring quality of services, resident safety, and cost-effectiveness.
- (5) Consistency with the Department's Olmstead plan, other policies on community-integration, and disability plans adopted by the State.

**SECTION 10.43.(b)** The Department shall submit a final report on the development of the model 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 on or before March 1, 2004. The report shall address the following:

- (1) Proposed time and location for implementation of the pilot.
- (2) Proposed number of residents to be placed and services to be provided directly by the facility or under contract with the facility.
- (3) Method for evaluating the pilot, including services provided, on a regular basis.

- 1 (4) A description of the living environment for each resident and a
- 2 comparison of how the living environment compares to that of other
- 3 residents in the adult care home.
- 4 (5) Changes to State law necessary to implement the pilot.
- 5 (6) Projected cost to the State for pilot and statewide implementation.
- 6

7 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 8 **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

9 **SECTION 10.44.(a)** It is the intent of the General Assembly to increase the  
10 productivity and enhance the performance of child support enforcement offices  
11 statewide.

12 **SECTION 10.44.(b)** The Department of Health and Human Services shall  
13 develop and implement performance standards for each of the State and county child  
14 support enforcement offices across the State. To develop these performance standards,  
15 the Department of Health and Human Services shall evaluate other private and public  
16 child support models and national standards as well as other successful collections  
17 models. These performance standards shall include the following:

- 18 (1) Cost per collections.
- 19 (2) Consumer satisfaction.
- 20 (3) Paternity establishments.
- 21 (4) Administrative costs.
- 22 (5) Orders established.
- 23 (6) Collections on arrearages.
- 24 (7) Location of absent parents.
- 25 (8) Other related performance measures.

26 The Department of Health and Human Services shall monitor the  
27 performance of each office and shall implement a system of reporting that allows each  
28 local office to review its performance as well as the performance of other local offices.  
29 The Department of Health and Human Services shall publish an annual performance  
30 report that shall include the statewide and local office performance of each child support  
31 office.

32 **SECTION 10.44.(c)** The Department of Health and Human Services shall  
33 report on its progress, in compliance with this section, to the Senate Appropriations  
34 Committee on Health and Human Services, the House of Representatives  
35 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research  
36 Division by May 1, 2005.

37  
38 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 39 **SPECIAL NEEDS ADOPTIONS INCENTIVE FUND**

40 **SECTION 10.45.** Part 4 of Article 2 of Chapter 108A of the General  
41 Statutes is amended by adding a new section to read:

#### 42 **"§ 108A-50A. Special Needs Adoptions Incentive Fund.**

43 (a) There is created a Special Needs Adoptions Incentive Fund to provide  
44 financial assistance to facilitate the adoption of certain children residing in licensed  
45 foster care homes. These funds shall be used to remove financial barriers to the adoption  
46 of these children and shall be available to foster care families who adopt children with  
47 special needs, as defined by the Social Services Commission. These funds shall be  
48 matched by county funds.

49 (b) This program shall not constitute an entitlement and is subject to the  
50 availability of funds.

51 (c) The Social Services Commission shall adopt rules to implement the  
52 provisions of this section."

53  
54 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

#### 55 **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

1           **SECTION 10.46.(a)** The maximum rates for State participation in the foster  
2 care assistance program are established on a graduated scale as follows:

- 3           (1)     \$365.00 per child per month for children aged birth through 5;
- 4           (2)     \$415.00 per child per month for children aged 6 through 12; and
- 5           (3)     \$465.00 per child per month for children aged 13 through 18.

6           Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the  
7 child.

8           **SECTION 10.46.(b)** The maximum rates for State participation in the  
9 adoption assistance program are established on a graduated scale as follows:

- 10          (1)     \$365.00 per child per month for children aged birth through 5;
- 11          (2)     \$415.00 per child per month for children aged 6 through 12; and
- 12          (3)     \$465.00 per child per month for children aged 13 through 18.

13          **SECTION 10.46.(c)** In addition to providing board payments to foster and  
14 adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter  
15 324 of the 1995 Session Laws, any additional funds remaining that were appropriated  
16 for this purpose shall be used to provide medical training in avoiding HIV transmission  
17 in the home.

18          **SECTION 10.46.(d)** The maximum rates for the State participation in HIV  
19 foster care and adoption assistance are established on a graduated scale as follows:

- 20          (1)     \$800.00 per month per child with indeterminate HIV status;
- 21          (2)     \$1,000 per month per child confirmed HIV-infected, asymptomatic;
- 22          (3)     \$1,200 per month per child confirmed HIV-infected, symptomatic; and
- 23          (4)     \$1,600 per month per child terminally ill with complex care needs.

24  
25 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

26 **SPECIAL CHILDREN ADOPTION FUND**

27          **SECTION 10.47.(a)** Of the funds appropriated to the Department of Health  
28 and Human Services in this act, the sum of one million one hundred thousand dollars  
29 (\$1,100,000) shall be used to support the Special Children Adoption Fund for each year  
30 of the 2003-2005 fiscal biennium. The Division of Social Services, in consultation with  
31 the North Carolina Association of County Directors of Social Services and  
32 representatives of licensed private adoption agencies, shall develop guidelines for the  
33 awarding of funds to licensed public and private adoption agencies upon the adoption of  
34 children described in G.S. 108A-50 and in foster care. Payments received from the  
35 Special Children Adoption Fund by participating agencies shall be used exclusively to  
36 enhance the adoption services. No local match shall be required as a condition for  
37 receipt of these funds. In accordance with State rules for allowable costs, the Special  
38 Children Adoption Fund may be used for post-adoption services for families whose  
39 income exceed two hundred percent (200%) of the federal poverty level.

40          **SECTION 10.47.(b)** Of the total funds appropriated for the Special Children  
41 Adoption Fund each year, twenty-five percent (25%) of the total funds available shall be  
42 reserved for payment to participating private adoption agencies. If the funds reserved in  
43 this subsection for payments to private agencies have not been spent on or before March  
44 31, 2004, the Division of Social Services may reallocate those funds, in accordance with  
45 this section, to other participating adoption agencies.

46  
47 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

48 **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND**  
49 **PERFORMANCE ENHANCEMENTS**

50          **SECTION 10.48.(a)** The Department of Health and Human Services shall  
51 review the Intensive Family Preservation Services Program (IFPS) to enhance and  
52 implement initiatives that focus on increasing the sustainability and effectiveness of the  
53 Program.

54          **SECTION 10.48.(b)** Notwithstanding the provisions of G.S. 143B-150.6,  
55 the Program shall provide intensive services to children and families in cases of abuse,

1 neglect, and dependency where a child is at imminent risk of removal from the home  
2 and to children and families in cases of abuse where a child is not at imminent risk of  
3 removal. The Program shall be developed and implemented statewide on a regional  
4 basis. The revised IFPS shall ensure the application of standardized assessment criteria  
5 for determining imminent risk and clear criteria for determining out-of-home placement.

6 **SECTION 10.48.(c)** The Department of Health and Human Services shall  
7 require that any program or entity that receives State, federal, or other funding for the  
8 purpose of Intensive Family Preservation Services shall provide information and data  
9 that allows for:

- 10 (1) An established follow-up system with a minimum of six months of  
11 follow-up services.
- 12 (2) Detailed information on the specific interventions applied including  
13 utilization indicators and performance measurement.
- 14 (3) Cost-benefit data.
- 15 (4) Data on long-term benefits associated with Intensive Family  
16 Preservation Services. This data shall be obtained by tracking families  
17 through the intervention process.
- 18 (5) The number of families remaining intact and the associated  
19 interventions while in IFPS and 12 months thereafter.
- 20 (6) The number and percentage by race of children who received Intensive  
21 Family Preservation Services compared to the ratio of their distribution  
22 in the general population involved with Child Protective Services.

23 **SECTION 10.48.(d)** The Department shall establish performance-based  
24 funding protocol and shall only provide funding to those programs and entities  
25 providing the required information specified in subsection (c) of this section. The  
26 amount of funding shall be based on the individual performance of each program.

27 **SECTION 10.48.(e)** The Department of Health and Human Services shall  
28 report to the Senate Appropriations Committee on Health and Human Services, the  
29 House of Representatives Appropriations Subcommittee on Health and Human  
30 Services, and the Fiscal Research Division not later than April 1, 2004. The report shall  
31 include information and data collected pursuant to subsection (c) of this section.

32  
33 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

34 **TANF STATE PLAN**

35 **SECTION 10.49.(a)** The General Assembly approves the plan titled "North  
36 Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005", prepared  
37 by the Department of Health and Human Services and presented to the General  
38 Assembly on May 15, 2003, as revised in accordance with subsection (b) of this section.  
39 The North Carolina Temporary Assistance for Needy Families State Plan covers the  
40 period October 1, 2003, through September 30, 2005. The Department shall submit the  
41 State Plan, as revised in accordance with subsection (b) of this section, to the United  
42 States Department of Health and Human Services as amended by this act or any other  
43 act of the 2003 General Assembly.

44 **SECTION 10.49.(b)** The Department of Health and Human Services shall  
45 revise the North Carolina Temporary Assistance for Needy Families State Plan FY  
46 2003-2005, submitted to the General Assembly for approval on May 15, 2003. The  
47 revisions shall be made to the following Plan components:

- 48 (1) Enhanced Employee Assistance Program to reflect changes in funding.
- 49 (2) Services for Families to remove reference to start-up activities.
- 50 (3) Work Responsibility to remove reference to start-up activities.
- 51 (4) Cabarrus County Waiver to reflect changes in the law made by the  
52 2003 General Assembly.
- 53 (5) Goal number eight to provide that caseload reduction goals are subject  
54 to economic conditions in the county.

1           **SECTION 10.49.(c)** The counties approved as Electing Counties in North  
2 Carolina's Temporary Assistance for Needy Families State Plan FY 2003-2005 as  
3 approved by this section are: Beaufort, Caldwell, Iredell, Lenoir, Lincoln, Macon,  
4 McDowell, Sampson, and Wilkes.

5           **SECTION 10.49.(d)** Counties designated as Electing Counties pursuant to  
6 G.S. 108A-27(d) and who submitted the letter of intent to be redesignated as a standard  
7 county and the accompanying county plan for fiscal years 2003 through 2005, pursuant  
8 to G.S. 108A-27(e), shall operate under the standard county budget requirements  
9 effective July 1, 2003. Counties that submitted the letter of intent to remain as an  
10 Electing County or to be redesignated as an Electing County and the accompanying  
11 county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall  
12 operate under the Electing County budget requirements effective July 1, 2003. For  
13 programmatic purposes, all counties referred to in this subsection shall remain under  
14 their current county designation through September 30, 2003.  
15

16 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

17 **ELECTING COUNTY TANF FUNDS REVERT**

18           **SECTION 10.50.** G.S. 108A-27.11(c) reads as rewritten:

19           "(c) Each Electing County's allocation for Work First Family Assistance shall be  
20 computed based on the percentage of each Electing County's total expenditures for cash  
21 assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting  
22 percentage shall be applied to the federal TANF block grant funds appropriated for cash  
23 assistance by the General Assembly each fiscal year. The Department shall transmit the  
24 federal funds contained in the county block grants to Electing Counties as soon as  
25 practicable after they become available to the State and in accordance with federal cash  
26 management laws and regulations. ~~The Department shall transmit one fourth of the~~  
27 ~~State funds contained in county block grants to Electing Counties at the beginning of~~  
28 ~~each quarter."~~  
29

30 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

31 **SPECIAL ASSISTANCE IN-HOME PROGRAM**

32           **SECTION 10.51.(a)** The Department of Health and Human Services may  
33 use funds from the existing State-County Special Assistance for Adults budget to  
34 provide Special Assistance payments to eligible individuals in in-home living  
35 arrangements. These payments may be made for up to 800 individuals during the  
36 2003-2004 fiscal year and the 2004-2005 fiscal year. The standard monthly payment to  
37 individuals enrolled in the Special Assistance in-home program shall be fifty percent  
38 (50%) of the monthly payment the individual would receive if the individual resided in  
39 an adult care home and qualified for Special Assistance, except if a lesser payment  
40 amount is appropriate for the individual as determined by the local case manager. For  
41 State fiscal year 2003-2004, qualified individuals shall not receive payments at rates  
42 less than they would have been eligible to receive in State fiscal year 2002-2003. The  
43 Department shall implement Special Assistance in-home eligibility policies and  
44 procedures to assure that in-home program participants are those individuals who need  
45 and, but for the in-home program, would seek placement in an adult care home facility.  
46 The Department's policies and procedures shall include the use of a functional  
47 assessment. The Department shall make this in-home option available to all counties on  
48 a voluntary basis. To the maximum extent possible, the Department shall consider  
49 geographic balance in the dispersion of payments to individuals across the State.

50           **SECTION 10.51.(b)** The Department shall report to the cochairs of the  
51 House of Representatives Appropriations Committee, the House of Representatives  
52 Appropriations Subcommittee on Health and Human Services, the cochairs of the  
53 Senate Appropriations Committee, and the cochairs of the Senate Appropriations  
54 Committee on Health and Human Services by January 1, 2005. This report shall include  
55 the following information:

- 1 (1) A description of cost savings that result from allowing individuals  
2 eligible for State-county Special Assistance the option of remaining in  
3 the home.
- 4 (2) A complete fiscal analysis of the in-home option to include all federal,  
5 State, and local funds expended.
- 6 (3) How much case management is needed and which types of individuals  
7 are most in need of case management.
- 8 (4) The geographic location of individuals receiving payments under this  
9 section.
- 10 (5) A description of the services purchased with these payments.
- 11 (6) A description of the income levels of individuals who receive  
12 payments under this section and the impact on the Medicaid program.
- 13 (7) Findings and recommendations as to the feasibility of continuing or  
14 expanding the in-home program.
- 15 (8) The level and quantity of services (including personal care services)  
16 provided to the demonstration project participants compared to the  
17 level and quantity of services for residents in adult care homes.

18 **SECTION 10.51.(c)** The Department shall incorporate data collection tools  
19 designed to compare quality of life among institutionalized versus noninstitutionalized  
20 populations (i.e., an individual's perception of his or her own health and well-being,  
21 years of healthy life, and activity limitations). To the extent national standards are  
22 available, the Department shall utilize those standards.

23  
24 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

25 **STATE/COUNTY SPECIAL ASSISTANCE**

26 **SECTION 10.52.(a)** The eligibility of Special Assistance recipients residing  
27 in adult care homes on August 1, 1995, shall not be affected by an income reduction in  
28 the Special Assistance eligibility criteria resulting from adoption of the Rate Setting  
29 Methodology Report and Related Services, providing these recipients are otherwise  
30 eligible. The maximum monthly rate for these residents in adult care home facilities  
31 shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

32 **SECTION 10.52.(b)** The maximum monthly rate for residents in adult care  
33 home facilities shall be one thousand ninety-one dollars (\$1,091) per month per resident  
34 through September 30, 2003.

35 **SECTION 10.52.(c)** Effective October 1, 2003, the maximum monthly rate  
36 for residents in adult care home facilities shall be one thousand forty dollars (\$1,040)  
37 per month per resident unless adjusted by the Department in accordance with subsection  
38 (f) of this section.

39 **SECTION 10.52.(d)** The eligibility of Special Assistance recipients who  
40 reside in adult care homes on September 30, 2003, and remain continuously eligible  
41 shall not be affected by an income reduction in the Special Assistance eligibility criteria,  
42 providing these recipients are otherwise eligible. The maximum monthly rate for these  
43 residents in adult care home facilities shall be one thousand ninety-one dollars (\$1,091)  
44 per month per resident.

45 **SECTION 10.52.(e)** The sum of three million one hundred eighty-nine  
46 thousand six hundred seventy-five dollars (\$3,189,675) for the 2003-2004 fiscal year  
47 and the sum of four million four hundred thirty-one thousand eight hundred forty-six  
48 dollars (\$4,431,846) for the 2004-2005 fiscal year appropriated to the Department of  
49 Health and Human Services shall be transferred from the Division of Social Services to  
50 the Division of Medical Assistance and used as State match to draw down federal  
51 matching funds to help pay for Medicaid's personal care services for adult care homes  
52 (ACH-PCS) rather than the State/County Special Assistance Program.

53 **SECTION 10.52.(f)** Notwithstanding any other provision of this section, the  
54 Department of Health and Human Services shall review activities and costs related to  
55 the provision of care in adult care homes and shall determine what costs may be

1 considered to properly maximize allowable reimbursement available through Medicaid  
2 personal care services for adult care homes (ACH-PCS) under federal law. As  
3 determined, and with any necessary approval from the Centers for Medicare and  
4 Medicaid Services (CMS), and the approval of the Office of State Budget and  
5 Management, the Department may transfer necessary funds from the State/County  
6 Special Assistance program within the Division of Social Services to the Division of  
7 Medical Assistance and may use those funds as State match to draw down federal  
8 matching funds to pay for such activities and costs under Medicaid's personal care  
9 services for adult care homes (ACH-PCS), thus maximizing available federal funds.  
10 The established rate for State/County Special Assistance set forth in subsection (c) of  
11 this section shall be reduced by the Department to reflect any transfer of funds from the  
12 Division of Social Services to the Division of Medical Assistance, and related transfer  
13 costs and responsibilities from State/County Special Assistance to the Medicaid  
14 personal care services for adult care homes (ACH-PCS). Such rate adjustments to the  
15 Special Assistance rate shall be effective with the effective date of increased  
16 reimbursement under ACH-PCS. In no event shall the reimbursement for services  
17 through the ACH-PCS exceed the average cost of such services as determined by the  
18 Department from review of cost reports as required and submitted by adult care homes.  
19 The Department shall report any transfers of funds and modifications of rates to the  
20 House of Representatives Appropriations Subcommittee on Health and Human  
21 Services, the Senate Appropriations Committee on Health and Human Services, and the  
22 Fiscal Research Division.

23  
24 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan  
25 **STATE/COUNTY SPECIAL ASSISTANCE TRANSFER OF ASSETS**

26 **SECTION 10.53.(a)** G.S. 108A-46 is repealed.

27 **SECTION 10.53.(b)** Part 3 of Article 2 of Chapter 108A is amended by  
28 adding the following new section to read:

29 "**§ 108A-46A. Transfer of assets for purposes of qualifying for State-county Special**  
30 **Assistance for adults.**

31 Notwithstanding any other provision of law to the contrary, Supplemental Security  
32 Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by  
33 federal law, shall apply to applicants for State-county Special Assistance."

34 **SECTION 10.53.(b)** The Department of Health and Human Services shall  
35 continue to review whether policy for State-county Special Assistance should be  
36 changed to permit an assisted living facility to accept from a family member of a  
37 resident who qualifies for State-county Special Assistance payment for the difference in  
38 the monthly rate for room, board, and services available. In reviewing current policy,  
39 the Department shall consider the following conditions on family contributions to the  
40 resident's cost of care:

- 41 (1) Ensuring that the resident meets all income and resource eligibility  
42 requirements for State-county Special Assistance.
- 43 (2) Not counting payments made by family members to the facility as  
44 income to the resident or as an in-kind contribution when calculating  
45 the monthly rate applicable to the resident.
- 46 (3) Ensuring that supplemental payments are made on a voluntary basis as  
47 specified in the resident agreement.

48 Not later than March 1, 2004, the Department shall report on its activities under this  
49 subsection to the Senate Appropriations Committee on Health and Human Services, the  
50 House of Representatives Appropriations Subcommittee on Health and Human  
51 Services, and the Fiscal Research Division.

52  
53 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan  
54 **LIMITATION ON STATE ABORTION FUNDING**



1           **SECTION 10.54.** The limitations on funding of the performance of abortion  
2 established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by  
3 Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2003-2004 and  
4 2004-2005 fiscal years.

5  
6 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

7 **FUNDS FOR FOOD BANKS**

8           **SECTION 10.55.(a)** Of the funds appropriated to the Department of Health  
9 and Human Services in this act, the sum of one million dollars (\$1,000,000) for the  
10 2003-2004 fiscal year shall be allocated equally among the six Second Harvest North  
11 Carolina food banks.

12           **SECTION 10.55.(b)** Each organization shall report to the Department of  
13 Health and Human Services and the Fiscal Research Division on the activities  
14 performed and the impact on local communities directly associated with the funds  
15 allocated in subsection (a) of this section by April 1, 2004. Each organization shall  
16 provide to the Department of Health and Human Services and the Fiscal Research  
17 Division a copy of its annual audited financial statement within 30 days of issuance of  
18 the statement.

19  
20 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

21 **CHILD WELFARE SYSTEM PILOTS SYSTEM**

22           **SECTION 10.56.(a)** The Department of Health and Human Services,  
23 Division of Social Services, shall continue working with local departments of social  
24 services to implement an alternative response system of child protection in no fewer  
25 than 10 and no more than 33 demonstration areas in this State. The Division of Social  
26 Services may exceed the maximum number of demonstration areas if a county  
27 specifically requests inclusion and the Division determines that resources are available.  
28 The demonstration projects in place in the 2003-2004 fiscal year shall continue. The  
29 alternative response system shall provide for a family-centered approach to child  
30 protective services which local departments of social services utilize family assessment  
31 tools and family support principles when responding to selected reports of suspected  
32 child neglect and dependency.

33           **SECTION 10.56.(b)** The Department of Health and Human Services shall  
34 evaluate the original pilot demonstration areas to determine the impact the alternative  
35 response system to child protective services has had in the following areas:

- 36           (1) Child safety.
- 37           (2) Timeliness of response.
- 38           (3) Timeliness of service.
- 39           (4) Coordination of local human services.

40           **SECTION 10.56.(c)** The Department of Health and Human Services shall  
41 proceed to expand this demonstration project if non-State funds are identified for this  
42 purpose.

43           **SECTION 10.56.(d)** The Department of Health and Human Services shall  
44 report on the outcome of the evaluation of the original pilot demonstration areas  
45 pursuant to subsection (b) of this section and the expansion of the demonstration areas.  
46 The Department shall make recommendations for statewide implementation of an  
47 alternative response system to child protective services. The report shall include any  
48 statutory changes required for full implementation. Any recommendations for statutory  
49 changes contained in the report shall be eligible for consideration by the 2003 General  
50 Assembly in the 2004 Regular Session. The report shall be submitted to the Senate  
51 Appropriations Committee on Health and Human Services, the House of  
52 Representatives Appropriations Subcommittee on Health and Human Services, and the  
53 Fiscal Research Division not later than April 1, 2004.

54  
55 Requested by:           Senators Purcell, Reeves, Garrou, Dalton, Hagan

**ELIMINATE REPORTING REQUIREMENTS FOR WORK FIRST PROGRAM**

**SECTION 10.57.** G.S. 108A-27.2 reads as rewritten:

**"§ 108A-27.2. General duties of the Department.**

The Department shall have the following general duties with respect to the Work First Program:

- (1) Ensure that the specifications of the general provisions of the State Plan regarding the procedures required when recipients are sanctioned, prescribed in G.S. 108A-27.9(c), are uniformly developed and implemented across the State;
- (1a) Provide technical assistance to counties developing and implementing their County Plans, including providing information concerning applicable federal law and regulations and changes to federal law and regulations that affect the permissible use of federal funds and scope of the Work First Program in a county;
- (1b) Reserved for future codification purposes.
- (1c) Ensure that two-parent families receive cash assistance for three months after qualifying for assistance without being subject to pay for performance requirements, in order to encourage families to stay together and to overcome barriers to self-sufficiency and gainful employment. Cash assistance or diversion assistance received prior to being subject to pay for performance requirements is limited to one time within a 12-month period.
- (2) Describe authorized federal and State work activities. For up to twenty percent (20%) of Work First recipients, authorized State work activities shall include at least part-time enrollment in a postsecondary education program. In Standard Counties, recipients enrolled on at least a part-time basis in a postsecondary education program and maintaining a 2.5 grade point average or its equivalent shall have their two-year time limit suspended for up to three years.
- (3) Define requirements for assignment of child support income and compliance with child support activities;
- (4) Establish a schedule for counties to submit their County Plans to ensure that all Standard County Plans are adopted by the Standard Program Counties by January 15 of each odd-numbered year and all Electing County Plans are adopted by Electing Counties by February 1 of each odd-numbered year and review and then recommend a State Plan to the General Assembly;
- (5) Ensure that the County Plans comply with federal and State laws, rules, and regulations, are consistent with the overall purposes and goals of the Work First Program, and maximize federal receipts for the Work First Program;
- (6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal laws and regulations and submit it to the Budget Director for approval;
- (7) Submit the State Plan, as approved by the Budget Director, to the General Assembly for approval;
- ~~(8) Report monthly to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on the monthly progress reports submitted by the counties to the Department;~~
- (9) Develop and implement a system to monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Work First Program on job retention and advancement, child abuse and neglect, caseloads for child protective services and foster care, school attendance, academic and behavioral performance, and other measures of the economic security and health of children and

1 families. The system should be developed to allow monitoring and  
2 evaluation of impact based on both aggregated and disaggregated data.  
3 State and county agencies shall cooperate in providing information  
4 needed to conduct these evaluations, sharing data and information  
5 except where prohibited specifically by federal law or regulation;

6 (10) Monitor the performance of counties relative to their County Plans and  
7 the overall goals of the Work First Program and report every six  
8 months to the Director of the Budget and the Senate Appropriations  
9 Committee on Health and Human Services and the House of  
10 Representatives Appropriations Subcommittee on Health and Human  
11 Services and annually to the General Assembly on the counties'  
12 attainment of the outcomes and goals;Program;

13 (11) Provide quarterly progress reports to the county departments of social  
14 services, the county boards of commissioners, and the Senate  
15 Appropriations Committee on Health and Human Services and the  
16 House of Representatives Appropriations Subcommittee on Health and  
17 Human Services on the performance of counties in achieving Work  
18 First Program expectations;

19 (12) Report to the Senate Appropriations Committee on Health and Human  
20 Services and the House of Representatives Appropriations  
21 Subcommittee on Health and Human Services the counties which have  
22 requested Electing status; provide copies of the proposed Electing  
23 County Plans to [C]ommission and the members of the Senate  
24 Appropriations Committee on Health and Human Services and the  
25 House of Representatives Appropriations Subcommittee on Health and  
26 Human Services Services, if requested; and make recommendations to  
27 the Senate Appropriations Committee on Health and Human Services  
28 and the House of Representatives Appropriations Subcommittee on  
29 Health and Human Services on which of the proposed Electing County  
30 Plans ensure compliance with federal and State laws, rules, and  
31 regulations and are consistent with the overall purposes and goals for  
32 the Work First Program; and

33 (13) Make recommendations to the General Assembly for approval of  
34 counties to become Electing Counties which represent, in aggregate,  
35 no more than fifteen and one-half percent (15.5%) of the total Work  
36 First caseload at September 1 of each year and, for each county  
37 submitting a plan, the reasons individual counties were or were not  
38 recommended.

39 (14) Review the county Work First Program of each electing county and  
40 recommend whether the county should continue to be designated an  
41 electing county or whether it should be redesignated as a standard  
42 county. In conducting its review and making its recommendation, the  
43 Department shall:

44 a. Examine and consider the results of the Department's  
45 monitoring and evaluation of the impact of the electing county's  
46 Work First Program as required under subdivision (9) of this  
47 section;

48 b. Determine whether the electing county's Work First Program's  
49 unique design requires implementation by an electing county or  
50 whether the Work First Program could be implemented by a  
51 county designated as a standard county;

52 c. Determine whether the electing county's Work First Program  
53 and policies are unique and innovative in meeting the purpose  
54 of the Work First Program as stated under G.S. 108A-27, and

1 State and federal laws, rules, and regulations, as compared to  
 2 other standard and electing county Work First programs.  
 3 The Department shall make its recommendation and the reasons  
 4 therefor to the Senate Appropriations Committee on Health and  
 5 Human Services and the House of Representatives Appropriations  
 6 Subcommittee on Health and Human Services not later than three  
 7 months prior to submitting the State Plan to the Commission for  
 8 review as required under G.S. 108A-27.9(a)."  
 9

10 **PART XI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**  
 11

12 Requested by: Senators Weinstein, Garrou, Dalton, Hagan, Rand

13 **GRASSROOTS SCIENCE PROGRAM**

14 **SECTION 11.1.(a)** Of the funds appropriated in this act to the Department of  
 15 Environment and Natural Resources for the Grassroots Science Program, the sum of  
 16 two million five hundred fifty-one thousand seven hundred sixty dollars (\$2,551,760)  
 17 for fiscal year 2003-2004 and the sum of two million five hundred fifty-one thousand  
 18 seven hundred sixty dollars (\$2,551,760) for fiscal year 2004-2005 are allocated as  
 19 grants-in-aid for each fiscal year as follows:  
 20

	2003-2004	2004-2005
Aurora Fossil Museum	\$56,504	\$56,504
Cape Fear Museum	\$181,711	\$181,711
Catawba Science Center	\$132,557	\$132,557
Colburn Gem and Mineral Museum, Inc.	\$66,390	\$66,390
Discovery Place	\$608,466	\$608,466
Granville County Museum Commission, Inc. - Harris Gallery	\$55,721	\$55,721
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$119,141	\$119,141
Imagination Station	\$84,328	\$84,328
Iredell County Children's Museum	\$56,433	\$56,433
Museum of Coastal Carolina	\$68,775	\$68,775
Natural Science Center of Greensboro	\$179,713	\$179,713
North Carolina Museum of Life and Science	\$378,895	\$378,895
Rocky Mount Children's Museum	\$72,177	\$72,177
Schiele Museum of Natural History	\$229,403	\$229,403
Sci Works Science Center and Environmental Park of Forsyth County	\$144,870	\$144,870
Western North Carolina Nature Center	\$116,675	\$116,675
<b>Total</b>	<b>\$2,551,760</b>	<b>\$2,551,760</b>

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 46 **SECTION 11.1.(b)** Of the funds appropriated in this act to the Department  
 47 of Environment and Natural Resources for the Grassroots Science Program, the sum of  
 48 two hundred fifty thousand dollars (\$250,000) for the 2003-2004 fiscal year is allocated  
 49 as initial grants-in-aid of fifty thousand dollars (\$50,000) to each of the following  
 50 unfunded members of the Grassroots collaborative:

- 51 (1) Wilmington Children's Museum, Inc.
- 52 (2) Carolina Raptor Center, Inc.
- 53 (3) Highlands Nature Center
- 54 (4) Fascinate-U Children's Museum
- 55 (5) KidSenses, Inc.

1           **SECTION 11.1.(c)** It is the intent of the General Assembly that the  
2 museums receiving initial allocations under subsection (b) of this section shall receive  
3 recurring allocations in subsequent fiscal years based on the formula used to calculate  
4 the allocations under subsection (a) of this section.  
5

6 Requested by:           Senators Weinstein, Garrou, Dalton, Hagan  
7 **STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUND**

8           **SECTION 11.2.** Of the funds appropriated to the Wildlife Resources Fund  
9 in this act, the sum of four hundred forty-nine thousand dollars (\$449,000) for the  
10 2003-2004 fiscal year and the sum of four hundred forty-nine thousand dollars  
11 (\$449,000) for the 2004-2005 fiscal year shall be used to provide the State share  
12 necessary to support the beaver damage control program established in G.S.  
13 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in  
14 federal funds is available each fiscal year of the biennium to provide the federal share.  
15

16 Requested by:           Senators Weinstein, Garrou, Dalton, Hagan, Holliman  
17 **FUNDS FOR CLEANUP OF WARREN COUNTY PCB LANDFILL**

18           **SECTION 11.3.(a)** Notwithstanding the provisions of G.S. 143-215.3A, the  
19 Department of Environment and Natural Resources may use up to five hundred  
20 thousand dollars (\$500,000) for the 2003-2004 fiscal year from the fees collected for  
21 water quality permits under G.S. 143-215.3D and credited to the Water Permits Fund if  
22 both of the following conditions are satisfied:

- 23           (1) The detoxification and remediation of the landfill located in Warren  
24 County cannot be completed without these additional funds.
- 25           (2) All other funds, including all contingency funds, available to the  
26 Department for the detoxification and remediation of the landfill  
27 located in Warren County that contains polychlorinated biphenyl  
28 (PCBs) and dioxin/furan contaminated materials have been spent or  
29 encumbered.

30           **SECTION 11.3.(b)** It is the intent of the General Assembly that the funds  
31 authorized under subsection (a) of this section will be sufficient to complete the  
32 detoxification and remediation of this landfill, based on representations made to the  
33 General Assembly.  
34

35 Requested by:           Senators Weinstein, Garrou, Dalton, Hagan, Jenkins  
36 **COMMERCIAL AND NONCOMMERCIAL UNDERGROUND STORAGE**  
37 **TANK FUNDS**

38           **SECTION 11.4.(a)** Section 19 of S.L. 1989-652, Section 67 of S.L.  
39 1991-1044, Section 15(a) and Section 15(b) of S.L. 1995-377, and Section 1 of S.L.  
40 2001-454 are repealed, which has the effect of repealing two million six hundred  
41 twenty-five thousand dollars (\$2,625,000) in appropriations from the Commercial  
42 Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of  
43 Environment and Natural Resources and one million two hundred ninety-five thousand  
44 dollars (\$1,295,000) in appropriations from the Noncommercial Leaking Petroleum  
45 Underground Storage Tank Cleanup Fund to the Department of Environment and  
46 Natural Resources.

47           **SECTION 11.4.(b)** There is appropriated from the Commercial Leaking  
48 Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment  
49 and Natural Resources the sum of two million six hundred twenty-five thousand dollars  
50 (\$2,625,000) for the 2003-2004 fiscal year and the sum of two million six hundred  
51 twenty-five thousand dollars (\$2,625,000) for the 2004-2005 fiscal year to administer  
52 the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter  
53 143 of the General Statutes.

54           **SECTION 11.4.(c)** It is the intent of the General Assembly that the funds  
55 under subsection (b) of this section are recurring funds.

1           **SECTION 11.4.(d)** There is appropriated from the Noncommercial Leaking  
2 Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment  
3 and Natural Resources the sum of one million two hundred ninety-five thousand dollars  
4 (\$1,295,000) for the 2003-2004 fiscal year and the sum of one million two hundred  
5 ninety-five thousand dollars (\$1,295,000) for the 2004-2005 fiscal year to administer  
6 the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter  
7 143 of the General Statutes.

8           **SECTION 11.4.(e)** It is the intent of the General Assembly that the funds  
9 under subsection (c) of this section are recurring funds.

10           **SECTION 11.4.(f)** The Office of State Budget and Management shall certify  
11 the appropriations under subsections (b) and subsection (d) of this section in the budget  
12 codes for the Commercial and Noncommercial Leaking Petroleum Underground  
13 Storage Tank Cleanup Funds and in the General Fund budget code for the Department  
14 of Environment and Natural Resources.

15  
16 Requested by:           Senators Weinstein, Garrou, Dalton, Hagan

17 **EXPRESS REVIEW PILOT PROGRAM**

18           **SECTION 11.4A.(a)** The Department of Environment and Natural Resources  
19 may develop the Express Review Pilot Program, a pilot program to provide express  
20 permit and certification reviews. Participation in the Express Review Pilot Program is  
21 voluntary, and the program is to become supported by the fees determined pursuant to  
22 subsection (b) of this section. The Department of Environment and Natural Resources  
23 shall determine the project applications to review under the Express Review Pilot  
24 Program from those who request to participate in the Pilot Program. The Express  
25 Review Pilot Program may be applied to any one or all of the permits, approvals, or  
26 certifications in the following programs: the erosion and sedimentation control program,  
27 the coastal management program, and the water quality programs, including water  
28 quality certifications and stormwater management. The Express Review Pilot Program  
29 shall focus on the following permits or certifications:

- 30           (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the  
31 General Statutes.
- 32           (2) Stream origination certifications under Article 21 of Chapter 143 of  
33 the General Statutes.
- 34           (3) Water quality certification under Article 21 of Chapter 143 of the  
35 General Statutes.
- 36           (4) Erosion and sedimentation control permits under Article 4 of Chapter  
37 113A of the General Statutes.
- 38           (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of  
39 Article 7 of Chapter 113A of the General Statutes.

40           **SECTION 11.4A.(b)** The Department of Environment and Natural  
41 Resources may establish up to eight positions to administer the Express Review Pilot  
42 Program and may determine the fees for express application review under the Pilot  
43 Program. Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be  
44 charged under subsection (a) of this section for the express review of a project  
45 application requiring all of the permits under subdivisions (1) through (5) of subsection  
46 (a) of this section shall not exceed five thousand five hundred dollars (\$5,500).  
47 Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged  
48 for the express review of a project application requiring all of the permits under  
49 subdivisions (1) through (4) of subsection (a) of this section shall not exceed four  
50 thousand five hundred dollars (\$4,500). Notwithstanding G.S. 143-215.3D, the  
51 maximum permit application fee charged for the express review of a project application  
52 for any other combination of permits under subdivisions (1) through (5) of subsection  
53 (a) of this section shall not exceed four thousand dollars (\$4,000). Express review of a  
54 project application involving additional permits or certifications issued by the  
55 Department of Environment and Natural Resources other than those under subdivisions

(1) through (5) of subsection (a) of this section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or any other statute or rule that sets a permit fee, the maximum permit application fee charged for the express review of a project application shall not exceed four thousand dollars (\$4,000), plus one hundred fifty percent (150%) of the fee that would otherwise apply by statute or rule for that particular permit or certification. Additional fees, not to exceed fifty percent (50%) of the original permit application fee under this section, may be charged for subsequent reviews due to the insufficiency of the permit applications. The Department of Environment and Natural Resources may establish the procedure by which the amount of the fees under this subsection is determined, and the fees and procedures are not rules under G.S. 150B-2(8a) for the Express Review Pilot Program under this section.

**SECTION 11.4A.(c)** The funds appropriated to the Department of Environment and Natural Resources in this act for the 2003-2004 fiscal year shall be used for the costs of implementing the Express Review Pilot Program under this section during the 2003-2004 fiscal year.

**SECTION 11.4A.(d)** The Express Review Fund is created as a special nonreverting fund. The Express Review Fund shall be used for the costs of implementing the Express Review Pilot Program under this section. All fees collected under this section shall be credited to the Express Review Fund. If the Express Review Pilot Program is abolished, the funds in the Express Review Fund shall be credited to the General Fund.

**SECTION 11.4A.(e)** No later than May 1, 2004, the Department of Environment and Natural Resources shall report to the General Assembly its findings on the success of the Express Review Pilot Program and whether it recommends that the Pilot Program be continued or expanded.

Requested by: Senators Weinstein, Garrou, Dalton, Hagan, Albertson

**COST SHARE FUNDS FOR LIMITED RESOURCE/NEW FARMERS**

**SECTION 11.6.** G.S. 143-215.74(b) reads as rewritten:

"(b) The program shall be subject to the following requirements and limitations:

- (1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the water courses of the State.
- (2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.
- (3) Subject to subdivision (7) of this subsection, priority designations for inclusions in the program shall be under the authority of the Soil and Water Conservation Commission. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds.
- (4) Areas shall be included in the program as the funds are appropriated and the technical assistance becomes available from the local Soil and Water Conservation District.
- (5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sedimentation control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, closure of lagoons, emergency spillways, riparian buffers or equivalent controls, odor control best management practices, insect control best management practices, and animal waste management systems and application. Funding for animal waste management shall be allocated for practices in river basins such that the funds will have the greatest impact in improving water quality.
- (6) Except as provided in subdivision (8) and subdivision (9) of this subsection, State funding shall be limited to seventy-five percent (75%) of the average cost for each practice with the assisted farmer

1 providing twenty-five percent (25%) of the cost, which may include  
2 in-kind support of the practice, with a maximum of seventy-five  
3 thousand dollars (\$75,000) per year to each applicant.

4 (7) Priority designation for inclusion in the program for State funding  
5 shall be given to projects that improve water quality. To be eligible for  
6 cost share funds under this subdivision, a project shall be evaluated  
7 before funding is awarded and after the project is completed to  
8 determine the impact on water quality.

9 (8) For practices that are eligible for funding from the federal  
10 Conservation Reserve Enhancement Program, State funding from the  
11 program shall be limited to seventy-five percent (75%) of the average  
12 cost of each practice, with the remainder paid from funding from the  
13 Conservation Reserve Enhancement Program, other available federal  
14 funds, other State funds, or the assisted farmer, whose contribution  
15 may include in-kind support of the practice. This subdivision is subject  
16 to subdivision (9) of this subsection.

17 (9) When the applicant is either a limited-resource farmer or a beginning  
18 farmer, State funding shall be limited to ninety percent (90%) of the  
19 average cost for each practice with the assisted farmer providing ten  
20 percent (10%) of the cost, which may include in-kind support of the  
21 practice, with a maximum of one hundred thousand dollars (\$100,000)  
22 per year to each applicant. The following definitions apply in this  
23 subdivision:

24 a. Beginning farmer. – A farmer who has not operated a farm or  
25 who has operated a farm for not more than 10 years and who  
26 will materially and substantially participate in the operation of  
27 the farm.

28 b. Limited-resource farmer. – A farmer with direct and indirect  
29 gross farm sales that do not exceed one hundred thousand  
30 dollars (\$100,000).

31 c. Materially and substantially participate. –

32 1. In the case of an individual, for the individual, including  
33 members of the immediate family of the individual, to  
34 provide substantial day-to-day labor and management of  
35 the farm, consistent with the practices in the county in  
36 which the farm is located.

37 2. In the case of an entity, for all members of the entity, to  
38 participate in the operation of the farm, with some  
39 members providing management and some members  
40 providing labor and management necessary for day-to-  
41 day activities such that if the members did not provide  
42 the management and labor, the operation of the farm  
43 would be seriously impaired."

44  
45 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

46 **CLEAN WATER MANAGEMENT TRUST FUND APPROPRIATION**

47 **SECTION 11.8.** Notwithstanding G.S. 143-15.3B(a) for the 2003-2005  
48 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for  
49 the 2003-2004 fiscal year is only one hundred million dollars (\$100,000,000) as  
50 provided by this act and is only one hundred million dollars (\$100,000,000) for the  
51 2004-2005 fiscal year as provided by this act. The funds appropriated by this act to the  
52 Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

53  
54 Requested by: Senators Garrou, Dalton, Hagan, Albertson, Weinstein



1 **CLEAN WATER MANAGEMENT TRUST FUND MAY FUND FARMLAND**  
2 **PRESERVATION PROJECTS**

3 **SECTION 11.8A.** G.S. 113-145.3(c) is amended by adding a new  
4 subdivision to read:

5 "(2a) To match federal, State, local, and private farmland preservation and  
6 forestland preservation funds and to acquire permanent conservation  
7 easements on working farms and forests."  
8

9 Requested by: Senators Weinstein, Queen, Garrou, Dalton, Hagan

10 **STUDY REALLOCATION OF BAILEY FORK WATERSHED PROPERTY TO**  
11 **STATE PARK/ACCESS TO STATE PARK**

12 **SECTION 11.9.(a)** The Department of Environment and Natural Resources  
13 and the Department of Health and Human Services shall study the desirability of  
14 reallocating the 454 acres that comprise the Bailey Fork watershed property located in  
15 Burke County that is currently owned by the Department of Health and Human Services  
16 and shall study whether to provide access to new facilities at the South Mountains State  
17 Park to students at the North Carolina School for the Deaf at Morganton. After  
18 considering these matters under this section, the Departments may submit a request to  
19 the Council of State to reallocate the 454 acres that comprise the Bailey Fork watershed  
20 property located in Burke County to the South Mountains State Park as an addition to  
21 the South Mountains State Park. No later than January 1, 2004, the Department of  
22 Environment and Natural Resources and the Department of Health and Human Services  
23 shall report the results of the study, including any findings and recommendations, to the  
24 House of Representatives and Senate Appropriations Subcommittees on Natural and  
25 Economic Resources.

26 **SECTION 11.9.(b)** Prior to July 1, 2005, the 454 acres that comprise the  
27 Bailey Fork watershed property located in Burke County that is currently owned by the  
28 Department of Health and Human Services shall not be transferred or sold without  
29 review and approval by the General Assembly.  
30

31 **PART XII. DEPARTMENT OF COMMERCE**  
32

33 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

34 **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

35 **SECTION 12.1.(a)** Of the funds appropriated in this act to the Department  
36 of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred  
37 twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2003-2004  
38 fiscal year and the sum of one hundred twenty-seven thousand eight hundred seventy  
39 dollars (\$127,870) for the 2004-2005 fiscal year may be expended by the North  
40 Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and  
41 capital improvements in accordance with Article 23C of Chapter 113 of the General  
42 Statutes, in addition to funds available to the Authority for these purposes.

43 **SECTION 12.1.(b)** Funds appropriated to the Department of Commerce for  
44 the 2002-2003 fiscal year for the Oregon Inlet Project that are unexpended and  
45 unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30,  
46 2003, but shall remain available to the Department for legal costs associated with the  
47 Project. This section becomes effective June 30, 2003.  
48

49 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

50 **COUNCIL OF GOVERNMENT FUNDS**

51 **SECTION 12.2.(a)** Of the funds appropriated in this act to the Department  
52 of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150)  
53 for the 2003-2004 fiscal year and eight hundred thirty-two thousand one hundred fifty  
54 dollars (\$832,150) for the 2004-2005 fiscal year shall only be used as provided by this  
55 section. Each regional council of government or lead regional organization is allocated

1 up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2003-2004 and  
2 the 2004-2005 fiscal years.

3 **SECTION 12.2.(b)** A regional council of government may use funds  
4 appropriated by this section only to assist local governments in grant applications,  
5 economic development, community development, support of local industrial  
6 development activities, and other activities as deemed appropriate by the member  
7 governments.

8 **SECTION 12.2.(c)** Funds appropriated by this section shall be paid by  
9 electronic transfer in two equal installments, the first no later than September 1, 2003,  
10 and the second subsequent to acceptable submission of the annual report due to the Joint  
11 Legislative Commission on Governmental Operations and the Fiscal Research Division  
12 by January 15, 2005, as specified in subdivision (e)(2) of this section.

13 **SECTION 12.2.(d)** Funds appropriated by this section shall not be used for  
14 payment of dues or assessments by the member governments and shall not supplant  
15 funds appropriated by the member governments.

16 **SECTION 12.2.(e)** Each council of government or lead regional  
17 organization shall do the following:

- 18 (1) By January 15, 2004, and more frequently as requested, report to the  
19 Joint Legislative Commission on Governmental Operations and the  
20 Fiscal Research Division the following information:  
21 a. State fiscal year 2002-2003 program activities, objectives, and  
22 accomplishments;  
23 b. State fiscal year 2002-2003 itemized expenditures and fund  
24 sources;  
25 c. State fiscal year 2003-2004 planned activities, objectives, and  
26 accomplishments, including actual results through December  
27 31, 2003; and  
28 d. State fiscal year 2003-2004 estimated itemized expenditures  
29 and fund sources, including actual expenditures and fund  
30 sources through December 31, 2003;  
31 (2) By January 15, 2005, and more frequently as requested, report to the  
32 Joint Legislative Commission on Governmental Operations and the  
33 Fiscal Research Division the following information:  
34 a. State fiscal year 2003-2004 program activities, objectives, and  
35 accomplishments;  
36 b. State fiscal year 2003-2004 itemized expenditures and fund  
37 sources;  
38 c. State fiscal year 2004-2005 planned activities, objectives, and  
39 accomplishments, including actual results through December  
40 31, 2004; and  
41 d. State fiscal year 2004-2005 estimated itemized expenditures  
42 and fund sources, including actual expenditures and fund  
43 sources through December 31, 2004; and  
44 (3) Provide to the Fiscal Research Division a copy of the organization's  
45 annual audited financial statement within 30 days of issuance of the  
46 statement.  
47

48 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

49 **TOURISM PROMOTION FUNDS**

50 **SECTION 12.3.** Funds appropriated in this act to the Department of  
51 Commerce for tourism promotion grants shall be allocated to counties in an effort to  
52 direct funds to counties most in need. Determinations of which counties are most in  
53 need shall focus on those with the lowest per capita income, highest unemployment, and  
54 slowest population growth, in the following manner:

- 1 (1) Counties 1 through 20 are each eligible to receive a maximum grant of  
2 seven thousand five hundred dollars (\$7,500) for each fiscal year,  
3 provided these funds are matched on the basis of one non-State dollar  
4 for every four State dollars.
- 5 (2) Counties 21 through 50 are each eligible to receive a maximum grant  
6 of three thousand five hundred dollars (\$3,500) for two of the next  
7 three fiscal years, provided these funds are matched on the basis of one  
8 non-State dollar for every three State dollars.
- 9 (3) Counties 51 through 100 are each eligible to receive a maximum grant  
10 of three thousand five hundred dollars (\$3,500) for alternating fiscal  
11 years, beginning with the 1991-1992 fiscal year, provided these funds  
12 are matched on the basis of four non-State dollars for every State  
13 dollar.  
14

15 Requested by: Senators Weinstein, Clodfelter, Garrou, Dalton, Hagan

16 **ONE NORTH CAROLINA – INDUSTRIAL RECRUITMENT COMPETITIVE**  
17 **FUND**

18 **SECTION 12.4.(a)** Funds appropriated to the Department of Commerce for  
19 the One North Carolina - Industrial Recruitment Competitive Fund shall be used to  
20 continue the Fund. The purpose of the Fund is to provide financial assistance to those  
21 businesses or industries deemed by the Governor to be vital to a healthy and growing  
22 State economy and that are making significant efforts to establish or expand in North  
23 Carolina. It is the policy of the State of North Carolina to stimulate economic activity  
24 and to create new jobs for the citizens of the State by encouraging and promoting the  
25 growth and expansion of businesses and industries within the State. Accordingly, the  
26 Department of Commerce shall allocate one million dollars (\$1,000,000) from the Fund  
27 to Johnson & Wales University for the creation of jobs in this State as a credit against  
28 any recruitment incentives heretofore extended to Johnson & Wales University by the  
29 State, if any there be. Johnson & Wales shall reimburse the Fund if the projected  
30 number of jobs are not created.

31 **SECTION 12.4.(b)** Moneys allocated from the One North Carolina -  
32 Industrial Recruitment Competitive Fund shall be used for the following purposes:

- 33 (1) Installation or purchase of equipment.  
34 (2) Structural repairs, improvements, or renovations of existing buildings  
35 to be used for expansion.  
36 (3) Construction of or improvements to new or existing water, sewer, gas  
37 or electric utility distribution lines, or equipment for existing  
38 buildings.  
39 (4) Any other purposes specifically provided by an act of the General  
40 Assembly.

41 Moneys may also be used for construction of or improvements to new or  
42 existing water, sewer, gas or electric utility distribution lines, or equipment to serve new  
43 or proposed industrial buildings used for manufacturing and industrial operations. The  
44 Governor shall adopt guidelines and procedures for the commitment of moneys from the  
45 Fund.  
46

47 Requested by: Senators Weinstein, Garrou, Dalton, Hagan, Queen

48 **WORKER TRAINING TRUST FUND**

49 **SECTION 12.6.(a)** There is appropriated from the Worker Training Trust  
50 Fund to the Employment Security Commission of North Carolina the sum of five  
51 million dollars (\$5,000,000) for the 2003-2004 fiscal year for the operation of local  
52 offices.

53 **SECTION 12.6.(b)** Notwithstanding the provisions of G.S. 96-5(f), there is  
54 appropriated from the Worker Training Trust Fund to the following agencies the  
55 following sums for the 2003-2004 fiscal year for the following purposes:

- 1 (1) One hundred ninety-three thousand eight hundred seventy-nine dollars  
2 (\$193,879) for the 2003-2004 fiscal year to the Employment Security  
3 Commission for the State Occupational Information Coordinating  
4 Committee to develop and operate an interagency system to track  
5 former participants in State education and training programs;  
6 (2) Fifty-three thousand eight hundred fifty-six dollars (\$53,856) for the  
7 2003-2004 fiscal year to the Employment Security Commission to  
8 maintain compliance with Chapter 96 of the General Statutes, which  
9 directs the Commission to employ the Common Follow-Up  
10 Management Information System to evaluate the effectiveness of the  
11 State's job training, education, and placement programs;  
12 (3) Eight hundred sixty-one thousand six hundred eighty-four dollars  
13 (\$861,684) for the 2003-2004 fiscal year to the Department of Labor to  
14 continue the Apprenticeship Program; and  
15 (4) Two hundred forty thousand dollars (\$240,000) for the 2003-2004  
16 fiscal year to the Community Colleges System Office for a training  
17 program in entrepreneurial skills to be operated by North Carolina  
18 REAL Enterprises.

19 **SECTION 12.6.(c)** The agencies listed in subsections (a) and (b) of this  
20 section shall, by January 15, 2004, and more frequently as requested, for the programs  
21 for which funds are appropriated in this section, report to the Joint Legislative  
22 Commission on Governmental Operations and the Fiscal Research Division the  
23 following information:

- 24 (1) State fiscal year 2003-2004 program activities, objectives, and  
25 accomplishments;  
26 (2) State fiscal year 2003-2004 itemized expenditures and fund sources;  
27 (3) State fiscal year 2004-2005 planned activities, objectives, and  
28 accomplishments including actual results through December 31, 2003;  
29 and  
30 (4) State fiscal year 2004-2005 estimated itemized expenditures and fund  
31 sources including actual expenditures and fund sources through  
32 December 31, 2003.

33 **SECTION 12.6.(d)** Notwithstanding the provisions of G.S. 96-5(f), funds  
34 appropriated for 2002-2003 from the Worker Training Trust Fund to the Community  
35 Colleges System Office for both the Focused Industrial Training Program and the  
36 Training Initiatives shall not revert, but shall remain available to the System Office for  
37 the support of each program in fiscal year 2003-2004.

38  
39 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

40 **FILM INDUSTRY DEVELOPMENT ACCOUNT**

41 **SECTION 12.6A.(a)** G.S. 143B-434.3 is repealed.

42 **SECTION 12.6A.(b)** Part 2 of Article 10 of Chapter 143B is amended by  
43 adding the following new section to read:

44 **"§ 143B-434.4. Film Industry Development Account.**

45 (a) Legislative Findings and Purpose. – The General Assembly finds that:

46 (1) It is the policy of the State of North Carolina to stimulate economic activity  
47 and to create new jobs for the citizens of the State by encouraging and promoting the  
48 growth and expansion of businesses and industries within the State.

49 (2) The North Carolina film production industry barely existed in the late  
50 1970s.

51 (3) Since that time, the North Carolina film production industry has grown  
52 to employ thousands of North Carolinians and to support seven studio  
53 complexes, hundreds of production service and support companies,  
54 and a substantial permanent resident crew base of film professionals.

1 all of which contribute to the economy of the State and are a source of  
2 tax revenue for the State and local governments.

3 (4) North Carolina, through its film industry, has hosted over 600  
4 productions over the past 20 years, is regarded as the country's third  
5 largest film-making State behind California and New York, and has  
6 hosted productions in at least 75 out of our 100 counties.

7 (5) Because of the nature of the national film production industry, the  
8 success and economic viability of North Carolina's film production  
9 industry depend in many respects on the State's ability to attract  
10 productions originating from other states such as California and New  
11 York to undertake production activity in North Carolina utilizing the  
12 State's existing film industry infrastructure.

13 (6) The national film production industry is a highly creative industry in  
14 which decisions to film productions in North Carolina are typically  
15 made outside of the State and are frequently based upon factors such  
16 as cost of production.

17 (7) However, current trends in the industry, including trends in foreign  
18 countries such as Canada, to develop new and creative means to attract  
19 and cut production costs for the type of productions that, in the past,  
20 have sustained North Carolina's film industry, threaten the viability of  
21 the State's investments in its film industry and film production  
22 infrastructure.

23 (8) The economic condition of the State is not static, and recent changes in  
24 the State's economic condition have created a level of economic  
25 distress that requires a reevaluation of certain existing State programs,  
26 and the enactment and funding of programs such as the Film Industry  
27 Development Account are designed to stimulate new economic  
28 activity and to create new jobs and opportunities for employment  
29 within the State.

30 (9) The enactment, funding, and administration of this program is  
31 necessary to stimulate the economy, facilitate economic recovery,  
32 create new jobs in North Carolina, and help sustain and preserve the  
33 State's investments in the film production industry, and will promote  
34 the general welfare and confer, as its primary purpose and effect,  
35 benefits on citizens throughout the State through the creation of new  
36 jobs and opportunities for employment, an enlargement of the overall  
37 tax base, an expansion and diversification of the State's industrial base,  
38 and an increase in revenue to the State and its political subdivisions, in  
39 accord with the policies declared in G.S. 143B-428.

40 (10) The purpose of the Film Industry Development Account is to stimulate  
41 economic activity and to create jobs and employment opportunities  
42 within the State.

43 (b) Creation of Account. – There is created in the Department of Commerce,  
44 Division of Tourism, Film, and Sports Development, the Film Industry Development  
45 Account to provide annual grants as incentives to production companies that engage in  
46 production activities in this State. The Division of Tourism, Film, and Sports  
47 Development shall administer this program in accordance with the following provisions:

48 (1) To be eligible for a grant, a production company must engage in  
49 production activities in this State with expenditures in this State of at  
50 least one million dollars (\$1,000,000). A grant may not be used for  
51 political or issue advertising.

52 (2) A grant may not exceed fifteen percent (15%) of the amount the  
53 production company spends for goods and services in this State during  
54 the calendar year.

1           (3) A grant may not exceed two hundred thousand dollars (\$200,000) per  
2           production.

3           (4) Grants shall be awarded to productions that substantially utilize North  
4           Carolina's film industry infrastructure and workforce, that stimulate  
5           economic activity within the State, and that create employment  
6           opportunities within the State.

7           (c) Production Company Defined. – As used in this section, the term "production  
8           company" has the meaning provided in G.S. 105-164.3.

9           (d) Limitation on Eligibility. – No production company shall be eligible for a  
10           grant under this section if an original motion picture, television, or radio image for  
11           theatrical, commercial, advertising, or educational purposes made by that company  
12           contains material that is considered obscene, as defined by G.S. 14-190.1(b).

13           (e) Reports. – The Department of Commerce shall report annually to the General  
14           Assembly concerning the applications made to the account, the payments made from the  
15           account, and the effect of the payments on job creation in the State. The Department of  
16           Commerce shall also report quarterly to the Joint Legislative Commission on  
17           Governmental Operations and the Fiscal Research Division on the use of the moneys in  
18           the account, including information regarding to whom payments were made and in what  
19           amounts."

20           **SECTION 12.6A.(c)** This section is effective on and after August 2, 2000.

21  
22 Requested by:           Senators Garrou, Dalton, Hagan

### 23 **STUDY WORKFORCE DEVELOPMENT PROGRAMS**

24           **SECTION 12.6B.** The Department of Commerce and the Employment  
25 Security Commission shall report not later than January 1, 2004, to the House of  
26 Representatives and Senate Appropriations Committees on proposals to improve the  
27 efficiency and effectiveness of State workforce development programs. The  
28 Department and Commission may consult with other State agencies and departments in  
29 the formulation of the proposals. The proposals may include, but shall not be limited to,  
30 the following:

- 31           (1) Changes in the membership of the Employment Security Commission  
32           to include other State officials with significant responsibility for the  
33           provision of workforce development services;
- 34           (2) Co-location of workforce development officials across agencies and  
35           departments to improve efficiency and coordination of service  
36           provision;
- 37           (3) Organizational structure changes to improve efficiency, planning,  
38           accountability, and coordination of service provision. The approval of  
39           the Secretary or the equivalent of any affected agency shall be required  
40           as part of any organizational structure change proposal; and
- 41           (4) Other relevant recommendations that would result in the improvement  
42           of efficiency and effectiveness of State workforce development  
43           programs.

44  
45 Requested by:           Senators Reeves, Garrou, Dalton, Hagan

### 46 **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

47           **SECTION 12.6C.(a)** The North Carolina Industrial Commission may retain  
48 up to five hundred thousand dollars (\$500,000) in the fiscal year 2003-2004 and five  
49 hundred thousand dollars (\$500,000) in the fiscal year 2004-2005 in additional fees  
50 charged to parties for the filing of compromise settlements to be used to replace existing  
51 computer hardware and software used for the operations of the Commission. These  
52 funds may also be used to prepare any assessment of hardware and software needs prior  
53 to purchase. Any fees retained under this section must be in excess of the current  
54 two-hundred-dollar (\$200.00) fee charged by the Commission for filing a compromise

1 settlement. All plans and purchases by the Commission utilizing these funds are subject  
2 to project certification by the Information Resources Management Commission.

3 **SECTION 12.6C.(b)** The Commission may retain additional fees as  
4 authorized in this section only in the 2003-2005 fiscal biennium and shall not retain any  
5 additional fees after the 2003-2005 fiscal biennium.

6  
7 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

8 **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

9 **SECTION 12.7.(a)** Funds appropriated in this act to the Department of  
10 Commerce for regional economic development commissions shall be allocated to the  
11 following commissions in accordance with subsection (b) of this section: Western North  
12 Carolina Regional Economic Development Commission, Research Triangle Regional  
13 Commission, Southeastern North Carolina Regional Economic Development  
14 Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional  
15 Economic Development Commission, Global TransPark Development Commission,  
16 and Carolinas Partnership, Inc.

17 **SECTION 12.7.(b)** Funds appropriated pursuant to subsection (a) of this  
18 section shall be allocated to each regional economic development commission as  
19 follows:

- 20 (1) First, the Department shall establish each commission's allocation by  
21 determining the sum of allocations to each county that is a member of  
22 that commission. Each county's allocation shall be determined by  
23 dividing the county's enterprise factor by the sum of the enterprise  
24 factors for eligible counties and multiplying the resulting percentage  
25 by the amount of the appropriation. As used in this subdivision, the  
26 term "enterprise factor" means a county's enterprise factor as  
27 calculated under G.S. 105-129.3; seven million five hundred thousand  
28 dollars (\$7,500,000) appropriated to the Global TransPark  
29 Development Zone in Section 6 of Chapter 561 of the 1993 Session  
30 Laws; and  
31 (2) Next, the Department shall subtract from funds allocated to the Global  
32 TransPark Development Zone the sum of one hundred seventy-one  
33 thousand nine hundred seventy-nine dollars (\$171,979) in each fiscal  
34 year, which sum represents the interest earnings in each fiscal year on  
35 the estimated balance of seven million five hundred thousand dollars  
36 (\$7,500,000) appropriated to the Global TransPark Development Zone  
37 in Section 6 of Chapter 561 of the 1993 Session Laws; and  
38 (3) Next, the Department shall redistribute the sum of one hundred  
39 seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in  
40 each fiscal year to the seven regional economic development  
41 commissions named in subsection (a) of this section. Each  
42 commission's share of this redistribution shall be determined according  
43 to the enterprise factor formula set out in subdivision (1) of this  
44 subsection. This redistribution shall be in addition to each  
45 commission's allocation determined under subdivision (1) of this  
46 subsection.

47  
48 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

49 **REGIONAL COMMISSION REPORTS**

50 **SECTION 12.7A.** Each regional economic development commission  
51 receiving a grant-in-aid from the Department of Commerce shall:

- 52 (1) By January 15, 2004, and more frequently as requested, report to the  
53 Joint Legislative Commission on Governmental Operations, the Fiscal  
54 Research Division, and the Department of Commerce the following  
55 information:

- 1 a. State fiscal year 2002-2003 program activities, objectives, and  
2 accomplishments;
- 3 b. State fiscal year 2002-2003 itemized expenditures and fund  
4 sources;
- 5 c. State fiscal year 2003-2004 planned activities, objectives, and  
6 accomplishments as specified in sub-sub-subdivisions 1.  
7 through 8. of sub-subdivision (2)a. of this section including  
8 actual results through December 31, 2003;
- 9 d. State fiscal year 2003-2004 estimated itemized expenditures  
10 and fund sources including actual expenditures and fund  
11 sources through December 31, 2003.
- 12 (2) Report by January 15, 2004, on the first and second quarters of the  
13 2003-2004 fiscal year, and by July 15, 2004, on the third and fourth  
14 quarters of the 2003-2004 fiscal year, regarding the following:
- 15 a. Program activities, objectives, and accomplishments for its  
16 region, to include:
- 17 1. Specific businesses and/or industries that have been  
18 recruited.
- 19 2. Businesses and/or industries that have located as a result  
20 of recruitment efforts and number of new jobs created as  
21 a result of that location decision.
- 22 3. Existing businesses and/or industries that have expanded  
23 as a result of assistance and number of new jobs created  
24 as a result of that expansion.
- 25 4. Existing businesses and/or industries that have remained  
26 as a result of retention efforts and number of jobs saved  
27 as a result of that retention.
- 28 5. For sub-sub-subdivisions 1. through 4. of this  
29 sub-subdivision, each Commission shall describe its role  
30 in the activities and identify the relative contributions of  
31 the Commission and the Department of Commerce to the  
32 activities.
- 33 6. Number and description of marketing outreach events,  
34 including trade shows, recruitment missions, and related  
35 activities.
- 36 7. Initiatives undertaken to establish certified sites and shell  
37 buildings.
- 38 8. Number of referrals or leads handled that were generated  
39 by the Department of Commerce and number that were  
40 generated by the Commission.
- 41 b. Total itemized actual revenues and expenditures, by fund  
42 source.
- 43 The report required by this subdivision shall be made to the  
44 Department of Commerce, the Joint Legislative Commission on  
45 Governmental Operations, and the Fiscal Research Division.
- 46 (3) Report by January 15, 2005, to the Joint Legislative Commission on  
47 Governmental Operations, the Fiscal Research Division, and the  
48 Department of Commerce on the following:
- 49 a. State fiscal year 2003-2004 program activities, objectives, and  
50 accomplishments.
- 51 b. State fiscal year 2003-2004 itemized expenditures, including  
52 salary and benefits for all employees regardless of funding  
53 sources, and fund sources.
- 54 (4) Report by January 15, 2005, to the Department of Commerce on the  
55 number and listing of available sites and buildings within the region.



- 1 (5) Provide to the Fiscal Research Division and the Department of  
2 Commerce a copy of its annual audited financial statement within 30  
3 days of issuance of the statement.  
4

5 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

6 **NONPROFIT REPORTING REQUIREMENTS**

7 **SECTION 12.9.(a)** The N.C. Institute for Minority Economic Development,  
8 Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North  
9 Carolina Community Development Initiative, Inc., North Carolina Association of  
10 Community Development Corporations, Inc., Coalition of Farm and Rural Families, and  
11 Partnership for the Sounds, Inc., shall do the following:

- 12 (1) By January 15, 2004, and more frequently as requested, report to the  
13 Joint Legislative Commission on Governmental Operations and the  
14 Fiscal Research Division the following information:  
15 a. State fiscal year 2002-2003 program activities, objectives, and  
16 accomplishments;  
17 b. State fiscal year 2002-2003 itemized expenditures and fund  
18 sources;  
19 c. State fiscal year 2003-2004 planned activities, objectives, and  
20 accomplishments including actual results through December 31,  
21 2003; and  
22 d. State fiscal year 2003-2004 estimated itemized expenditures  
23 and fund sources including actual expenditures and fund  
24 sources through December 31, 2003;  
25 (2) By January 15, 2005, and more frequently as requested, report to the  
26 Joint Legislative Commission on Governmental Operations and the  
27 Fiscal Research Division the following information:  
28 a. State fiscal year 2003-2004 program activities, objectives, and  
29 accomplishments;  
30 b. State fiscal year 2003-2004 itemized expenditures and fund  
31 sources;  
32 c. State fiscal year 2004-2005 planned activities, objectives, and  
33 accomplishments including actual results through December 31,  
34 2004; and  
35 d. State fiscal year 2004-2005 estimated itemized expenditures  
36 and fund sources including actual expenditures and fund  
37 sources through December 31, 2004; and  
38 (3) Provide to the Fiscal Research Division a copy of the organization's  
39 annual audited financial statement within 30 days of issuance of the  
40 statement.

41 **SECTION 12.9.(b)** No funds appropriated under this act shall be released to  
42 a nonprofit organization listed in subsection (a) of this section until the organization has  
43 satisfied the reporting requirement for January 15, 2003. Fourth quarter allotments shall  
44 not be released to any nonprofit organization that does not satisfy the reporting  
45 requirements by January 15, 2004, or January 15, 2005.  
46

47 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

48 **BIOTECHNOLOGY CENTER**

49 **SECTION 12.10.(a)** The North Carolina Biotechnology Center shall  
50 recapture funds spent in support of successful research and development efforts in the  
51 for-profit private sector.

52 **SECTION 12.10.(b)** The North Carolina Biotechnology Center shall  
53 provide funding for biotechnology, biomedical, and related bioscience applications  
54 under its Business and Science Technology Programs.

55 **SECTION 12.10.(c)** The North Carolina Biotechnology Center shall:

- 1 (1) By January 15, 2004, 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 2002-2003 program activities, objectives, and
- 5 accomplishments;
- 6 b. State fiscal year 2002-2003 itemized expenditures and fund
- 7 sources;
- 8 c. State fiscal year 2003-2004 planned activities, objectives, and
- 9 accomplishments including actual results through December 31,
- 10 2003; and
- 11 d. State fiscal year 2003-2004 estimated itemized expenditures
- 12 and fund sources including actual expenditures and fund
- 13 sources through December 31, 2003;
- 14 (2) By January 15, 2005, and more frequently as requested, report to the
- 15 Joint Legislative Commission on Governmental Operations and the
- 16 Fiscal Research Division the following information:
- 17 a. State fiscal year 2003-2004 program activities, objectives, and
- 18 accomplishments;
- 19 b. State fiscal year 2003-2004 itemized expenditures and fund
- 20 sources;
- 21 c. State fiscal year 2004-2005 planned activities, objectives, and
- 22 accomplishments including actual results through December 31,
- 23 2004; and
- 24 d. State fiscal year 2004-2005 estimated itemized expenditures
- 25 and fund sources including actual expenditures and fund
- 26 sources through December 31, 2004; and
- 27 (3) Provide to the Fiscal Research Division a copy of the organization's
- 28 annual audited financial statement within 30 days of issuance of the
- 29 statement.

30 **SECTION 12.10.(d)** The North Carolina Biotechnology Center shall

31 provide a report containing detailed budget, personnel, and salary information to the

32 Office of State Budget and Management and to the Fiscal Research Division in the same

33 manner as State departments and agencies in preparation for biennium budget requests.

34 Requested by: Senators Garrou, Dalton, Hagan

35 **PIEDMONT TRIAD RESEARCH PARK**

36 **SECTION 12.10A.** Of the funds appropriated in this act to the North

37 Carolina Biotechnology Center, the sum of two hundred fifty thousand dollars

38 (\$250,000) for the fiscal year 2003-2004 shall be transferred to !dealliance for the

39 expansion of the Piedmont Triad Research Park.

40 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

41 **RURAL ECONOMIC DEVELOPMENT CENTER**

42 **SECTION 12.11.(a)** Of the funds appropriated in this act to the Rural

43 Economic Development Center, Inc., the sum of one million seven hundred fourteen

44 thousand six hundred seventy-seven dollars (\$1,714,677) for the 2003-2004 fiscal year

45 and the sum of one million seven hundred fourteen thousand six hundred seventy-seven

46 dollars (\$1,714,677) for the 2004-2005 fiscal year shall be allocated as follows:

	2003-2004 FY	2004-2005 FY
47 Research and Demonstration Grants	\$370,000	\$370,000
48 Technical Assistance and Center		
49 Administration of Research		
50 and Demonstration Grants	444,399	444,399
51 Center Administration, Oversight,		

1	and Other Programs	437,278	437,278
2	Administration of Clean Water/ 3 Natural Gas Critical Needs		
4	Bond Act of 1998	199,722	199,722
5	Additional Administration of Supplemental 6 Funding Program	138,278	138,278
7	Administration of Capacity Building 8 Assistance Program (1998 Bond Act)	125,000	125,000.

9 **SECTION 12.11.(b)** The Rural Economic Development Center, Inc., shall  
10 provide a report containing detailed budget, personnel, and salary information to the  
11 Office of State Budget and Management in the same manner as State departments and  
12 agencies in preparation for biennium budget requests.

13 **SECTION 12.11.(c)** For purposes of this section, the term "community  
14 development corporation" means a nonprofit corporation:

- 15 (1) Chartered pursuant to Chapter 55A of the General Statutes;
- 16 (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue  
17 Code of 1986;
- 18 (3) Whose primary mission is to develop and improve low-income  
19 communities and neighborhoods through economic and related  
20 development;
- 21 (4) Whose activities and decisions are initiated, managed, and controlled  
22 by the constituents of those local communities; and
- 23 (5) Whose primary function is to act as deal-maker and packager of  
24 projects and activities that will increase their constituencies'  
25 opportunities to become owners, managers, and producers of small  
26 businesses, affordable housing, and jobs designed to produce positive  
27 cash flow and curb blight in the targeted community.

28 **SECTION 12.11.(d)** Of the funds appropriated in this act to the Rural  
29 Economic Development Center, Inc., the sum of two million four hundred fifteen  
30 thousand nine hundred ten dollars (\$2,415,910) for the 2003-2004 fiscal year and the  
31 sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910)  
32 for the 2004-2005 fiscal year shall be allocated as follows:

- 33 (1) \$1,047,410 in each fiscal year for community development grants to  
34 support development projects and activities within the State's minority  
35 communities. Any community development corporation as defined in  
36 this section is eligible to apply for funds. The Rural Economic  
37 Development Center, Inc., shall establish performance-based criteria  
38 for determining which community development corporation will  
39 receive a grant and the grant amount. The Rural Economic  
40 Development Center, Inc., shall allocate these funds as follows:
  - 41 a. \$800,000 in each fiscal year for direct grants to the local  
42 community development corporations that have previously  
43 received State funds for this purpose to support operations and  
44 project activities;
  - 45 b. \$197,410 in each fiscal year for direct grants to local  
46 community development corporations that have not previously  
47 received State funds; and
  - 48 c. \$50,000 in each fiscal year to the Rural Economic Development  
49 Center, Inc., to be used to cover expenses in administering this  
50 section.
- 51 (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to  
52 support the loan fund and operations of the Program; and
- 53 (3) \$983,000 in each fiscal year shall be used for a program to provide  
54 supplemental funding for matching requirements for projects and

1 activities authorized under this subsection. The Center shall allocate  
2 these funds as follows:

3 a. \$775,000 in each fiscal year to make grants to local  
4 governments and nonprofit corporations to provide funds  
5 necessary to match federal grants or other grants for:

6 1. Necessary economic development projects and activities  
7 in economically distressed areas;

8 2. Necessary water and sewer projects and activities in  
9 economically distressed communities to address health  
10 or environmental quality problems except that funds  
11 shall not be expended for the repair or replacement of  
12 low-pressure pipe wastewater systems. If a grant is  
13 awarded under this sub-subdivision, then the grant shall  
14 be matched on a dollar-for-dollar basis in the amount of  
15 the grant awarded; or

16 3. Projects that demonstrate alternative water and waste  
17 management processes for local governments. Special  
18 consideration should be given to cost-effectiveness,  
19 efficacy, management efficiency, and the ability of the  
20 demonstration project to be replicated.

21 b. \$208,000 in each fiscal year to make grants to local  
22 governments and nonprofit corporations to provide funds  
23 necessary to match federal grants or other grants related to  
24 water, sewer, or business development projects.

25 (4) \$190,500 in each fiscal year for the Agricultural Advancement  
26 Consortium. These funds shall be placed in a reserve and allocated as  
27 follows:

28 a. \$75,000 in each fiscal year for operating expenses associated  
29 with the Consortium; and

30 b. \$115,500 in each fiscal year for research initiatives funded by  
31 the Consortium.

32 The Consortium shall facilitate discussions among interested parties  
33 and shall develop recommendations to improve the State's economic  
34 development through farming and agricultural interests.

35 The grant recipients in this subsection shall be selected on the basis of need.

36 **SECTION 12.11.(e)** The Rural Economic Development Center, Inc., shall:

37 (1) By January 15, 2004, 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 2002-2003 program activities, objectives, and  
41 accomplishments;

42 b. State fiscal year 2002-2003 itemized expenditures and fund  
43 sources;

44 c. State fiscal year 2003-2004 planned activities, objectives, and  
45 accomplishments including actual results through December 31,  
46 2003; and

47 d. State fiscal year 2003-2004 estimated itemized expenditures  
48 and fund sources including actual expenditures and fund  
49 sources through December 31, 2003.

50 (2) By January 15, 2005, and more frequently as requested, report to the  
51 Joint Legislative Commission on Governmental Operations and the  
52 Fiscal Research Division the following information:

53 a. State fiscal year 2003-2004 program activities, objectives, and  
54 accomplishments;

- 1                   b.     State fiscal year 2003-2004 itemized expenditures and fund  
2                   sources;  
3                   c.     State fiscal year 2004-2005 planned activities, objectives, and  
4                   accomplishments including actual results through December 31,  
5                   2004; and  
6                   d.     State fiscal year 2004-2005 estimated itemized expenditures  
7                   and fund sources including actual expenditures and fund  
8                   sources through December 31, 2004.  
9           (3)     Provide to the Fiscal Research Division a copy of each grant  
10           recipient's annual audited financial statement within 30 days of  
11           issuance of the statement.

12           **SECTION 12.11.(f)** No funds appropriated under this act shall be released to  
13     a community development corporation, as defined in this act, unless the corporation can  
14     demonstrate that there are no outstanding or proposed assessments or other collection  
15     actions against the corporation for any State or federal taxes, including related penalties,  
16     interest, and fees.  
17

18     Requested by:         Senators Weinstein, Garrou, Dalton, Hagan

19     **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

20           **SECTION 12.12.(a)** Of the funds appropriated in this act to the Rural  
21     Economic Development Center, Inc., the sum of three hundred sixty-one thousand  
22     dollars (\$361,000) for the 2003-2004 fiscal year and the sum of three hundred sixty-one  
23     thousand dollars (\$361,000) for the 2004-2005 fiscal year shall be allocated as follows:

- 24           (1)     \$90,250 in each fiscal year to the Opportunities Industrialization  
25           Center of Wilson, Inc., for its ongoing job training programs;  
26           (2)     \$90,250 in each fiscal year to the Opportunities Industrialization  
27           Center, Inc., in Rocky Mount, for its ongoing job training programs;  
28           (3)     \$90,250 in each fiscal year to the Opportunities Industrialization  
29           Centers Kinston and Lenoir County, North Carolina, Inc.; and  
30           (4)     \$90,250 in each fiscal year to the Opportunities Industrialization  
31           Center of Elizabeth City, Inc.

32           **SECTION 12.12.(b)** For each of the Opportunities Industrialization Centers  
33     receiving funds pursuant to subsection (a) of this section, the Rural Economic  
34     Development Center, Inc., shall:

- 35           (1)     By January 15, 2004, 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 2002-2003 program activities, objectives, and  
39           accomplishments;  
40           b.     State fiscal year 2002-2003 itemized expenditures and fund  
41           sources;  
42           c.     State fiscal year 2003-2004 planned activities, objectives, and  
43           accomplishments, including actual results through December  
44           31, 2003; and  
45           d.     State fiscal year 2003-2004 estimated itemized expenditures  
46           and fund sources, including actual expenditures and fund  
47           sources through December 31, 2003.  
48           (2)     By January 15, 2005, and more frequently as requested, report to the  
49           Joint Legislative Commission on Governmental Operations and the  
50           Fiscal Research Division the following information:  
51           a.     State fiscal year 2003-2004 program activities, objectives, and  
52           accomplishments;  
53           b.     State fiscal year 2003-2004 itemized expenditures and fund  
54           sources;

1 c. State fiscal year 2004-2005 planned activities, objectives, and  
2 accomplishments, including actual results through December  
3 31, 2004; and

4 d. State fiscal year 2004-2005 estimated itemized expenditures  
5 and fund sources, including actual expenditures and fund  
6 sources through December 31, 2004.

7 (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor  
8 a financial statement in the form and on the schedule prescribed by the  
9 State Auditor. The financial statements must be audited in accordance  
10 with standards prescribed by the State Auditor to assure that State  
11 funds are used for the purposes provided by law.

12 (4) Provide to the Fiscal Research Division a copy of the annual audited  
13 financial statement required in subdivision (3) of this subsection within  
14 30 days of issuance of the statement.

15 **SECTION 12.12.(c)** No funds appropriated under this act shall be released  
16 to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a)  
17 of this section unless the Center can demonstrate that there are no outstanding or  
18 proposed assessments or other collection actions against the Center for any State or  
19 federal taxes, including related penalties, interest, and fees.

## 20 21 **PART XIII. JUDICIAL DEPARTMENT**

22  
23 Requested by: Senators Thomas, Garrou, Dalton, Hagan

### 24 **AOC OPERATIONAL EFFICIENCY STUDY**

25 **SECTION 13.1.** The Judicial Department shall report by September 1, 2003,  
26 to the Chairs of the Senate and House of Representatives Appropriations Committees  
27 and the Chairs of the Senate and House of Representatives Appropriations  
28 Subcommittees on Justice and Public Safety on the positions identified in the  
29 Administrative Office of the Courts in order to implement operational savings.

30  
31 Requested by: Senators Thomas, Garrou, Dalton, Hagan

### 32 **MANAGEMENT FLEXIBILITY RESERVES**

33 **SECTION 13.1A.** The Judicial Department, the Department of Correction,  
34 the Department of Crime Control and Public Safety, the Department of Juvenile Justice  
35 and Delinquency Prevention, and the Department of Justice shall report quarterly to the  
36 Chairs of the Senate and House of Representatives Appropriations Committees and the  
37 Chairs of the Senate and House of Representatives Appropriations Subcommittees on  
38 Justice and Public Safety on the implementation of management flexibility reserves  
39 authorized for any agency in this act. The departments shall report to the Joint  
40 Legislative Commission on Governmental Operations before implementing  
41 management flexibility reserves by eliminating positions or abolishing programs.

42  
43 Requested by: Senators Thomas, Garrou, Dalton, Hagan

### 44 **COLLECTION OF WORTHLESS CHECK FUNDS**

45 **SECTION 13.2.** Notwithstanding the provisions of G.S. 7A-308(c), the  
46 Judicial Department may use any balance remaining in the Collection of Worthless  
47 Checks Fund on June 30, 2003, for the purchase or repair of office or information  
48 technology equipment during the 2003-2004 fiscal year. Prior to using any funds under  
49 this section, the Judicial Department shall report to the Joint Legislative Commission on  
50 Governmental Operations and the Chairs of the Senate and House of Representatives  
51 Appropriations Subcommittees on Justice and Public Safety on the equipment to be  
52 purchased or repaired and the reasons for the purchases.

53  
54 Requested by: Senators Thomas, Garrou, Dalton, Hagan

### 55 **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

1           **SECTION 13.3.** The Office of Indigent Defense Services shall report to the  
2 Chairs of the Senate and House of Representatives Appropriations Committees and the  
3 Chairs of the Senate and House of Representatives Appropriations Subcommittees on  
4 Justice and Public Safety by March 1 of each year on:

- 5           (1) The volume and cost of cases handled in each district by assigned  
6           counsel or public defenders;
- 7           (2) Actions taken by the Office to improve the cost-effectiveness and  
8           quality of indigent defense, including the capital case program;
- 9           (3) Plans for changes in rules, standards, or regulations in the upcoming  
10          year; and
- 11          (4) Any recommended changes in law or funding procedures that would  
12          assist the Office in improving the management of funds expended for  
13          indigent defense services.

14  
15 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

16 **DRUG TREATMENT COURT PROGRAM**

17           **SECTION 13.4.(a)** It is the intent of the General Assembly that State Drug  
18 Treatment Court funds not be used to fund case manager positions when the services  
19 provided by those positions can be reasonably provided by the Treatment Alternatives  
20 to Street Crime (TASC) program in the Department of Health and Human Services or  
21 by other existing resources. The Drug Treatment Court Program shall identify areas of  
22 potential cost savings in the local programs that would result from reducing the number  
23 of case manager positions. The Program shall also identify areas in which federal  
24 funding might absorb administrative costs.

25           The Drug Treatment Court Program shall report by February 1, 2004, to the  
26 Chairs of the Senate and House of Representatives Appropriations Committees and the  
27 Chairs of the Senate and House of Representatives Appropriations Subcommittees on  
28 Justice and Public Safety on the savings identified.

29           **SECTION 13.4.(b)** Prior to the establishment of any new local drug  
30 treatment court programs, the local drug treatment court management committee shall  
31 consult with the TASC program as to the availability of case management services in  
32 that community.

33  
34 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

35 **FEDERAL GRANT FUNDS**

36           **SECTION 13.5.** The Judicial Department shall use up to the sum of one  
37 million two hundred fifty thousand dollars (\$1,250,000) from funds available to the  
38 Department to provide the State match needed in order to receive federal grant funds.  
39 Prior to using funds for this purpose, the Department shall report to the Chairs of the  
40 Senate and House of Representatives Appropriations Subcommittees on Justice and  
41 Public Safety and the Joint Legislative Commission on Governmental Operations on the  
42 grants to be matched using these funds.

43  
44 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

45 **PUBLIC DEFENDER STUDY**

46           **SECTION 13.6.** The Office of Indigent Defense Services shall study the  
47 establishment of additional public defender districts in the State, identifying the areas of  
48 the State in which savings could be realized by the establishment of such districts and  
49 the projected savings in each area. The Office of Indigent Defense Services shall report  
50 to the Chairs of the Senate and House of Representatives Appropriations Committees  
51 and the Chairs of the Senate and House of Representatives Appropriations  
52 Subcommittees on Justice and Public Safety by March 1, 2004, on the results of its  
53 study.

54  
55 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

**TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

**SECTION 13.7.** Funds appropriated to the Judicial Department in the 2003-2005 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

**ADJUST MAGISTRATE AUTHORIZATIONS**

**SECTION 13.8.** G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min. – Max.		Additional Seats of Court
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	4	
Martin	<del>5</del> 4	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden Havelock
Craven	7	10	
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	<del>9</del> 8	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	7	
Nash	7	10	Rocky Mount Rocky Mount
Edgecombe	4	7	
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	5	
Franklin	3	7	



1	Person	3	4	
2	Caswell	2	5	
3	Wake	12	21	Apex,
4				Wendell,
5				Fuquay-
6				Varina,
7				Wake Forest
8	Harnett	7	11	Dunn
9	Johnston	10	12	Benson,
10				Clayton,
11				Selma
12	Lee	4	6	
13	Cumberland	10	19	
14	Bladen	4	6	
15	Brunswick	4	9	
16	Columbus	6	10	Tabor City
17	Durham	8	13	
18	Alamance	7	11	Burlington
19	Orange	4	11	Chapel Hill
20	Chatham	3	9	Siler City
21	Scotland	3	5	
22	Hoke	4	5	
23	Robeson	8	16	Fairmont,
24				Maxton,
25				Pembroke,
26				Red Springs,
27				Rowland,
28				St. Pauls
29	Rockingham	4	9	Reidsville,
30				Eden,
31				Madison
32	Stokes	2	5	
33	Surry	5	9	Mt. Airy
34	Guilford	20	27	High Point
35	Cabarrus	5	9	Kannapolis
36	Montgomery	2	4	
37	Randolph	5	10	Liberty
38	Rowan	5	10	
39	Stanly	5	6	
40	Union	4	7	
41	Anson	4	6	
42	Richmond	5	6	Hamlet
43	Moore	5	8	Southern
44				Pines
45	Forsyth	3	15	Kernersville
46	Alexander	2	4	
47	Davidson	7	10	Thomasville
48	Davie	2	3	
49	Iredell	4	9	Mooresville
50	Alleghany	1	2	
51	Ashe	3	4	
52	Wilkes	4	6	
53	Yadkin	3	5	
54	Avery	3	5	
55	Madison	4	5	

1	Mitchell	3	4	
2	Watauga	4	6	
3	Yancey	2	4	
4	Burke	4	7	
5	Caldwell	4	7	
6	Catawba	6	10	Hickory
7	Mecklenburg	15	28	
8	Gaston	11	22	
9	Cleveland	5	8	
10	Lincoln	4	7	
11	Buncombe	6	15	
12	Henderson	4	7	
13	McDowell	3	6	
14	Polk	3	4	
15	Rutherford	6	8	
16	Transylvania	2	4	
17	Cherokee	3	4	
18	Clay	1	2	
19	Graham	2	3	
20	Haywood	5	7	Canton
21	Jackson	3	5	
22	Macon	3	4	
23	Swain	2	34"	

24  
25 Requested by: Senators Thomas, Garrou, Dalton, Hagan

26 **NO COURT-ORDERED ARBITRATION ON APPEAL FROM MAGISTRATE**

27 **SECTION 13.9.** G.S. 7A-37.1 is amended by adding a new subsection to  
28 read:

29 "(b1) A court may not order arbitration under this section on appeal from a  
30 magistrate's decision."

31  
32 Requested by: Senators Thomas, Garrou, Dalton, Hagan

33 **NORTH CAROLINA STATE BAR FUNDS**

34 **SECTION 13.10.** Of the funds appropriated in the continuation budget as a  
35 grant-in-aid to the North Carolina State Bar for the 2003-2005 biennium, the North  
36 Carolina State Bar may in its discretion use up to the sum of five hundred ninety  
37 thousand dollars (\$590,000) for the 2003-2004 fiscal year and up to the sum of five  
38 hundred ninety thousand dollars (\$590,000) for the 2004-2005 fiscal year to contract  
39 with the Center for Death Penalty Litigation to provide training, consultation, brief  
40 banking, and other assistance to attorneys representing indigent capital defendants. The  
41 Office of Indigent Defense Services shall report by February 1, 2004, to the Chairs of  
42 the Senate and House Appropriations Subcommittees on Justice and Public Safety on  
43 the activities funded by the grant-in-aid authorized by this section.  
44

45 Requested by: Senators Thomas, Garrou, Dalton, Hagan

46 **CLARIFY PARTIAL PAYMENT OF APPOINTMENT FEE FOR CRIMINAL**  
47 **DEFENDANTS**

48 **SECTION 13.11.** G.S. 7A-455.1 reads as rewritten:

49 "**§ 7A-455.1. Appointment fee in criminal cases.**

50 (a) Each person who requests the appointment of counsel in a criminal case shall  
51 pay to the clerk of court a nonrefundable appointment fee of fifty dollars (\$50.00) at the  
52 time of appointment. ~~Partial payments shall be credited against the amount of the~~  
53 ~~fifty dollar (\$50.00) fee due.~~ No fee shall be due if the court finds that the person is not  
54 entitled to the appointment of counsel.

1 (b) The appointment fee in this section is due regardless of the outcome of the  
2 proceedings. ~~If paid before the final determination of the action at the trial level, the~~  
3 ~~amount of the fee paid in full at the time of appointment, the fifty dollars (\$50.00) paid~~  
4 shall be credited against any amounts the court determines to be owed for the value of  
5 legal services rendered to the defendant. ~~If not paid before the final determination of the~~  
6 ~~action at the trial level, the unpaid amount of the in full at the time of appointment, the~~  
7 ~~fifty-dollar (\$50.00) fee shall be added to any amounts the court determines to be owed~~  
8 for the value of legal services rendered to the defendant and shall be collected in the  
9 same manner as attorneys' fees are collected for such representation. If the fee is not  
10 paid in full at the time of appointment, and no attorneys' fees are found due when the  
11 action is finally determined at the trial level, a judgment shall be entered, docketed, and  
12 indexed pursuant to G.S. 1-233 in the amount of ~~the unpaid fee~~ fifty dollars (\$50.00)  
13 and shall constitute a lien as prescribed by the general law of the State applicable to  
14 judgments.

15 (c) The attorney representing the defendant when the action is finally determined  
16 at the trial level shall advise the court whether the appointment fee required by this  
17 section has been paid.

18 (d) Inability, failure, or refusal to pay the appointment fee shall not be grounds  
19 for denying appointment of counsel, for withdrawal of counsel, or for contempt.

20 (e) The appointment fee required by this section shall be assessed only once for  
21 each affidavit of indigency submitted by a defendant or other determination of  
22 indigency by the court, regardless of the number of cases for which an attorney is  
23 appointed. An additional appointment fee shall not be assessed for any additional cases  
24 thereafter assigned to an attorney if any cases for which a defendant was previously  
25 assessed an appointment fee are still pending. Nor shall an additional appointment fee  
26 be assessed if the charges for which an attorney was appointed are dismissed and  
27 subsequently refiled or if the defendant is appointed an attorney on appeal on a matter  
28 for which the defendant was assessed an appointment fee at the trial level.

29 (f) Of each appointment fee collected under this section, the sum of forty-five  
30 dollars (\$45.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the  
31 sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund  
32 under G.S. 7A-343.2. These fees shall not revert.

33 (g) The Office of Indigent Defense Services shall adopt rules and develop forms  
34 to govern implementation of this section."  
35

36 Requested by: Senators Thomas, Clodfelter, Garrou, Dalton, Hagan

37 **PILOT PROJECT ON ASSIGNMENT OF CIVIL CASES**

38 **SECTION 13.12.(a)** The Administrative Office of the Courts may conduct a  
39 pilot project in up to four judicial districts to assess a system for the assignment and  
40 processing of general civil cases filed in the General Court of Justice. No district may be  
41 selected without the concurrence of the senior resident superior court judge and the  
42 chief district court judge.

43 The project shall evaluate methods of assigning cases to individual judges or  
44 sessions of court in the district court division or the superior court division, considering  
45 the nature of the case, the amount in controversy, the complexity of the issues, the  
46 likelihood of settlement, the availability and suitability of alternative dispute resolution  
47 programs, and any other appropriate factors relevant to just resolution of the cases and  
48 efficient use of court resources. In pilot districts designated by the Administrative  
49 Office of the Courts under this section, general civil cases may be assigned or  
50 transferred to alternative dispute resolution programs used within the district court or  
51 superior court, notwithstanding the provisions of G.S. 7A-37.1, G.S. 7A-38.1, or  
52 Articles 20 and 21 of Chapter 7A of the General Statutes.

53 **SECTION 13.12.(b)** This section expires June 30, 2005.  
54

55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

**DISPUTE RESOLUTION FEE CLARIFICATION**

**SECTION 13.13.** G.S. 7A-38.7 reads as rewritten:

**"§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.**

(a) In each criminal case filed in the General Court of Justice that is resolved through referral to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars (\$60.00) per mediation for the support of the General Court of Justice. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the State Treasurer.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this section."

**PART XIV. DEPARTMENT OF JUSTICE**

Requested by: Senators Thomas, Garrou, Dalton, Hagan

**USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE  
LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

**SECTION 14.1.(a)** Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2003-2005 biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

**SECTION 14.1.(b)** The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

**SECTION 14.1.(c)** Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

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

**SECTION 14.2.** The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those Boards by the State.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

**CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

**SECTION 14.3.** Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

1 **REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL**  
2 **REPRESENTATION**

3 **SECTION 14.4.** The Department of Justice shall be reimbursed by the  
4 Board of Governors of The University of North Carolina for two Attorney III positions  
5 to provide legal representation to The University of North Carolina System.  
6

7 Requested by: Senators Thomas, Garrou, Dalton, Hagan

8 **REPORT ON CRIMINAL RECORDS CHECKS CONDUCTED FOR**  
9 **CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR**  
10 **CRIMINAL RECORDS CHECKS**

11 **SECTION 14.5.(a)** The Department of Justice shall report by January 15  
12 each year to the Joint Legislative Commission on Governmental Operations, the Chairs  
13 of the Senate and House of Representatives Appropriations Committees, and the Chairs  
14 of the Senate and House of Representatives Appropriations Subcommittees on Justice  
15 and Public Safety on the receipts, costs for, and number of criminal records checks  
16 performed in connection with applications for concealed weapons permits. The report  
17 by the Department of Justice shall also include information on the number of  
18 applications received and approved for firearms safety courses.

19 **SECTION 14.5.(b)** The Office of State Budget and Management, in  
20 consultation with the Department of Justice, shall study the feasibility of adjusting the  
21 fees charged for criminal records checks conducted by the Division of Criminal  
22 Information of the Department of Justice as a result of the increase in receipts from  
23 criminal records checks. The study shall include an assessment of the Division's  
24 operational, personnel, and overhead costs related to providing criminal records checks  
25 and how those costs have changed since the prior fiscal year. The Office of State Budget  
26 and Management shall report its findings and recommendations to the Chairs of the  
27 Senate and House of Representatives Appropriations Committees, the Chairs of the  
28 Senate and House of Representatives Appropriations Subcommittees on Justice and  
29 Public Safety, and the Fiscal Research Division on or before March 1, 2004.  
30

31 Requested by: Senators Thomas, Garrou, Dalton, Hagan

32 **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS**  
33 **DISBURSED**

34 **SECTION 14.6.** The North Carolina Legal Education Assistance Foundation  
35 shall report by March 1, 2004, to the Chairs of the House of Representatives and Senate  
36 Appropriations Committees and the Chairs of the House of Representatives and Senate  
37 Justice and Public Safety Subcommittees on its internal controls and procedures for  
38 ensuring that all funds designated for payoff of education loans are used for that  
39 purpose. The Foundation shall report by March 1 of each year to the Joint Legislative  
40 Commission on Governmental Operations on the expenditure of State funds, the number  
41 of attorneys receiving funds, the average award amount, the average student loan  
42 amount, the number of attorneys on the waiting list, and the average number of years for  
43 which attorneys receive loan assistance.  
44

45 Requested by: Senators Thomas, Garrou, Dalton, Hagan

46 **COMPUTER CRIMES GRANT FUNDS**

47 **SECTION 14.8.** On July 1, 2004, the Department of Justice may transfer the  
48 seven State Bureau of Investigation agents funded in the 2003-2004 fiscal year with  
49 federal funds from Computer Crimes grants to agent positions in the State Bureau of  
50 Investigation that are (i) vacant, (ii) funded through the General Fund, and (iii) in  
51 existence on July 1, 2003.  
52

53 Requested by: Senators Thomas, Hagan, Garrou, Dalton

54 **RAPE KIT ANALYSES BY PRIVATE VENDORS**

1           **SECTION 14.9.** The Department of Justice shall issue a Request for  
2 Information to determine (i) the interest of private vendors in providing analyses of  
3 forensic samples of DNA from rape kits in which there is no suspect, (ii) the  
4 qualifications of any private vendors who demonstrate such an interest, and (iii) the  
5 estimated costs of contracting with private vendors to provide analyses of forensic DNA  
6 samples.

7  
8           **PART XV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY**  
9                           **PREVENTION**

10  
11 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

12           **S.O.S. ADMINISTRATIVE COST LIMITS**

13           **SECTION 15.1.** Of the funds appropriated to the Department of Juvenile  
14 Justice and Delinquency Prevention in this act, not more than four hundred fifty  
15 thousand dollars (\$450,000) for the 2003-2004 fiscal year and not more than four  
16 hundred fifty thousand dollars (\$450,000) for the 2004-2005 fiscal year may be used to  
17 administer the S.O.S. Program, to provide technical assistance to applicants and to local  
18 S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may  
19 contract with appropriate public or nonprofit agencies to provide the technical  
20 assistance, including training and related services.

21  
22 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

23           **JUVENILE CRIME PREVENTION COUNCIL GRANT REPORTING AND**  
24                           **CERTIFICATION**

25           **SECTION 15.2.(a)** On or before May 1 each year, the Department of  
26 Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative  
27 Commission on Governmental Operations and the Appropriations Committees of the  
28 Senate and House of Representatives a list of the recipients of the grants awarded, or  
29 preapproved for award, from funds appropriated to the Department for local Juvenile  
30 Crime Prevention Council grants. The list shall include for each recipient the amount of  
31 the grant awarded, the membership of the local committee or council administering the  
32 award funds on the local level, and a short description of the local services, programs, or  
33 projects that will receive funds. The list shall also identify any programs that received  
34 grant funds at one time but for which funding has been eliminated by the Department of  
35 Juvenile Justice and Delinquency Prevention. A written copy of the list and other  
36 information regarding the projects shall also be sent to the Fiscal Research Division of  
37 the General Assembly.

38           **SECTION 15.2.(b)** Each county in which local programs receive Juvenile  
39 Crime Prevention Council grant funds from the Department of Juvenile Justice and  
40 Delinquency Prevention shall certify annually through its local council to the  
41 Department that funds received are not used to duplicate or supplant other programs  
42 within the county.

43  
44 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

45           **REPORTS ON CERTAIN PROGRAMS**

46           **SECTION 15.3.(a)** Project Challenge North Carolina, Inc., shall report to  
47 the Chairs of the Senate and House of Representatives Appropriations Subcommittees  
48 on Justice and Public Safety by April 1 each year on the operation and the effectiveness  
49 of its program in providing alternative dispositions and services to juveniles who have  
50 been adjudicated delinquent or undisciplined. The report shall include information on  
51 the source of referrals for juveniles, the types of offenses committed by juveniles  
52 participating in the program, the amount of time those juveniles spend in the program,  
53 the number of juveniles who successfully complete the program, and the number of  
54 juveniles who commit additional offenses after completing the program.

1           **SECTION 15.3.(b)** The Department of Juvenile Justice and Delinquency  
2 Prevention shall report to the Chairs of the Senate and House of Representatives  
3 Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the  
4 Juvenile Assessment Center by April 1 each year. The report on the Juvenile  
5 Assessment Center shall include information on the number of juveniles served and an  
6 evaluation of the effectiveness of juvenile assessment plans and services provided as a  
7 result of these plans.

8           **SECTION 15.3.(c)** Communities in Schools shall report to the Chairs of the  
9 Senate and House of Representatives Appropriations Subcommittees on Justice and  
10 Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint  
11 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and  
12 the Joint Legislative Education Oversight Committee by April 1 each year on the  
13 operation and the effectiveness of its program. The report shall include information on  
14 the number of children served, the number of volunteers used, the impact on the  
15 children who have received services from Communities in Schools, and the operating  
16 budget of Communities in Schools.

17  
18 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

19 **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

20           **SECTION 15.4.** Funds appropriated in this act to the Department of Juvenile  
21 Justice and Delinquency Prevention for the 2003-2004 fiscal year may be used as  
22 matching funds for the Juvenile Accountability Incentive Block Grants. If North  
23 Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds  
24 to be awarded, the Office of State Budget and Management and the Governor's Crime  
25 Commission shall consult with the Department of Juvenile Justice and Delinquency  
26 Prevention regarding the criteria for awarding federal funds. The Office of State Budget  
27 and Management, the Governor's Crime Commission, and the Department of Juvenile  
28 Justice and Delinquency Prevention shall report to the Appropriations Committees of  
29 the Senate and House of Representatives and the Joint Legislative Commission on  
30 Governmental Operations prior to allocation of the federal funds. The report shall  
31 identify the amount of funds to be received for the 2003-2004 fiscal year, the amount of  
32 funds anticipated for the 2004-2005 fiscal year, and the allocation of funds by program  
33 and purpose.

34  
35 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

36 **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

37           **SECTION 15.5.** The Department of Juvenile Justice and Delinquency  
38 Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness  
39 camp programs, the teen court programs, the program that grants funds to the local  
40 organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L.  
41 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and  
42 multipurpose group homes. The teen court report shall include statistical information  
43 on the number of juveniles served, the number and type of offenses considered by teen  
44 courts, referral sources for teen courts, and the number of juveniles that become  
45 court-involved after participation in teen courts. The report on the Boys and Girls Clubs  
46 program shall include information on:

- 47           (1) The expenditure of State appropriations on the program;
- 48           (2) The operations and the effectiveness of the program; and
- 49           (3) The number of juveniles served under the program.

50           In conducting the evaluation of each of these programs, the Department shall  
51 consider whether participation in each program results in a reduction of court  
52 involvement among juveniles. The Department shall also identify whether the programs  
53 are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The  
54 Department shall report the results of the evaluation to the Chairs of the House of  
55 Representatives and Senate Appropriations Committees and the Chairs of the

1 Subcommittees of Justice and Public Safety of the House of Representatives and Senate  
2 Appropriations Committees by March 1 of each year.

3  
4 Requested by: Senators Thomas, Garrou, Dalton, Hagan

5 **USE OF FUNDS FOR YOUTH DEVELOPMENT CENTER BEDS**

6 **SECTION 15.6.(a)** The Department of Juvenile Justice and Delinquency  
7 Prevention may use funds available during the 2003-2004 fiscal year to (i) establish or  
8 reestablish Youth Development Center beds, (ii) establish up to 16 new sex offender  
9 beds, and (iii) convert up to 50 beds in one Eckerd Wilderness Camp for use as a Youth  
10 Development Center, as defined in G.S. 7B-1501. Any conversion shall be effectuated  
11 with existing contract funds.

12 **SECTION 15.6.(b)** The Department shall report to the Chairs of the Justice  
13 and Public Safety Subcommittees of the House of Representatives and the Senate and  
14 the Joint Legislative Commission on Governmental Operations and the Corrections,  
15 Crime Control, and Juvenile Justice Oversight Committee prior to:

- 16 (1) Converting any Eckerd Wilderness Camp beds to secure confinement  
17 beds during the 2003-2004 fiscal year;
- 18 (2) Establishing bed capacity greater than 740 total beds, including beds  
19 converted at Eckerd Wilderness Camps, during the 2003-2004 fiscal  
20 year; or
- 21 (3) Establishing new sex offender beds.

22 The report shall include the sources of funding for any additional beds.

23  
24 Requested by: Senators Thomas, Garrou, Dalton, Hagan

25 **PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS**

26 **SECTION 15.7.** The Department of Juvenile Justice and Delinquency  
27 Prevention may use funds appropriated to the Department in this act to continue the  
28 planning and design of new youth development centers with up to 500 total beds. The  
29 Department shall design facilities that are conducive to effective security and  
30 programming while ensuring improved staffing efficiencies.

31 The Department of Juvenile Justice and Delinquency Prevention shall provide  
32 a quarterly report to the Joint Legislative Corrections, Crime Control, and Juvenile  
33 Justice Oversight Committee and to the Chairs of the House of Representatives  
34 Appropriations Subcommittee on Justice and Public Safety and the Senate  
35 Appropriations Committee on Justice and Public Safety on the status of the planning  
36 and design of the new facilities. The first status report shall address (i) the number of  
37 youth development centers to be designed, (ii) the number of beds at each facility, (iii)  
38 the rationale for the number of beds to be built at each facility, and (iv) the proposed  
39 sites for the facilities.

40 Prior to completing the design development phase of the plan for new youth  
41 development centers, the Department shall report to the Joint Legislative Corrections,  
42 Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the  
43 House of Representatives Appropriations Subcommittee on Justice and Public Safety  
44 and the Senate Appropriations Committee on Justice and Public Safety on:

- 45 (1) How the plan and design will meet the mandate of ensuring effective  
46 security and programming while improving staff efficiencies.
- 47 (2) The Department's long-range plan for closing other youth development  
48 centers or individual cottages at selected youth development centers or  
49 revising the mission or objective of individual youth development  
50 centers.
- 51 (3) The anticipated total cost of each youth development center proposed,  
52 including the cost per bed and per square foot, as well as the rationale  
53 for the proposed projected cost.

54  
55 Requested by: Senators Thomas, Garrou, Dalton, Hagan



**OPERATION OF BUNCOMBE YOUTH DETENTION CENTER**

**SECTION 15.8.** The Department of Juvenile Justice and Delinquency Prevention shall continue to operate the Buncombe Youth Detention Center at its current site during the 2003-2004 fiscal year. To the extent practicable during the 2003-2004 fiscal year, the Department shall operate the Buncombe Youth Detention Center at the same average population and staffing levels and at the same budget as the 2002-2003 fiscal year.

**PART XVI. DEPARTMENT OF CORRECTION**

Requested by: Senators Thomas, Garrou, Dalton, Hagan

**FEDERAL GRANT REPORTING**

**SECTION 16.1.** The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

**REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

**SECTION 16.2.** The Department of Correction may use funds available to the Department for the 2003-2004 fiscal year to pay the sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

Requested by: Senators Thomas, Garrou, Dalton, Hagan

**SHIFT PAY FOR SECURITY STAFF**

**SECTION 16.3.** The Department of Correction may use funds available for the 2003-2004 fiscal year for the payment to security staff of special supplemental weekend shift premium pay that exceeds standard weekend shift pay by up to ten percent (10%). The Department shall also continue to take steps to hold down the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour shifts whenever practical.

The Department of Correction shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004, on its progress in converting prison work shifts from eight hours to 12 hours. The

1 report shall include information on savings generated to date and potential future  
2 savings, as well as any changes in employee morale and leave usage, as a result of  
3 converting to 12-hour shifts.

4  
5 Requested by: Senators Thomas, Garrou, Dalton, Hagan

6 **DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS**

7 **SECTION 16.4.(a)** The Department of Correction shall conduct annual  
8 security staffing postaudits of each prison.

9 **SECTION 16.4.(b)** The Department of Correction shall annually update the  
10 security staffing relief formula. Each update shall include a review of all annual training  
11 requirements for security staff to determine which of these requirements should be  
12 mandatory and the appropriate frequency of the training.

13 **SECTION 16.4.(c)** The Department of Correction shall report on its  
14 progress in implementing the staffing recommendations of the National Institute of  
15 Corrections to the Senate and House of Representatives Appropriations Subcommittees  
16 on Justice and Public Safety by February 1, 2004. The report shall include a status  
17 report on the implementation of a centralized postaudit control system and the  
18 automation of leave records.

19  
20 Requested by: Senators Thomas, Garrou, Dalton, Hagan

21 **USE OF CLOSED PRISON FACILITIES**

22 **SECTION 16.5.** In conjunction with the closing of prison facilities,  
23 including small expensive prison units recommended for consolidation by the  
24 Government Performance Audit Committee, the Department of Correction shall consult  
25 with the county or municipality in which the unit is located, with the elected State and  
26 local officials, and with State agencies about the possibility of converting that unit to  
27 other use. The Department may also consult with any private for-profit or nonprofit firm  
28 about the possibility of converting the unit to other use. In developing a proposal for  
29 future use of each unit, the Department shall give priority to converting the unit to other  
30 criminal justice use. Consistent with existing law and the future needs of the  
31 Department of Correction, the State may provide for the transfer or the lease of any of  
32 these units to counties, municipalities, State agencies, or private firms wishing to  
33 convert them to other use. The Department of Correction may also consider converting  
34 some of the units recommended for closing from one security custody level to another,  
35 where that conversion would be cost-effective. A prison unit under lease to a county  
36 pursuant to the provisions of this section for use as a jail is exempt for the period of the  
37 lease from any of the minimum standards adopted by the Secretary of Health and  
38 Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that  
39 would subject the unit to greater standards than those required of a unit of the State  
40 prison system.

41 Prior to any transfer or lease of these units, the Department of Correction  
42 shall report on the terms of the proposed transfer or lease to the Joint Legislative  
43 Commission on Governmental Operations and the Joint Legislative Corrections, Crime  
44 Control, and Juvenile Justice Oversight Committee. The Department of Correction shall  
45 also provide annual summary reports to the Joint Legislative Commission on  
46 Governmental Operations and the Joint Legislative Corrections, Crime Control, and  
47 Juvenile Justice Oversight Committee on the conversion of these units to other use and  
48 on all leases or transfers entered into pursuant to this section.

49  
50 Requested by: Senators Thomas, Garrou, Dalton, Hagan

51 **INMATE COSTS/BUDGET FOR PRESCRIPTION DRUGS AND INMATE**  
52 **CLOTHING AND LAUNDRY SERVICES**

53 **SECTION 16.6.(a)** If the cost of providing food and health care to inmates  
54 housed in the Division of Prisons is anticipated to exceed the continuation budget  
55 amounts provided for that purpose in this act, the Department of Correction shall report

1 the reasons for the anticipated cost increase and the source of funds the Department  
2 intends to use to cover those additional needs to the Joint Legislative Commission on  
3 Governmental Operations, the Chairs of the Senate and House of Representatives  
4 Appropriations Committees, and the Chairs of the Senate and House of Representatives  
5 Appropriations Subcommittees on Justice and Public Safety.

6 **SECTION 16.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the  
7 Department of Correction may use funds available during the 2003-2004 fiscal year for  
8 the purchase of prescription drugs for inmates if expenditures are projected to exceed  
9 the Department's inmate medical continuation budget for prescription drugs. The  
10 Department shall consult with the Joint Legislative Commission on Governmental  
11 Operations prior to exceeding the continuation budget amount.

12 **SECTION 16.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the  
13 Department of Correction may use funds available during the 2003-2004 fiscal year for  
14 the purchase of clothing and laundry services for inmates if expenditures are projected  
15 to exceed the Department's budget for clothing and laundry services. The Department  
16 shall consult with the Joint Legislative Commission on Governmental Operations prior  
17 to exceeding the continuation budget amount.

18  
19 Requested by: Senators Thomas, Garrou, Dalton, Hagan

20 **MOBILE MEDICAL OPERATING ROOM**

21 **SECTION 16.7.** The Department of Correction shall continue the contract  
22 for a mobile medical operating room at Central Prison for the 2003-2004 fiscal year at a  
23 reduced fixed rate that more clearly reflects the usage. However, the Department shall  
24 use the mobile unit for additional procedures, as authorized by the terms of the  
25 agreement, whenever the Department's Utilization Review Team determines that (i) a  
26 specific procedure can be performed at a cost below that charged by a public or private  
27 hospital; and (ii) there is no compelling medical reason for performing the procedure in  
28 a hospital instead of using the mobile medical unit.

29 The Department shall also study the use of this mobile operating room and  
30 report by April 1, 2004, to the Chairs of the Senate and House of Representatives  
31 Appropriations Subcommittees on Justice and Public Safety. The report shall  
32 recommend whether the mobile unit should be continued, eliminated, or expanded in  
33 terms of capacity of the current unit and the potential for establishing an additional  
34 mobile unit. The report shall also include information on the number and type of  
35 procedures performed over and above the fixed-rate contract and the savings generated.

36  
37 Requested by: Senators Thomas, Garrou, Dalton, Hagan

38 **CONVERSION OF CONTRACTED MEDICAL POSITIONS**

39 **SECTION 16.8.(a)** The Department of Correction may convert contract  
40 medical positions to permanent State medical positions at individual correctional  
41 facilities if the Department can document that the total savings generated will exceed  
42 the total cost of the new positions for each facility. Where practical, the Department  
43 shall convert contract positions to permanent positions by using existing vacancies in  
44 medical positions.

45 **SECTION 16.8.(b)** The Department of Correction shall report by April 1,  
46 2004, to the Joint Legislative Commission on Governmental Operations and the Chairs  
47 of the Senate and House of Representatives Appropriations Subcommittees on Justice  
48 and Public Safety on all conversions made pursuant to this section, by type of position  
49 and location, and on the savings generated at each correctional facility.

50  
51 Requested by: Senators Thomas, Garrou, Dalton, Hagan

52 **LIMIT USE OF OPERATIONAL FUNDS**

53 **SECTION 16.9.** Funds appropriated in this act to the Department of  
54 Correction for operational costs for additional facilities shall be used for personnel and  
55 operating expenses set forth in the budget approved by the General Assembly in this act.

1 These funds shall not be expended for any other purpose, except as provided for in this  
2 act, and shall not be expended for additional prison personnel positions until the new  
3 facilities are within 120 days of projected completion, except for certain management,  
4 security, and support positions necessary to prepare the facility for opening, as  
5 authorized in the budget approved by the General Assembly.  
6

7 Requested by: Senators Thomas, Garrou, Dalton, Hagan

8 **FEDERAL GRANT MATCHING FUNDS**

9 **SECTION 16.10.** Notwithstanding the provisions of G.S. 148-2, the  
10 Department of Correction may use up to the sum of nine hundred thousand dollars  
11 (\$900,000) from funds available to the Department to provide the State match needed in  
12 order to receive federal grant funds. Prior to using funds for this purpose, the  
13 Department shall report to the Chairs of the Senate and House of Representatives  
14 Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative  
15 Commission on Governmental Operations on the grants to be matched using these  
16 funds.  
17

18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **COMPUTER/DATA PROCESSING SERVICES FUNDS**

20 **SECTION 16.11.** Notwithstanding the provisions of G.S. 143-23(a2), the  
21 Department of Correction may use funds available during the 2003-2004 fiscal year for  
22 expenses for computer/data processing services if expenditures exceed the Department's  
23 continuation budget amount for those services. The Department shall report to the Joint  
24 Legislative Commission on Governmental Operations prior to exceeding the  
25 continuation budget amount.  
26

27 Requested by: Senators Thomas, Garrou, Dalton, Hagan

28 **MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK**  
29 **CREWS**

30 **SECTION 16.12.(a)** Of funds appropriated to the Department of  
31 Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be  
32 transferred by the Department of Transportation to the Department of Correction during  
33 the 2003-2005 biennium for the actual costs of highway-related labor performed by  
34 medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made  
35 quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The  
36 Department of Transportation may use funds appropriated by this act to pay an  
37 additional amount exceeding the ten million dollars (\$10,000,000), but those payments  
38 shall be subject to negotiations among the Department of Transportation, the  
39 Department of Correction, and the Office of State Budget and Management prior to  
40 payment by the Department of Transportation.  
41

42 **SECTION 16.12.(b)** The Department of Correction may use up to 39 work  
43 crews for Department of Transportation litter control projects. The Department of  
44 Transportation shall transfer at least one million three hundred thousand dollars  
45 (\$1,300,000) per year from the Highway Fund to the Department of Correction during  
46 the 2003-2005 biennium to cover the cost of those work crews. Should the two  
47 departments determine that the actual cost of operating 39 work crews exceeds that  
48 amount, the Department of Transportation shall transfer an additional amount as agreed  
49 upon by the two departments and the Office of State Budget and Management.  
50

50 Requested by: Senators Thomas, Garrou, Dalton, Hagan

51 **ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

52 **SECTION 16.13.** The Department of Correction may continue to contract  
53 with Energy Committed To Offenders, Inc., for the purchase of prison beds for  
54 minimum security female inmates during the 2003-2005 biennium. Energy Committed  
55 To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative

1 Commission on Governmental Operations on the annual cost per inmate and the average  
2 daily inmate population compared to bed capacity using the same methodology as that  
3 used by the Department of Correction. Energy Committed To Offenders, Inc., shall also  
4 provide information on the rearrest rate and the return-to-prison rate for inmates  
5 participating in the program who are paroled or released from prison.  
6

7 Requested by: Senators Thomas, Garrou, Dalton, Hagan

8 **ELECTRONIC MONITORING COSTS**

9 **SECTION 16.14.** The Department of Correction shall issue a Request for  
10 Information to determine the interest and qualifications of private vendors to provide  
11 electronic monitoring services for the Department and the estimated costs of  
12 outsourcing those services. The Department of Correction shall report by March 1,  
13 2004, to the Chairs of the Senate and House of Representatives Appropriations  
14 Committees and the Chairs of the Senate and House of Representatives Appropriations  
15 Subcommittees on Justice and Public Safety on the results of the Request for  
16 Information and on efforts to increase the use of electronic monitoring of sentenced  
17 offenders in the community as an alternative to the incarceration of probation violators.  
18 The report shall also document the geographical distribution of electronic monitoring  
19 use compared to other intermediate sanctions. The Department shall also analyze the  
20 reasons for the underutilization of the electronic monitoring program and include its  
21 findings in the report.  
22

23 Requested by: Senators Thomas, Garrou, Dalton, Hagan

24 **COLLECTION OF OFFENDER FEES**

25 **SECTION 16.15.** The Department of Correction and the Judicial  
26 Department shall report by April 1, 2004, to the Chairs of the Senate and House of  
27 Representatives Appropriations Committees and the Chairs of the Senate and House of  
28 Representatives Appropriations Subcommittees on Justice and Public Safety on the  
29 success of their efforts to improve the collection rate of offender fees for probationers  
30 and for nonprobationers sentenced to community service and on any recommendations  
31 for statutory or procedural changes that will improve the collection of financial  
32 obligations from offenders.

33 The report shall include a comparison of the percentage of offender fees  
34 collected in the most recent year compared to prior years, including the percentage of  
35 offenders who were ordered to pay fees and the percentage of offenders who actually  
36 paid those fees. The report shall also include the total offender fees collected, in dollars  
37 and as a percentage of the fees ordered, and the fees that could have been ordered based  
38 on the sentence and conditions imposed by the judge. If any of this information cannot  
39 be collected, the report shall include a description of the data collection issues and a  
40 plan for addressing those issues.  
41

42 Requested by: Senators Thomas, Garrou, Dalton, Hagan

43 **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

44 **SECTION 16.16.(a)** It is the intent of the General Assembly that State  
45 Criminal Justice Partnership Program funds not be used to fund case manager positions  
46 when those services can be reasonably provided by Division of Community Corrections  
47 personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the  
48 Department of Health and Human Services.

49 **SECTION 16.16.(b)** Notwithstanding the provisions of G.S. 143B-273.15  
50 specifying that grants to participating counties are for the full fiscal year and that  
51 unobligated funds are returned to the State-County Criminal Justice Partnership  
52 Account at the end of the grant period, the Department of Correction may reallocate  
53 unspent or unclaimed funds distributed to counties participating in the State-County  
54 Criminal Justice Partnership Program in an effort to maintain the level of services  
55 realized in previous fiscal years.

1           **SECTION 16.16.(c)** The Department of Correction may not deny funds to a  
2 county to support both a residential program and a day reporting center if the  
3 Department of Correction determines that the county has a demonstrated need and a  
4 fully developed plan for each type of sanction.

5           **SECTION 16.16.(d)** The Department of Correction shall report by February  
6 1 of each year to the Chairs of the Senate and House of Representatives Appropriations  
7 Committees, the Senate and House of Representatives Appropriations Subcommittees  
8 on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and  
9 Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice  
10 Partnership Program. The report shall include the following information:

- 11           (1) The amount of funds carried over from the prior fiscal year;
- 12           (2) The dollar amount and purpose of grants awarded to counties as  
13 discretionary grants for the current fiscal year;
- 14           (3) Any counties the Department anticipates will submit requests for new  
15 implementation grants;
- 16           (4) An update on efforts to ensure that all counties make use of the  
17 electronic reporting system, including the number of counties  
18 submitting offender participation data via the system;
- 19           (5) An analysis of offender participation data received, including data on  
20 each program's utilization and capacity; and
- 21           (6) An analysis of comparable programs, prepared by the Research and  
22 Planning Division of the Department of Correction, and a summary of  
23 the reports prepared by county Criminal Justice Partnerships Advisory  
24 Boards.

25  
26 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

#### 27 **REPORTS ON NONPROFIT PROGRAMS**

28           **SECTION 16.17.(a)** Funds appropriated in this act to the Department of  
29 Correction to support the programs of Harriet's House may be used for program  
30 operating costs, the purchase of equipment, and the rental of real property. Harriet's  
31 House shall report by February 1 of each year to the Joint Legislative Commission on  
32 Governmental Operations on the expenditure of State appropriations and on the  
33 effectiveness of the program, including information on the number of clients served and  
34 the number of clients who successfully complete the Harriet's House program.

35           **SECTION 16.17.(b)** Summit House shall report by February 1 of each year  
36 to the Joint Legislative Commission on Governmental Operations on the expenditure of  
37 State appropriations and on the effectiveness of the program, including information on  
38 the number of clients served, the number of clients who have had their probation  
39 revoked, and the number of clients who successfully complete the program while  
40 housed at Summit House, Inc.

41           **SECTION 16.17.(c)** Women at Risk shall report by February 1 of each year  
42 to the Joint Legislative Commission on Governmental Operations on the expenditure of  
43 State funds and on the effectiveness of the program, including information on the  
44 number of clients served, the number of clients who have had their probation revoked,  
45 and the number of clients who have successfully completed the program.

46  
47 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

#### 48 **PROBATION AND PAROLE CASELOADS**

49           **SECTION 16.18.(a)** The Department of Correction shall report by March 1  
50 of 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 **SECTION 16.18.(b)** The Department of Correction shall conduct a study of  
5 probation/parole officer workload at least biannually, the first such study to be  
6 completed during the 2003-2004 fiscal year. The initial study shall be conducted jointly  
7 by Department staff and a consultant, external to the Department, and shall include  
8 analysis of the type of offenders supervised, the distribution of the probation/parole  
9 officers' time by type of activity, the caseload carried by the officers, and comparisons  
10 to practices in other states. The study shall be used to determine whether the caseload  
11 goals established by the Structured Sentencing Act are still appropriate, based on the  
12 nature of the offenders supervised and the time required to supervise those offenders.

13 **SECTION 16.18.(c)** The Department of Correction shall report the results of  
14 the initial study and recommendations for any adjustments to caseload goals to the  
15 Senate and House of Representatives Appropriations Subcommittees on Justice and  
16 Public Safety by April 1, 2004.

17  
18 Requested by: Senators Thomas, Garrou, Dalton, Hagan

19 **COMMUNITY SERVICE WORK PROGRAM**

20 **SECTION 16.19.** The Department of Correction shall report to the Chairs of  
21 the Senate and House of Representatives Appropriations Subcommittees on Justice and  
22 Public Safety by May 1, 2004, on the integration of the Community Service Work  
23 Program into the Division of Community Corrections, including the Department's  
24 ability to monitor the collection of offender payments from unsupervised offenders  
25 sentenced to community service. The Department shall also report to the Chairs of the  
26 Senate and House of Representatives Appropriations Subcommittees on Justice and  
27 Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the  
28 average caseloads of Community Service Work Program coordinators, by district,  
29 division, and statewide. The report shall also include the money collected, the type and  
30 value of the work performed, and the number of offenders in the Community Service  
31 Work Program, by type of referral (i.e. parole, supervised probation, unsupervised  
32 probation or community punishment, DWI, any other agency referrals).

33  
34 Requested by: Senators Thomas, Garrou, Dalton, Hagan

35 **REPORT ON INMATES ELIGIBLE FOR PAROLE**

36 **SECTION 16.20.** The Post-Release Supervision and Parole Commission  
37 shall report by January 15 and July 15 of each year to the Senate and House of  
38 Representatives Appropriations Subcommittees on Justice and Public Safety and the  
39 Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee  
40 on inmates eligible for parole. These reports shall include at least the following:

- 41 (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates  
42 that were parole-eligible during the current fiscal year and the total  
43 number of those inmates that were paroled. The report should group  
44 these inmates by offense type, custody classification, and type of  
45 parole. The report should also include a more specific analysis of those  
46 inmates who were parole-eligible and assigned to minimum custody  
47 classification but not released;
- 48 (2) The average time served, by offense class, of Fair Sentencing and  
49 Pre-Fair Sentencing inmates compared to inmates sentenced under  
50 Structured Sentencing; and
- 51 (3) The projected number of parole-eligible inmates to be paroled or  
52 released by the end of the 2003-2004 fiscal year and by the end of the  
53 2004-2005 fiscal year.

54  
55 Requested by: Senators Thomas, Garrou, Dalton, Hagan

1 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON**  
2 **STAFFING REORGANIZATION AND REDUCTION**

3 **SECTION 16.21.** The Post-Release Supervision and Parole Commission  
4 shall report by March 1, 2004, to the Chairs of the Senate and House of Representatives  
5 Appropriations Subcommittees on Justice and Public Safety on a plan for restructuring  
6 the organization and operation of the Commission to reflect both declines and changes  
7 in workload.

8  
9 Requested by: Senators Thomas, Garrou, Dalton, Hagan

10 **HOUSING OF INMATES**

11 **SECTION 16.22.** The Department of Correction shall develop an operating  
12 plan for generating the appropriate mix of close, medium, and minimum custody beds.  
13 The plan shall, at a minimum, address the future construction of new beds, conversion  
14 of facilities from one custody level to another, and the housing of two inmates per cell.  
15 The starting point for this plan shall be the Sentencing and Policy Advisory  
16 Commission inmate population projections and the Department of Correction's custody  
17 population projection model.

18 The portion of the plan regarding the housing of two inmates per cell shall  
19 include a facility-by-facility assessment of the pros and cons of housing inmates in that  
20 manner. The Department of Correction shall identify those facilities that would be most  
21 conducive to housing two inmates per cell. The Department of Correction should focus  
22 its review particularly on the potential to house two inmates per cell at Pamlico,  
23 Mountain View, Eastern, Southern, Pasquotank, and Marion. The Department should  
24 also review the potential to house two inmates per cell in at least one of any new prisons  
25 authorized by the 2003 General Assembly.

26 The overall operating plan should address budgetary, security, and other  
27 operational needs and, in particular, should note how the plan adheres to or deviates  
28 from the Department of Correction's custody population projection model.

29 The Department of Correction shall report by February 1, 2004, to the Joint  
30 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the  
31 Chairs of the Senate and House Appropriations Committees, and the Chairs of the  
32 Senate and House Appropriations Subcommittees on Justice and Public Safety on the  
33 plan developed pursuant to this section.

34  
35 **PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

36  
37 Requested by: Senators Thomas, Garrou, Dalton, Hagan

38 **TRANSFER CJIN TO THE DEPARTMENT OF CRIME CONTROL AND**  
39 **PUBLIC SAFETY**

40 **SECTION 17.1.(a)** G.S. 143-661(a) reads as rewritten:

41 "(a) The Criminal Justice Information Network Governing Board is established  
42 within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and  
43 Public Safety, to operate the State's Criminal Justice Information Network, the purpose  
44 of which shall be to provide the governmental and technical information systems  
45 infrastructure necessary for accomplishing State and local governmental public safety  
46 and justice functions in the most effective manner by appropriately and efficiently  
47 sharing criminal justice and juvenile justice information among law enforcement,  
48 judicial, and corrections agencies. The Board is established within the Department of  
49 ~~Justice, State Bureau of Investigation,~~ Crime Control and Public Safety, for  
50 organizational and budgetary purposes only and the Board shall exercise all of its  
51 statutory powers in this Article independent of control by the Department of  
52 ~~Justice-Crime Control and Public Safety.~~"

53 **SECTION 17.1.(b)** G.S. 143-664(b) reads as rewritten:

54 "(b) Pending permanent staffing, the Department shall provide the Board with  
55 professional and clerical staff and any additional support the Board needs to fulfill its



1 mandate. The Board may meet in an area provided by the Department of ~~Justice-Crime~~  
2 Control and Public Safety and the Board's staff shall use space provided by the  
3 Department."

4 **SECTION 17.1.(c)** The Criminal Justice Information Network as provided  
5 in Article 69 of Chapter 143 of the General Statutes is hereby transferred by a Type II  
6 transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public  
7 Safety.  
8

9 Requested by: Senators Thomas, Garrou, Dalton, Hagan

10 **THE JUVENILE JUSTICE INFORMATION SYSTEM**

11 **SECTION 17.2.(a)** G.S. 143B-516(b)(13) reads as rewritten:

12 "(13) ~~Assist the Criminal Justice Information Network Governing Board~~  
13 ~~with administering~~ Develop and administer a comprehensive juvenile  
14 justice information system to collect data and information about  
15 delinquent juveniles for the purpose of developing treatment and  
16 intervention plans and allowing reliable assessment and evaluation of  
17 the effectiveness of rehabilitative and preventive services provided to  
18 delinquent juveniles."

19 **SECTION 17.2.(b)** G.S. 143-663(a)(1) reads as rewritten:

20 "(1) To establish and operate the Network as an integrated system of State  
21 and local government components for effectively and efficiently  
22 storing, communicating, and using criminal justice information at the  
23 State and local levels throughout North Carolina's law enforcement,  
24 judicial, juvenile justice, and corrections agencies, with the  
25 components of the Network to include electronic devices, programs,  
26 data, and governance and to set the Network's policies and  
27 procedures."  
28

29 Requested by: Senators Thomas, Albertson, Garrou, Dalton, Hagan

30 **ANNUAL EVALUATION OF THE TARHEEL CHALLENGE PROGRAM**

31 **SECTION 17.3.** The Department of Crime Control and Public Safety shall  
32 report to the Chairs of the House of Representatives and Senate Appropriations  
33 Committees and the Chairs of the House of Representatives and Senate Appropriations  
34 Subcommittees on Justice and Public Safety by April 1 of each year on the operations  
35 and effectiveness of the National Guard Tarheel Challenge Program. The report should  
36 evaluate the program's effectiveness as an intervention method for preventing juveniles  
37 from becoming undisciplined or delinquent. The report shall also evaluate the  
38 Program's role in improving individual skills and employment potential for participants  
39 and shall include:

- 40 (1) The source of referrals for individuals participating in the Program;
- 41 (2) The summary of types of actions or offenses committed by the  
42 participants of the Program;
- 43 (3) An analysis outlining the cost of providing services for each  
44 participant, including a breakdown of all expenditures related to the  
45 administration and operation of the Program and the education and  
46 treatment of the Program participants;
- 47 (4) The number of individuals who successfully complete the Program;  
48 and
- 49 (5) The number of participants who commit offenses after completing the  
50 Program.  
51

52 Requested by: Senators Thomas, Garrou, Dalton, Hagan

53 **LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER**  
54 **GRANTS**

1           **SECTION 17.4.(a)** Section 1303(4) of the Omnibus Crime Control and Safe  
2 Streets Act of 1968 provides that the State application for Drug Law Enforcement  
3 Grants is subject to review by the State legislature or its designated body. Therefore, the  
4 Governor's Crime Commission of the Department of Crime Control and Public Safety  
5 shall report on the State application for grants under the State and Local Law  
6 Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe  
7 Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act  
8 of 1986, to the Senate and House of Representatives Appropriations Subcommittees on  
9 Justice and Public Safety when the General Assembly is in session. When the General  
10 Assembly is not in session, the Governor's Crime Commission shall report on the State  
11 application to the Joint Legislative Commission on Governmental Operations.

12           **SECTION 17.4.(b)** Unless a State statute provides a different forum for  
13 review, when a federal law or regulation provides that an individual State application  
14 for a grant shall be reviewed by the State legislature or its designated body and at the  
15 time of the review the General Assembly is not in session, that application shall be  
16 reviewed by the Joint Legislative Commission on Governmental Operations.

17  
18 Requested by:           Senators Thomas, Garrou, Dalton, Hagan

19 **VICTIMS ASSISTANCE NETWORK REPORT**

20           **SECTION 17.5.** The Department of Crime Control and Public Safety shall  
21 report on the expenditure of funds allocated pursuant to this section for the Victims  
22 Assistance Network. The Department shall also report on the Network's efforts to  
23 gather data on crime victims and their needs, act as a clearinghouse for crime victims'  
24 services, provide an automated crime victims' bulletin board for subscribers, coordinate  
25 and support activities of other crime victims' advocacy groups, identify the training  
26 needs of crime victims' services providers and criminal justice personnel, and  
27 coordinate training for these personnel. The Department shall submit its report to the  
28 Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate  
29 and House of Representatives by December 1 of each year of the biennium.

30  
31 Requested by:           Senators Thomas, Rand, Garrou, Dalton, Hagan

32 **ALE AGENTS SUBJECT TO STATE PERSONNEL ACT**

33           **SECTION 17.6.** Chapter 126 of the General Statutes, the State Personnel  
34 System, applies to all Alcohol Law Enforcement agents of the Department of Crime  
35 Control and Public Safety. The Office of State Personnel shall study salary  
36 classifications of Alcohol Law Enforcement agents to determine the appropriate  
37 classifications and salary ranges for those agents and shall report the results of the  
38 study, including any recommendations or legislative proposals, to the Chairs of the  
39 Senate and House of Representatives Subcommittees on Justice and Public Safety.

40  
41 **PART XVIII. DEPARTMENT OF ADMINISTRATION**

42  
43 Requested by:           Senators Swindell, Garrou, Dalton, Hagan

44 **AGENCIES TO USE MAIL SERVICE CENTER**

45           **SECTION 18.1.** G.S. 143-341(8)g. reads as rewritten:

46 **"§ 143-341. Powers and duties of Department.**

47           The Department of Administration has the following powers and duties:

48           ...  
49           (8)   General Services:

50           ...  
51           g.    To establish and operate a ~~central mailing system~~ mail service  
52           center for that shall be used by all State agencies, agencies other  
53           than the Employment Security Commission, and in connection  
54           therewith and in the discretion of the Secretary, to make  
55           application for and procure a post office substation for that

1 ~~purpose, and to do all things necessary in connection with the~~  
 2 ~~maintenance of the central mailing system. mail service center.~~  
 3 The Secretary ~~may shall~~ allocate and charge against the  
 4 respective departments and agencies their proportionate parts of  
 5 the cost of the maintenance of the ~~central mailing system. mail~~  
 6 ~~service center.~~ The Secretary shall develop a plan for the  
 7 efficient operation of the center that meets the needs of State  
 8 agencies and ensures timely delivery of mail, ~~and shall present~~  
 9 ~~that plan to the Office of State Budget and Management and the~~  
 10 ~~General Assembly no later than the convening date of the 2003~~  
 11 ~~General Assembly mail."~~

12  
 13 Requested by: Senators Swindell, Garrou, Dalton, Hagan

14 **STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF**  
 15 **ADMINISTRATION**

16 **SECTION 18.2.** The Secretary of the Department of Administration, in  
 17 collaboration with appropriate entities which concentrate on public policy and business  
 18 management, shall study the functions of the advocacy programs that are housed in the  
 19 Department of Administration to determine the appropriate organizational placement of  
 20 the programs within State government. The study shall also consider whether the  
 21 functions of the programs could be more efficiently and effectively performed by an  
 22 appropriate nonprofit organization. The Secretary shall report the findings and  
 23 recommendations to the Joint Legislative Commission on Governmental Operations and  
 24 to the Chairs of the Senate and House of Representatives Appropriations Committees by  
 25 May 1, 2004.

26  
 27 Requested by: Senators Swindell, Dorsett, Garrou, Dalton, Hagan

28 **LOW-INCOME RESIDENTIAL ENERGY PROGRAM**

29 **SECTION 18.3.** G.S. 113B-6 reads as rewritten:

30 **"§ 113B-6. General duties and responsibilities.**

31 The Energy Policy Council shall have the following general duties and  
 32 responsibilities:

- 33 (1) To develop and recommend to the Governor a comprehensive  
 34 long-range State energy policy to achieve maximum effective  
 35 management and use of present and future sources of energy, such  
 36 policy to include but not be limited to an energy efficiency program,  
 37 an energy management plan, an emergency energy program, and an  
 38 energy research and development program;
- 39 (2) To conduct an ongoing assessment of the opportunities and constraints  
 40 presented by various uses of all forms of energy and to encourage the  
 41 efficient use of all such energy forms in a manner consistent with State  
 42 energy policy;
- 43 (3) To continually review and coordinate all State government research,  
 44 education and management programs relating to energy matters and to  
 45 continually educate and inform the general public regarding such  
 46 energy matters;
- 47 (4) To recommend to the Governor and to the General Assembly needed  
 48 energy legislation and to recommend for implementation such  
 49 modifications of energy policy, plans and programs as the Council  
 50 considers necessary and desirable.
- 51 (5) To develop and administer the Low-Income Residential Energy  
 52 Program. Nothing in this subdivision shall be construed as obligating  
 53 the General Assembly to appropriate funds for the Program or as  
 54 entitling any person to services under the Program."  
 55

1 Requested by: Senators Swindell, Dorsett, Garrou, Dalton, Hagan

2 **PETROLEUM OVERCHARGE FUNDS ALLOCATION**

3 **SECTION 18.4.(a)** There is appropriated from funds and interest thereon  
4 received from the case of United States v. Exxon that remain in the Special Reserve for  
5 Oil Overcharge Funds to the Department of Administration the sum of one million  
6 dollars (\$1,000,000) for the 2003-2004 fiscal year to be allocated for the Low Income  
7 Residential Energy Program.

8 **SECTION 18.4.(b)** Any funds remaining in the Special Reserve for Oil  
9 Overcharge Funds after the allocation is made pursuant to subsection (a) of this section  
10 may be expended only as authorized by the General Assembly and upon  
11 recommendations of the State Energy Policy Council. All interest or income accruing  
12 from all deposits or investments of cash balances shall be credited to the Special  
13 Reserve for Oil Overcharge Funds.

14  
15 Requested by: Senators Swindell, Garrou, Dalton, Hagan

16 **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT**  
17 **FUND**

18 **SECTION 18.5.(a)** G.S. 165-22.1(b) reads as rewritten:

19 "(b) Funds for the support of this program shall be appropriated to the Department  
20 of Administration as a reserve for payment of the allocable costs for room, board,  
21 tuition, and other charges, and shall be placed in a separate budget code from which  
22 disbursements shall be made. Funds to support the program shall be supported by  
23 receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be  
24 used only for worthy and needy residents of this State who are enrolled in public  
25 institutions of higher education of this State. In the event the said appropriation for any  
26 year is insufficient to pay the full amounts allocable under the provisions of this Article,  
27 such supplemental sums as may be necessary shall be allocated from the Contingency  
28 and Emergency Fund. The method of disbursing and accounting for funds allocated for  
29 payments under the provisions of this section shall be in accordance with those  
30 standards and procedures prescribed by the Director of the Budget, pursuant to the  
31 Executive Budget Act."

32 **SECTION 18.5.(b)** G.S. 116B-7 reads as rewritten:

33 **"§ 116B-7. Distribution of income of fund.**

34 (a) The income derived from the investment or deposit of the Escheat Fund shall  
35 be distributed annually on or before July 15 to the State Education Assistance Authority  
36 for grants and loans to aid worthy and needy students who are residents of this State and  
37 are enrolled in public institutions of higher education in this State. Such grants and  
38 loans shall be made upon terms, consistent with the provisions of this Chapter, pursuant  
39 to which the State Education Assistance Authority makes grants and loans to other  
40 students under G.S. 116-201 to 116-209.23, Article 23 of Chapter 116 of the General  
41 Statutes, policies of the Board of Governors of The University of North Carolina  
42 regarding need-based grants for students of The University of North Carolina, and  
43 policies of the State Board of Community Colleges regarding need-based grants for  
44 students of the community colleges.

45 (b) An amount specified in the Current Operations Appropriations Act shall be  
46 transferred annually from the Escheat Fund to the Department of Administration to  
47 partially fund the program of Scholarships for Children of War Veterans established by  
48 Article 4 of Chapter 165 of the General Statutes. Those funds may be used only for  
49 residents of this State who (i) are worthy and needy as determined by the Department of  
50 Administration, and (ii) are enrolled in public institutions of higher education of this  
51 State."

52 **SECTION 18.5.(c)** In accordance with G.S. 116B-7(b) as enacted by this  
53 act, for the 2003-2004 and 2004-2005 fiscal years, there is appropriated from the  
54 Escheat Fund to the Department of Administration the amount of three million seven  
55 hundred twenty-eight thousand three hundred twenty-four dollars (\$3,728,324).

**PART XIX. OFFICE OF THE STATE AUDITOR**

Requested by: Senators Swindell, Garrou, Dalton, Hagan

**SMART START AUDITS**

**SECTION 19.1.** G.S. 143B-168.14(b) reads as rewritten:

"(b) Each local partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of ~~the~~ local partnerships-partnerships that are rated "needs improvement" in performance assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated "superior" or "satisfactory" in performance assessments authorized in G.S. 143B-168.12(a)(7) shall undergo biennial financial and compliance audits by the State Auditor."

**PART XIX-B. GENERAL ASSEMBLY**

Requested by: Senators Dalton, Garrou, Hagan, Swindell

**LEGISLATIVE FOOD SERVICE DONATE FOOD**

**SECTION 19B.1.** The General Assembly food service shall on a daily basis donate to a nonprofit organization food that would otherwise be discarded.

**PART XX. OFFICE OF THE GOVERNOR**

Requested by: Senators Swindell, Garrou, Dalton, Hagan

**HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

**SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

- (1) First priority to projects that are located in counties designated as Tier One, Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and
- (2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the United States Department of Housing and Urban Development.

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

**SECTION 20.1.(b)** If the United States Congress changes the HOME Program such that matching funds are not required for a given program year, then the Agency shall not spend the matching funds appropriated under this act for that program year.

**SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME Program funds shall not revert to the General Fund on June 30, 2004, or on June 30, 2005.

**PART XXI. INFORMATION TECHNOLOGY**

Requested by: Senators Swindell, Garrou, Dalton, Hagan

**IT LEGACY SYSTEMS AND IT EFFICIENCIES STUDIES AND ITS BUDGET  
STRUCTURE REVIEW/REPORT**

**SECTION 21.1.(a)** The Office of Information Technology Services (ITS) shall analyze the State's legacy information technology systems and develop a plan to ascertain the needs, costs, and time frame required for State agencies to progress to more modern information technology systems. In conducting this legacy system assessment and analysis, ITS shall:

- (1) Examine the hierarchical structure and interrelated relationships within and between State agency legacy systems.
- (2) Catalog and analyze the portfolio of legacy applications in use in State agencies and consider the extent to which new applications could be used concurrently with, or should replace, legacy systems.
- (3) Consider issues related to migration from legacy environments to Internet-based and client/server environments and related to the availability of programmers and other information technology professionals with the skills to migrate legacy applications to other environments.
- (4) Study any other issue relative to the assessment of legacy information technology systems in State agencies, except that the analysis shall not include matters within the purview of the studies authorized in S.L. 2001-491 or S.L. 2002-126.

State departments, agencies, and institutions shall give to ITS all information and all data within their possession, or ascertainable from their records, that ITS deems necessary to carry out the analysis.

By March 1, 2004, ITS shall complete the analysis and shall make a report of the assessment to the Information Resources Management Commission (IRMC), the Joint Legislative Commission on Governmental Operations, and the Joint Select Committee on Information Technology.

**SECTION 21.1.(b)** The Office of State Budget and Management (OSBM) shall conduct a study of information technology (IT) expenditures across all of State government, with focused attention to identification and elimination of duplicative IT expenditures, operations, and inventory, to identify and recommend potential cost savings and efficiencies in State agency IT operations. In this study, OSBM should address the following questions:

- (1) Is State government's IT budgeting and organizational structure the most efficient approach?
- (2) What alternative IT budgeting and organizational structures could help North Carolina realize cost savings?

OSBM shall work in conjunction with ITS and the IRMC to study the ITS and the IRMC budget structures. As part of this study, OSBM shall prepare at least three alternative budget transition plans for ITS and IRMC. Two of the transition plans shall, at minimum, address the feasibility of (i) making portions or all of the ITS and the IRMC budgets General Fund appropriations and including a proposal for how a nontax revenue source to reimburse the General Fund for appropriations could be made from agency receipts for ITS services utilized and (ii) maintaining ITS and IRMC budgets as Internal Service Funds, but having the budgets approved by the Office of State Budget and Management and the General Assembly instead of being approved by the IRMC as they are currently.

By April 1, 2004, OSBM shall make reports on these matters to the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Appropriations Subcommittee on General Government, and the Fiscal Research Division.

**PART XXII. DEPARTMENT OF INSURANCE**

1 Requested by: Senators Swindell, Garrou, Dalton, Hagan

2 **INSURANCE FUND TRANSFER TO GENERAL FUND**

3 **SECTION 22.1.** The Commissioner of Insurance shall transfer funds  
4 quarterly from the Department of Insurance Fund to the General Fund to repay the funds  
5 appropriated to the Department of Insurance from the General Fund for each fiscal year,  
6 plus accrued interest at a rate determined by the State Treasurer.

7  
8 Requested by: Senators Swindell, Garrou, Dalton, Hagan

9 **EXTEND THE SUNSET FOR FUNDING CERTAIN OPERATIONS OF THE**  
10 **DEPARTMENT OF INSURANCE THROUGH THE INSURANCE**  
11 **REGULATORY FUND**

12 **SECTION 22.2.** Section 12 of S.L. 2002-144 reads as rewritten:

13 "SECTION 12. This act becomes effective July 1, 2002. Sections 1 through 8 of this  
14 act expire ~~June 30, 2003.~~ June 30, 2004."

15  
16 **PART XXIII. DEPARTMENT OF REVENUE**

17  
18 Requested by: Senators Swindell, Garrou, Dalton, Hagan

19 **DOR TAXPAYER TELECOMMUNICATIONS SERVICE**

20 **SECTION 23.1.** Section 22.6 of S.L. 2002-126 reads as rewritten:

21 "~~SECTION 22.6.(a) The Department of Revenue may draw up to seven million~~  
22 ~~eight hundred forty thousand five hundred thirteen dollars (\$7,840,513) through June~~  
23 ~~30, 2004. There is appropriated from the collection assistance fee account created in~~  
24 ~~G.S. 105-243.1 to the Department of Revenue the sum of one million six hundred~~  
25 ~~twenty-two thousand eight hundred ninety-six dollars (\$1,622,896) for the 2003-2004~~  
26 ~~fiscal year and the sum of two million one hundred fifty-four thousand five hundred~~  
27 ~~ninety-three dollars (\$2,154,593) for the 2004-2005 fiscal year in order to pay for the~~  
28 ~~costs of establishing and equipping a central taxpayer telecommunications service~~  
29 ~~center for collections and assistance and for the costs associated with aligning local field~~  
30 ~~offices with the new center.~~

31 "~~SECTION 22.6.(b) The Secretary of Revenue shall consult with the Joint~~  
32 ~~Legislative Commission on Governmental Operations on a detailed plan with proposed~~  
33 ~~costs before any funds may be expended for these purposes. This plan must be~~  
34 ~~presented by October 31, 2002.~~

35 "**SECTION 22.6.(c)** Beginning January 1, 2003, and ending on the second quarter  
36 following completion of the projects described in subsection (a) of this section, the  
37 Department of Revenue must report quarterly to the Joint Legislative Commission on  
38 Governmental Operations on the use of the funds and the progress of establishing the  
39 new center."  
40

41 Requested by: Senators Swindell, Garrou, Dalton, Hagan

42 **CERTAIN DOR POSITIONS FEE-SUPPORTED**

43 **SECTION 23.2.** There is appropriated from the collection assistance fee  
44 account created in G.S. 105-243.1 to the Department of Revenue the sum of five  
45 hundred thirty-one thousand five hundred twelve dollars (\$531,512) for the 2003-2004  
46 fiscal year and the sum of five hundred thirty-one thousand five hundred twelve dollars  
47 (\$531,512) for the 2004-2005 fiscal year for salary and related fringe benefits for the  
48 following positions formerly supported from the General Fund:

- 49 Position No. 4784-0000-0076-621 - Revenue Officer II  
50 Position No. 4784-0000-0076-622 - Revenue Officer II  
51 Position No. 4784-0000-0076-636 - Revenue Officer I  
52 Position No. 4784-0000-0076-637 - Revenue Officer I  
53 Position No. 4784-0000-0076-638 - Revenue Officer I  
54 Position No. 4784-0000-0076-639 - Revenue Officer I  
55 Position No. 4784-0000-0076-640 - Revenue Officer I

1 Position No. 4784-0000-0076-641 - Revenue Officer I  
2 Position No. 4784-0000-0076-642 - Revenue Officer I  
3 Position No. 4784-0000-0076-643 - Revenue Officer I  
4 Position No. 4784-0000-0076-644 - Revenue Officer I  
5 Position No. 4784-0000-0076-645 - Revenue Officer I  
6 Position No. 4784-0000-0076-647 - Revenue Officer I

7  
8 Requested by: Senators Swindell, Garrou, Dalton, Hagan

9 **DOR TAXPAYER CALL CENTER FUND CODE**

10 **SECTION 23.3.** Funds appropriated to the Department of Revenue for a  
11 central taxpayer telecommunications service center for collections and assistance shall  
12 be transferred to a separate, receipts-supported Fund Code in the Department's budget.  
13 The Fund Code number is 1662.

14  
15 Requested by: Senators Swindell, Garrou, Dalton, Hagan

16 **DOR REPORT ON PROJECT COMPLIANCE**

17 **SECTION 23.4.** The Department of Revenue must report to the Joint  
18 Legislative Commission on Governmental Operations and to the Revenue Laws Study  
19 Committee on its efforts to address abuse of the voluntary tax compliance system,  
20 including fraudulent activity, which has resulted in undercollections. Reports must be  
21 submitted quarterly beginning February 1, 2004, through July 30, 2006. Each report  
22 must include a breakdown of the Department's additional initiatives resulting directly  
23 from the Project Compliance funding provided for the 2003-2005 fiscal biennium. The  
24 report must itemize additional collections by type of tax as compared to an objectively  
25 determined baseline of collections resulting from preexisting collection activities. Each  
26 report must also include a long-term plan, a time line for implementing each step of the  
27 plan, a summary of steps taken since the last report and their results, and any other data  
28 requested by the Commission or the Committee.

29  
30 **PART XXIV. SECRETARY OF STATE**

31  
32 Requested by: Senators Swindell, Garrou, Dalton, Hagan

33 **STUDY OF THE FEASIBILITY OF TRANSFERRING THE CONSULTATION**  
34 **REQUIREMENT FROM THE BUSINESS LICENSE INFORMATION**  
35 **OFFICE TO THE SMALL BUSINESS CENTERS**

36 **SECTION 24.1.(a)** The Department of the Secretary of State (Department)  
37 and the North Carolina Community College System (System) shall study the feasibility  
38 of transferring the consultation function of the Business License Information Office  
39 (BLIO) in the Department to the Small Business Centers that are located within each of  
40 the community colleges in the System. The study shall consider the feasibility of the  
41 following:

- 42 (1) Establishing a Statewide Coordinator position that will develop and  
43 maintain a web-based master application system of all State licensing  
44 and regulatory requirements.
- 45 (2) Developing and maintaining a web-based master application system of  
46 all State licensing and regulatory requirements.
- 47 (3) Training the Small Business Center employees to provide the  
48 consultation function to their clients.
- 49 (4) Providing public access to the web-based master application system.

50 **SECTION 24.1.(b)** The Department and the System shall present their  
51 findings and recommendations to the Joint Legislative Commission on Governmental  
52 Operations and to the Chairs of the Senate and House of Representatives Appropriations  
53 Committees by January 1, 2004.

54  
55 Requested by: Senators Swindell, Garrou, Dalton, Hagan



**PUBLICATION OF NORTH CAROLINA MANUAL**

**SECTION 24.2.** The Department of the Secretary of State shall support the publication of the North Carolina Manual with receipts from sales of the manual when budgeting for the 2005-2007 biennium. The Department shall consider the feasibility of providing the manual by Internet.

**PART XXV. STATE BOARD OF ELECTIONS**

Requested by: Senators Swindell, Garrou, Dalton, Hagan

**HELP AMERICA VOTE ACT MATCHING FUNDS**

**SECTION 25.1.(a)** Of the funds appropriated to the State Board of Elections for the 2003-2004 fiscal year by Section 2.1 of this act:

- (1) The sum of \$1,791,936 is transferred to a Reserve Fund to meet the Maintenance of Effort requirements of section 254(a)(7) of the Help America Vote Act, Public Law 107-252.
- (2) The sum of \$1,665,650 currently appropriated to Fund 1100 Administration for the SEIMS RCC is transferred to a Reserve Fund for the State Board of Elections.
- (3) The sum of \$2,524,400 is transferred to the Election Fund established by S.L. 2003-12 to meet the five percent (5%) matching requirement of Title II Help America Vote Act, Public Law 107-252. It is estimated that the amount needed for the 2003-2004 fiscal year will be \$1,130,000. The funds shall be available only for matching federal funds under HAVA for the 2003-2004, 2004-2005, and 2005-2006 fiscal years. The money shall only be expended as federal funds are available to match, and if the amount available to the State is less than projected, the unexpended remainder of the \$2,524,400 shall revert to the General Fund on the earlier of:
  - a. June 30, 2006; or
  - b. A determination by the Office of State Budget and Management that the unexpended remainder will not be needed.

**SECTION 25.1.(b)** The 107th Congress established the Help America Vote Act (HAVA) as Public Law 107-252 establishing a program to assist in the administration of Federal elections and provide assistance with the administration of certain Federal elections laws and programs; establish minimum election administration standards for States and units of local government with the responsibility for the administration of Federal elections. In HAVA, Congress authorized appropriations for elections assistance in the form of a matching grant program (Title II of HAVA, Requirements Payments) for which states are required as one condition of the Election Assistance Requirements Payments to match federal allocations with a five percent (5%) match of State dollars. The federal government has additional requirements, including a required state plan and a stipulation for each participating state to implement the Maintenance of Effort (MOE) requirements of Title II, section 254(a)(7) of HAVA. The MOE requires that the state maintain the expenditures of the state for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the state for the fiscal year ending prior to November 2000. Congress authorized up to \$1.4 billion for Requirements Payments, and \$810 million for Title II requirements grants was funded for fiscal year 2003. Title II requirements funding has not been passed by Congress for fiscal years 2004-2005 and 2005-2006 but is currently proposed at \$500 million for each year.

Based upon the 2003 approved funding, it is estimated that North Carolina will receive \$22.6 million of the Title II funding if North Carolina meets all the conditions of the Election Assistance program, including not only the five percent (5%) state match but also maintenance of its expenditure level on HAVA activities at the expense level the State Board of Elections had in State fiscal year 1999-2000. Actual

1 expenditures for the State Elections Information Management System (SEIMS), which  
2 is a qualified HAVA activity, in 1999-2000 was three million four hundred fifty-seven  
3 thousand five hundred eighty-five dollars and six cents (\$3,457,585.06). The authorized  
4 expenditures on SEIMS in 2002-2003 by the State Board of Elections is one million six  
5 hundred sixty-five thousand six hundred fifty dollars (\$1,665,650). The difference in  
6 expenditure levels is one million seven hundred ninety-one thousand nine hundred  
7 thirty-five dollars and six cents (\$1,791,935.06). To meet HAVA's Title II MOE  
8 requirement, North Carolina has to appropriate from its General Fund to a Reserve on a  
9 recurring basis (or for as long as Congress requires the MOE as a condition of states'  
10 being eligible to receive Requirements Payments), the amount of three million four  
11 hundred fifty-seven thousand five hundred eighty-five dollars and six cents  
12 (\$3,457,585.06) annually.

13 For the State to meet its obligatory five percent (5%) match for HAVA's Title  
14 II Requirements Payment, North Carolina has to match twenty-two million six hundred  
15 thousand dollars (\$22,600,000) estimated federal funds in 2003-2004; thirteen million  
16 nine hundred forty-four thousand dollars (\$13,944,000) estimated federal funds in both  
17 2004-2005 and 2005-2006. The State's match is one million one hundred thirty thousand  
18 dollars (\$1,130,000) in 2003-2004; six hundred ninety-seven thousand two hundred  
19 dollars (\$697,200) in 2004-2005 and six hundred ninety-seven thousand two hundred  
20 dollars (\$697,200) in 2005-2006. The nonrecurring match total required from the  
21 General Fund is two million five hundred twenty-four thousand four hundred dollars  
22 (\$2,524,400).

## 23 24 **PART XXVI. OFFICE OF STATE BUDGET AND MANAGEMENT**

25  
26 Requested by: Senators Garrou, Swindell, Dalton, Hagan

### 27 **NC HUMANITIES COUNCIL**

28 **SECTION 26.1.** The North Carolina Humanities Council shall:

- 29 (1) By January 15, 2004, and more frequently as requested, report to the  
30 Joint Legislative Commission on Governmental Operations and the  
31 Fiscal Research Division the following information:  
32 a. State fiscal year 2002-2003 program activities, objectives, and  
33 accomplishments;  
34 b. State fiscal year 2002-2003 itemized expenditures and fund  
35 sources;  
36 c. State fiscal year 2003-2004 planned activities, objectives, and  
37 accomplishments including actual results through December 31,  
38 2003; and  
39 d. State fiscal year 2003-2004 estimated itemized expenditures  
40 and fund sources including actual expenditures and fund  
41 sources through December 31, 2003.  
42 (2) Provide to the Fiscal Research Division a copy of the organization's  
43 annual audited financial statement within 30 days of issuance of the  
44 statement.

## 45 46 **PART XXVII. OFFICE OF THE STATE CONTROLLER**

47  
48 Requested by: Senators Swindell, Garrou, Dalton, Hagan

### 49 **OVERPAYMENTS AUDIT**

50 **SECTION 27.1.(a)** During the 2003-2004 fiscal year, receipts generated by  
51 the collection of inadvertent overpayments by State agencies to vendors as a result of  
52 pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed  
53 refunds, erroneously paid excise taxes, and related errors as required by G.S.  
54 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

1           **SECTION 27.1.(b)** For the 2003-2004 fiscal year, two hundred thousand  
2 dollars (\$200,000) of the funds transferred from the Special Reserve Account 24172  
3 shall be used by the Office of the State Controller for data processing, debt collection,  
4 or e-commerce costs.

5           **SECTION 27.1.(c)** All funds available in the Special Reserve Account  
6 24172 on July 1, 2003, are transferred to the General Fund on that date.

7           **SECTION 27.1.(d)** Any unobligated funds in the Special Reserve Account  
8 24172 that are realized above the allowance in subsection (b) of this section are subject  
9 to appropriation by the General Assembly in the 2004 Regular Session of the 2003  
10 General Assembly.

11           **SECTION 27.1.(e)** The State Controller shall report quarterly to the Joint  
12 Legislative Commission on Governmental Operations and the Fiscal Research Division  
13 on the revenue deposited into the Special Reserve Account and the disbursement of that  
14 revenue.

## 15 16 **PART XXVIII. DEPARTMENT OF THE STATE TREASURER**

17  
18 Requested by:       Senators Swindell, Garrou, Dalton, Hagan

### 19 **REPORT OF THE STATUS OF THE TECHNOLOGY INFRASTRUCTURE** 20 **ENHANCEMENTS**

21           **SECTION 28.3.** The Department of the State Treasurer shall report to the  
22 Joint Legislative Commission on Governmental Operations and to the Chairs of the  
23 Appropriations Committees for the Senate and the House of Representatives on the  
24 status of the replacement of the multitude of information technology systems with an  
25 integrated system for all the retirement plans and other programs administered by the  
26 Retirement Systems Division. The Department shall report semiannually by October 1  
27 and April 1 until the enhancements are fully implemented.

28  
29 Requested by:       Senators Swindell, Garrou, Dalton, Hagan

### 30 **STAFFING ANALYSIS FOLLOW-UP**

31           **SECTION 28.4.(a)** The Office of State Budget and Management shall  
32 conduct semiannual follow-up analyses to the Staffing Analysis that was completed in  
33 April 2003 on the Retirement Systems Division within the Department of State  
34 Treasurer by October 1 and April 1 of each year to assure that the staffing levels remain  
35 appropriate. The semiannual analyses shall be conducted throughout the implementation  
36 of the enhancements to the information technology infrastructure within the Retirement  
37 Systems Division that were authorized by this act. The follow-up analyses shall also  
38 continue for a reasonable time after the completion of the enhancements to ensure that  
39 the staffing levels are adjusted based on the increased efficiency provided by the  
40 enhancements.

41           **SECTION 28.4.(b)** The Retirement Systems Division shall maintain  
42 monthly workload statistics and productivity data for the various functions within the  
43 Division. The Department of State Treasurer shall report the workload statistics and  
44 productivity data to the Fiscal Research Division and to the Office of State Budget and  
45 Management on a quarterly basis.

## 46 47 **PART XXIX. DEPARTMENT OF TRANSPORTATION**

48  
49 Requested by:       Senators Gulley, Garrou, Dalton, Hagan

### 50 **CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND** 51 **APPROPRIATIONS**

52           **SECTION 29.1.(a).** The General Assembly authorizes and certifies  
53 anticipated revenues of the Highway Fund as follows:

54           For Fiscal Year 2005-2006	\$1,409.2 Million
55           For Fiscal Year 2006-2007	\$1,458.9 Million

1 For Fiscal Year 2007-2008 \$1,509.4 Million  
 2 For Fiscal Year 2008-2009 \$1,558.8 Million

3 **SECTION 29.1.(b)** The General Assembly authorizes and certifies  
 4 anticipated revenues of the Highway Trust Fund as follows:

5 For Fiscal Year 2005-2006 \$1,096.3 Million  
 6 For Fiscal Year 2006-2007 \$1,148.0 Million  
 7 For Fiscal Year 2007-2008 \$1,202.6 Million  
 8 For Fiscal Year 2008-2009 \$1,252.4 Million  
 9

10 Requested by: Senators Gulley, Garrou, Dalton, Hagan, Jenkins, Hargett

11 **SMALL URBAN CONTINGENCY FUNDS**

12 **SECTION 29.2.** Of the funds appropriated in this act to the Department of  
 13 Transportation:

- 14 (1) Twenty-eight million dollars (\$28,000,000) in fiscal year 2003-2004  
 15 and fourteen million dollars (\$14,000,000) in fiscal year 2004-2005  
 16 shall be allocated for small urban construction projects. These funds  
 17 shall be allocated equally in each fiscal year of the biennium among  
 18 the 14 Highway Divisions for the small urban construction program  
 19 for small construction projects that are located within the area covered  
 20 by a two-mile radius of the municipal corporate limits.  
 21 (2) Fifteen million dollars (\$15,000,000) in fiscal year 2003-2004 and ten  
 22 million dollars (\$10,000,000) in fiscal year 2004-2005 shall be used  
 23 statewide for rural or small urban highway improvements and related  
 24 transportation enhancements to public roads and public facilities,  
 25 industrial access roads, and spot safety projects as approved by the  
 26 Secretary of Transportation.

27 None of these funds used for rural secondary road construction are subject to  
 28 the county allocation formulas in G.S. 136-44.5(b) and (c).

29 These funds are not subject to G.S. 136-44.7.

30 The Department of Transportation shall report to the members of the General  
 31 Assembly on projects funded pursuant to this section in each member's district prior to  
 32 the Board of Transportation's action. The Department shall make a quarterly  
 33 comprehensive report on the use of these funds to the Joint Legislative Transportation  
 34 Oversight Committee and the Fiscal Research Division.  
 35

36 Requested by: Senators Gulley, Garrou, Dalton, Hagan

37 **REDUCE HIGHWAY TRUST FUND ADMINISTRATION ALLOCATION**

38 **SECTION 29.4.** G.S. 136-176(b) reads as rewritten:

39 "(b) Funds in the Trust Fund are annually appropriated to the Department of  
 40 Transportation to be allocated and used as provided in this subsection. A sum, not to  
 41 exceed ~~four and one half percent (4.5%)~~ four percent (4%) of the amount of revenue  
 42 deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this ~~section,~~  
 43 section for the 2003-2004 fiscal year and three and eight-tenths percent (3.8%)  
 44 thereafter, may be used each fiscal year by the Department for expenses to administer  
 45 the Trust Fund. Operation and project development costs of the North Carolina  
 46 Turnpike Authority are eligible administrative expenses under this subsection. Any  
 47 funds allocated to the Authority pursuant to this subsection shall be repaid by the  
 48 Authority from its toll revenue as soon as possible, subject to any restrictions included  
 49 in the agreements entered into by the Authority in connection with the issuance of the  
 50 Authority's revenue bonds. Beginning one year after the Authority begins collecting  
 51 tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed  
 52 to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield  
 53 on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest  
 54 earned on the unpaid balance shall be deposited in the Highway Trust Fund upon

1 repayment. The rest of the funds in the Trust Fund shall be allocated and used as  
2 follows:

- 3 (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design,  
4 and construct the projects of the Intrastate System described in G.S.  
5 136-179 and to pay debt service on highway bonds and notes that are  
6 issued under the State Highway Bond Act of 1996 and whose proceeds  
7 are applied to these projects.  
8 (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and  
9 construct the urban loops described in G.S. 136-180 and to pay debt  
10 service on highway bonds and notes that are issued under the State  
11 Highway Bond Act of 1996 and whose proceeds are applied to these  
12 urban loops.  
13 (3) Six and one-half percent (6.5%) to supplement the appropriation to  
14 cities for city streets under G.S. 136-181.  
15 (4) Six and one-half percent (6.5%) for secondary road construction as  
16 provided in G.S. 136-182 and to pay debt service on highway bonds  
17 and notes that are issued under the State Highway Bond Act of 1996  
18 and whose proceeds are applied to secondary road construction.

19 The Department must administer funds allocated under subdivisions (1), (2), and (4)  
20 of this subsection in a manner that ensures that sufficient funds are available to make  
21 the debt service payments on bonds issued under the State Highway Bond Act of 1996  
22 as they become due."  
23

24 Requested by: Senators Gulley, Garrou, Dalton, Hagan

25 **USE OF EXCESS OVERWEIGHT/OVERSIZE FUNDS**

26 **SECTION 29.5.** Funds generated by overweight/oversize permit fees in  
27 excess of the cost of administering the program, as determined pursuant to G.S.  
28 20-119(e), shall be used for highway and bridge maintenance required as a result of  
29 damages caused from overweight/oversize loads.  
30

31 Requested by: Senators Reeves, Garrou, Dalton, Hagan

32 **DEPARTMENT OF TRANSPORTATION MAY NOT DEVELOP THE**  
33 **I-40/DURALEIGH ROAD CONNECTOR**

34 **SECTION 29.9.** The Department of Transportation shall permanently  
35 remove from all thoroughfare or other plans the proposed route commonly known as the  
36 "Duraleigh Connector", adjacent to Umstead Park from the intersection of Interstate 40  
37 to existing Duraleigh Road in northwestern Wake County, more precisely described in  
38 Project U-2110 in the 1997-2003 Transportation Improvement Program.

39 The Department shall not expend any State or federal funds on feasibility  
40 studies, planning, right-of-way acquisition, or construction on this route.  
41

42 Requested by: Senators Gulley, Garrou, Dalton, Hagan

43 **FUNDS FOR REPAIR, RENOVATION, AND REPLACEMENT**

44 **SECTION 29.10.** The Department of Transportation may use funds not to  
45 exceed one and eight-tenths percent (1.8%) of the funds appropriated in this act to the  
46 Department for maintenance to repair, renovate, or replace facilities that fail to meet  
47 safety standards or that are obsolete for current or future use. Prior to expending these  
48 funds, the Department shall submit its proposed budget for these expenditures to the  
49 Senate Appropriations Subcommittee on Department of Transportation, the House of  
50 Representatives Appropriations Subcommittee on Transportation, and the Joint  
51 Legislative Transportation Oversight Committee each year.  
52

53 Requested by: Senators Gulley, Garrou, Dalton, Hagan

54 **MODIFY DESCRIPTION OF THE DURHAM NORTHERN LOOP AND**  
55 **INTRASTATE IMPROVEMENT PROJECTS**

1           **SECTION 29.11.(a)** G.S. 136-180(a) reads as rewritten:  
 2           "(a) Funds allocated from the Trust Fund for urban loops may be used only for the  
 3 following urban loops:

Loop	Description	Affected Counties
Asheville Western Loop	Multilane facility on new location from I-26 west of Asheville to US-19/23 north of Asheville for the purpose of connecting these roads. The funds may be used to improve existing corridors.	Buncombe
Charlotte Outer Loop	Multilane facility on new location encircling City of Charlotte	Mecklenburg
Durham Northern Loop	<p><del>The corridor shall be identified as a part of the local long range transportation plan as mutually adopted in 2003 by the Durham Chapel Hill Carrboro metropolitan planning organization and the North Carolina Board of Transportation</del></p> <p><u>The projects listed below are eligible for funding under this section as part of the Durham Northern Loop. The priorities for planning and constructing these projects will be established by mutual agreement of the Metropolitan Planning Organization (MPO) and the Department of Transportation through the federally mandated Transportation Improvement Program development process. The cross-sections for these projects will be established by mutual agreement of the MPO and the Department of Transportation through the State and federal environmental review process.</u></p> <p><u>(1) East end connector, from N.C. 147 to U.S. 70 East.</u></p>	Durham, <del>Orange</del> Wake

1		<u>(2) U.S. 70, from Lynn Rd. to</u>	
2		<u>the Northern Durham</u>	
3		<u>Parkway.</u>	
4		<u>(3) I-85, from U.S. 70 to Red</u>	
5		<u>Mill Rd.</u>	
6		<u>(4) Northern Durham</u>	
7		<u>Parkway, Section B, from Old</u>	
8		<u>Oxford Rd. to I-85.</u>	
9		<u>(5) Northern Durham</u>	
10		<u>Parkway, Section A, from</u>	
11		<u>I-85 to I-540.</u>	
12		<u>(6) Northern Durham</u>	
13		<u>Parkway, Section C, from Old</u>	
14		<u>Oxford Rd. to Roxboro Rd.</u>	
15		<u>(7) Roxboro Rd. from Duke</u>	
16		<u>St. to Goodwin Rd.</u>	
17	Greensboro Loop	Multilane facility on new	Guilford
18		location encircling City	
19		of Greensboro	
20	Raleigh Outer Loop	Multilane facility on	Wake
21		new location from US-1	
22		southwest of Cary	
23		northerly to US-64 in	
24		eastern Wake County	
25	Wilmington Bypass	Multilane facility on new	New Hanover
26		location from US-17	
27		northeast of Wilmington	
28		to US-17 southwest	
29		of Wilmington,	
30		including the Blue Clay Road	
31		interchange	
32	Winston-Salem	Multilane facility on	Forsyth
33	Northbelt	new location from I-40 west	
34		of Winston-Salem northerly	
35		to <del>I-40</del> US-311/Future I-74	
36		in eastern Forsyth County"	

**SECTION 29.11.(b)** G.S. 136-179 reads as rewritten:

**"§ 136-179. Projects of Intrastate System funded from Trust Fund.**

Funds allocated from the Trust Fund for the Intrastate System may be used only for the following projects of the Intrastate System:

Route	Improvements	Affected Counties
I-40	Widening	Buncombe, Haywood, Guilford, Wake, Durham
I-77	Widening	Mecklenburg
I-85	Widening	Durham, Orange, Alamance, Guilford, Cabarrus, Mecklenburg, Gaston
I-95	Widening	Halifax
US-1	Complete 4-laning from Henderson to South	Vance, Franklin, Wake, Chatham, Lee,

1		Carolina Line	Moore, Richmond
2		(including 6-laning of	
3		Raleigh Beltline)	
4			
5	US-13	<del>Connector</del> <u>Connectors</u> from I-95	<del>Cumberland</del>
6		to NC-87	<u>Cumberland, Robeson</u>
7			
8	US-13	Complete 4-laning from	Gates, Hertford,
9		Virginia Line to US-17	Bertie
10			
11	US-17	Complete 4-laning from	Camden, Pasquotank,
12		Virginia Line to South	Perquimans, Chowan,
13		Carolina Line (including	Bertie, Martin,
14		Washington, New Bern,	Beaufort, Craven,
15		and Jacksonville	Jones, Onslow,
16		Bypasses)	Pender, New Hanover,
17			Brunswick
18			
19	US-19/ US-19E	Complete 4-laning from	Madison, Yancey,
20		US-23 to NC 194 in	Mitchell, Avery
21		Ingalls	
22			
23	US-19	Complete 4-laning	Cherokee, Macon,
24			Swain
25			
26	US-23	Complete 4-laning and	Madison, Buncombe
27		upgrading existing	
28		4-lanes from Tennessee	
29		Line to I-240	
30			
31	US-23-441	Complete 4-laning from	Macon
32		US-19/US-74 to Georgia	
33		Line	
34			
35	US-52	Complete 4-laning from	Surry, Davidson
36		I-77 to Lexington	
37		(including new I-77	
38		Connector)	
39			
40	US-64	Complete 4-laning from	Edgecombe, Pitt,
41		Raleigh to Coast	Martin, Washington,
42		(including freeway	Tyrrell, Dare
43		construction from I-95	
44		to US-17)	
45			
46	US-64	Complete 4-laning from	Davidson, Randolph,
47		Lexington to Raleigh	Chatham, Wake
48			
49	US-70	Complete 4-laning from	Wake, Johnston,
50		Raleigh to Morehead City	Wayne, Lenoir,
51		(including Clayton,	Craven
52		Goldsboro, Kinston,	
53		Smithfield-Selma, and	
54		Havelock Bypasses	
55		predominately freeways	



1		on predominately new	
2		locations)	
3			
4	US-74	Complete 4-laning from	Mecklenburg, Union,
5		Charlotte to US-17	Richmond, Robeson,
6		(including multilaning	Columbus
7		of Independence Blvd. in	
8		Charlotte, and Bypasses	
9		of Monroe, Rockingham,	
10		and Hamlet)	
11			
12	US-74	Complete 4-laning from	Polk, Rutherford
13		I-26 to I-85	
14			
15	US-158	Complete 4-laning	Forsyth, Guilford,
16		from Winston-Salem	Rockingham, Caswell,
17		to Whalebone	Person, Granville,
18			Vance, Warren,
19			Halifax,
20			Northampton, Gates,
21			Hertford,
22			Pasquotank, Camden,
23			Currituck, Dare
24			
25		New bridge over	Currituck
26		Currituck Sound	
27			
28	US-221	Complete 4-laning from	Avery, McDowell,
29		Linville to South	Rutherford
30		Carolina	
31			
32	US-220	Complete 4-laning from	Guilford, Randolph,
33		I-40 to US-1	Montgomery, Richmond
34			
35	US-220/NC-68	Complete 4-laning from	Rockingham, Guilford
36		Virginia Line to I-40	
37			
38	US-264	Complete 4-laning from	Wilson, Greene,
39		US-64 to Washington	Pitt
40		(including Wilson and	
41		Greenville Bypasses)	
42		(including freeway	
43		construction from I-95	
44		to Greenville)	
45			
46	US-321	Complete 4-laning from	Caldwell, Catawba,
47		Boone to South Carolina	Lincoln, Gaston
48		Line	
49			
50	US-421	Complete 4-laning from	Watauga, Wilkes,
51		Tennessee Line to I-40	Yadkin
52			
53	US-421	Complete 4-laning from	Chatham, Lee
54		Greensboro to Sanford	
55		(including Bypass of	

1		Sanford)	
2			
3	NC-24	Complete 4-laning from	Mecklenburg,
4		Charlotte to Morehead	Cabarrus, Stanly,
5		City	Montgomery, Moore,
6			Harnett, Cumberland,
7			Sampson, Duplin,
8			Onslow, Carteret
9			
10	NC-87	Complete 4-laning from	Lee, Harnett,
11		Sanford to US-74	Cumberland, Bladen,
12			Columbus
13			
14	NC-105	Complete 4-laning from	Watauga, Avery
15		Boone to Linville	
16			
17	NC-168	Complete multilaning	Currituck
18		from Virginia Line	
19		to US-158	
20			
21	NC-194	Complete 4-laning from	Avery
22		US-19E to US-221"	

SECTION 29.11.(c) This section is effective when it becomes law.

Requested by: Senators Gulley, Garrou, Dalton, Hagan

**HIGHWAY TRUST FUND STUDY COMMITTEE**

SECTION 29.12.(a) Study Committee Established. – There is established a Highway Trust Fund Study Committee to report to the Joint Legislative Transportation Oversight Committee.

SECTION 29.12.(b) Membership. – The Study Committee shall be composed of 20 members as follows:

- (1) The Chairs of the Joint Legislative Transportation Oversight Committee.
- (2) Five Representatives and four public members appointed by the Speaker of the House of Representatives.
- (3) Five Senators and four public members appointed by the President Pro Tempore of the Senate.

The appointing authorities shall make their appointments to reflect the urban-rural diversity of the population of the State.

SECTION 29.12.(c) Duties of the Study Committee. – The Study Committee may study all aspects of the Highway Trust Fund. The study shall include the examination of all the following:

- (1) The current status, cost estimates, and feasibility of Highway Trust Fund projects currently listed in Article 14 of Chapter 136 of the General Statutes.
- (2) Unanticipated problems with the structure of the Highway Trust Fund.
- (3) The gap between transportation funding structures and the actual transportation needs of the State.
- (4) Allocation issues raised by the structure of the transportation funding equity distribution formula in G.S. 136-17.2A.
- (5) The feasibility of altering the project eligibility requirements of the Highway Trust Fund, including permitting the Department of Transportation to add projects as long as adding those projects does not delay projects already to be funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement

1 Program, and does not impair the cash-flow provisions of G.S.  
2 136-176(a1).

- 3 (6) The feasibility of altering the funding allocation structure of the  
4 Highway Trust Fund, including the possible use of the Highway Trust  
5 Fund to provide the State match for available federal aid highway  
6 funds as long as using the funds in this manner does not delay projects  
7 already funded by the Highway Trust Fund, projects scheduled under  
8 the 2002-2008 Transportation Improvement Program, and does not  
9 impair the cash-flow provisions of G.S. 136-176(a1).

- 10 (7) Any other issue related to the Highway Trust Fund or transportation  
11 funding.

12 **SECTION 29.12.(d)** Vacancies. – The appointing authority shall fill any  
13 vacancy on the Study Committee.

14 **SECTION 29.12.(e)** Cochairs. – The Cochairs of the Study Committee shall  
15 be the cochairs of the Joint Legislative Transportation Oversight Committee. The Study  
16 Committee shall meet upon the call of the Cochairs. A quorum of the Study Committee  
17 shall be nine members.

18 **SECTION 29.12.(f)** Expenses of Members. – Members of the Study  
19 Committee shall receive per diem, subsistence, and travel allowances in accordance  
20 with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

21 **SECTION 29.12.(g)** Staff. – The Legislative Services Office shall assign  
22 professional and clerical staff to the assist the Study Committee in its work.

23 **SECTION 29.12.(h)** Consultants. – The Study Committee may hire  
24 consultants to examine specific issues and subjects related to the study, in accordance  
25 with G.S. 120-32.02.

26 **SECTION 29.12.(i)** Meetings During Legislative Session. – The Study  
27 Committee may meet during a regular or extra session of the General Assembly.

28 **SECTION 29.12.(j)** Meeting Location. – The Study Committee may meet at  
29 various locations around the State in order to promote greater public participation in its  
30 deliberations. The Legislative Services Commission shall grant adequate meeting space  
31 to the Study Committee in the State Legislative Building or the Legislative Office  
32 Building.

33 **SECTION 29.12.(k)** Report. – The Study Committee may make interim  
34 reports and shall make a final report to the Joint Legislative Transportation Oversight  
35 Committee no later than November 1, 2004. Regardless of whether it has filed an  
36 interim or final report, the Committee shall terminate on November 1, 2004.

37 **SECTION 29.12.(l)** Funding. – The Study Committee shall be funded from  
38 funds available to the Joint Legislative Transportation Oversight Committee, in  
39 accordance with G.S. 120-70.52.

40 **SECTION 29.12.(m)** This section is effective when it becomes law.

41  
42 Requested by: Senators Gulley, Garrou, Dalton, Hagan, Rand, Thomas, Kerr,  
43 Hargett

44 **WAIVE 1/3 OF THE MILITARY BASE GAS TAX**

45 **SECTION 29.13.(a)** Part 7 of Article 36C of Chapter 105 of the General  
46 Statutes is amended by adding a new section to read:

47 **"§ 105-449.128. Distribution of part of Highway Fund allocation to military**  
48 **installations.**

49 (a) Distribution. – The Secretary must annually distribute to the morale, welfare,  
50 and recreation program of each military installation located in this State an amount  
51 equal to the amount of motor fuel sold by exchange service stations within that military  
52 installation during the previous fiscal year, as reported pursuant to subsection (c) of this  
53 section, multiplied by the distribution rate. The Secretary must make this distribution  
54 within 90 days after the morale, welfare, and recreation program submits a timely  
55 report.

1 (b) Rate. – The distribution rate is one-third of the sum of the flat  
2 cents-per-gallon rate in effect during the year for which the distribution is made and the  
3 average of the two variable cents-per-gallon rates in effect during that year.

4 (c) Report. – The morale, welfare, and recreation program of each military  
5 installation in this State must report to the Secretary by October 15 of each year the  
6 amount of motor fuel sold by exchange service stations within that military installation  
7 during the previous fiscal year. The report must be in the form required by the  
8 Secretary. No distribution will be made for reports filed after the due date.

9 (d) Use. – Funds distributed to a morale, welfare, and recreation program under  
10 this section must be used only for community services and other expenditures to  
11 improve quality-of-life programs for military members and their families in North  
12 Carolina."

13 **SECTION 29.13.(b)** G.S. 105-449.62 reads as rewritten:

14 **"§ 105-449.62. Nature of tax.**

15 This Article imposes a tax on motor fuel to provide revenue for the State's  
16 transportation ~~needs and needs~~, for the other purposes listed in Part 7 of this  
17 ~~Article~~ Article, and for the purposes provided in G.S. 105-449.128. The tax is collected  
18 from the supplier or importer of the fuel because this method is the most efficient way  
19 to collect the tax. The tax is designed, however, to be paid ultimately by the person who  
20 consumes the fuel. The tax becomes a part of the cost of the fuel and is consequently  
21 paid by those who subsequently purchase and consume the fuel."

22 **SECTION 29.13.(c)** This act becomes effective July 1, 2004, and applies to  
23 motor fuel sold on or after that date. The first reports under G.S. 105-449.128, as  
24 enacted by this act, are due by October 14, 2005.

25  
26 Requested by: Senators Gulley, Garrou, Dalton, Hagan, Clodfelter

27 **MPO/RTO TRANSPORTATION PLANNING FUNDING**

28 **SECTION 29.14.(a)** Of the funds allocated for Highway Trust Fund  
29 Administration for the 2003-2004 fiscal year:

- 30 (1) The sum of seven hundred fifty thousand dollars (\$750,000) shall be  
31 used to fund the activities of Rural Transportation Planning  
32 Organizations created pursuant to Article 17 of Chapter 136 of the  
33 General Statutes;  
34 (2) The sum of two million dollars (\$2,000,000) shall be used to  
35 implement the provisions of subsection (b) of this section; and  
36 (3) The sum of seven hundred fifty thousand dollars (\$750,000) shall be  
37 used to implement the provisions of subsection (c) of this section.

38 **SECTION 29.14.(b)** Article 16 of Chapter 136 of the General Statutes is  
39 amended by adding a new section to read:

40 **"§ 136-200.5. Matching funds for Metropolitan Planning Organizations located in**  
41 **nonattainment areas or maintenance areas.**

42 (a) Application. – The lead planning agency for any Metropolitan Planning  
43 Organization located in an area designated as a nonattainment or maintenance area  
44 under the federal Clean Air Act (42 U.S.C. § 7401, et seq.) may apply to the  
45 Department of Transportation for funds to avoid a plan conformity lapse.

46 (b) Matching Required. – Funds provided under this section shall be matched  
47 one-for-one by the local applicant agency.

48 (c) Use of Funds. – Funds provided under this section shall be used by the local  
49 applicant agency only to avoid a plan conformity lapse.

50 (d) Limit on Funds. – The Department shall not provide more than one million  
51 dollars (\$1,000,000) per fiscal year to any lead planning organization of a Metropolitan  
52 Planning Organization pursuant to this section.

53 (e) Payback Required. – Any funds provided to a lead planning organization of a  
54 Metropolitan Planning Organization under this section shall be repaid within five years.

1 either from local sources or as an offset against planning funds that might otherwise  
 2 have been made available from the Department to the lead planning organization."

3 **SECTION 29.14.(c)** Article 16 of Chapter 136 of the General Statutes is  
 4 amended by adding a new section to read:

5 **"§ 136-200.6. Funds for local transportation planning efforts in areas designated**  
 6 **nonattainment areas or maintenance areas.**

7 (a) Application. – A regional transportation planning agency in an area  
 8 designated as a nonattainment or maintenance area under the federal Clean Air Act  
 9 (42 U.S.C. § 7401, et seq.) that has policy-setting authority for the entire designated  
 10 area and that is representative of all local governments within the area, may apply to the  
 11 Department of Transportation for funds to support local transportation planning efforts  
 12 in that local government's region.

13 (b) Matching Required. – Funds provided under this section shall be matched  
 14 one-for-one by the applicant agency.

15 (c) Use of Funds. – Funds provided under this section shall only be used by the  
 16 local applicant agency to support regional transportation planning within the designated  
 17 area.

18 (d) Local Staff Required. – Funds shall be provided under this section only if  
 19 local governments in the designated area support and supply staff to the regional  
 20 transportation planning agency.

21 (e) Limit on Funds. – The Department shall not provide more than five hundred  
 22 thousand dollars (\$500,000) in any fiscal year to any agency pursuant to this section."  
 23

24 Requested by: Senators Gulley, Garrou, Dalton, Hagan, Jenkins, Thomas

25 **FERRY EMPLOYEE POSITIONS**

26 **SECTION 29.15.** The Ferry Division shall use funds available from  
 27 increased toll revenues to convert a maximum of 38 temporary employees to permanent  
 28 positions.  
 29

30 Requested by: Senators Gulley, Garrou, Dalton, Hagan

31 **MOTORIST ASSISTANCE PROGRAM PERSONNEL**

32 **SECTION 29.16.** All full-time employees of the Interstate Motorist  
 33 Assistance Program shall be designated as permanent employees.  
 34

35 Requested by: Senator Hagan

36 **TRANSPORTATION SERVICES AND IMPROVEMENTS FOR TRADE**  
 37 **SHOWS**

38 **SECTION 29.17.** The Department of Transportation may, from funds  
 39 available, provide transportation services and improvements for annual or semiannual  
 40 trade shows of international significance.  
 41

42 **PART XXX. SALARIES AND EMPLOYEE BENEFITS**  
 43

44 Requested by: Senators Garrou, Dalton, Hagan

45 **GOVERNOR AND COUNCIL OF STATE**

46 **SECTION 30.1.(a)** Effective July 1, 2003, G.S. 147-11(a) reads as  
 47 rewritten:

48 "(a) The salary of the Governor shall be ~~one hundred eighteen thousand four~~  
 49 ~~hundred thirty dollars (\$118,430)~~ one hundred twenty thousand five hundred  
 50 seventy-four dollars (\$120,574) annually, payable monthly."

51 **SECTION 30.1.(b)** Effective July 1, 2003, the annual salaries for the  
 52 members of the Council of State, payable monthly, for the 2003-2004 and 2004-2005  
 53 fiscal years are:

54 <u>Council of State</u>	<u>Annual Salary</u>
55 <u>Lieutenant Governor</u>	<u>\$ 106,415</u>

1	Attorney General	106,415
2	Secretary of State	106,415
3	State Treasurer	106,415
4	State Auditor	106,415
5	Superintendent of Public Instruction	106,415
6	Agriculture Commissioner	106,415
7	Insurance Commissioner	106,415
8	Labor Commissioner	106,415

9  
10 Requested by: Senators Garrou, Dalton, Hagan

11 **NONELECTED DEPARTMENT HEADS/SALARY INCREASES**

12 **SECTION 30.2.** In accordance with G.S. 143B-9, the maximum annual  
13 salaries, payable monthly, for the nonelected heads of the principal State departments  
14 for the 2003-2004 and 2004-2005 fiscal years are:

15	<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
16	Secretary of Administration	\$ 103,967
17	Secretary of Correction	103,967
18	Secretary of Crime Control and Public Safety	103,967
19	Secretary of Cultural Resources	103,967
20	Secretary of Commerce	103,967
21	Secretary of Environment and Natural Resources	103,967
22	Secretary of Health and Human Services	103,967
23	Secretary of Juvenile Justice and Delinquency Prevention	103,967
24	Secretary of Revenue	103,967
25	Secretary of Transportation	103,967

26  
27 Requested by: Senators Garrou, Dalton, Hagan

28 **CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES**

29 **SECTION 30.3.** Effective July 1, 2003, the annual salaries, payable  
30 monthly, for the 2003-2004 and 2004-2005 fiscal years for the following executive  
31 branch officials are:

32	<u>Executive Branch Officials</u>	<u>Annual Salary</u>
33	Chairman, Alcoholic Beverage Control Commission	\$ 94,628
34	State Controller	132,432
35	Commissioner of Motor Vehicles	94,628
36	Commissioner of Banks	106,415
37	Chairman, Employment Security Commission	132,264
38	State Personnel Director	103,967
39	Chairman, Parole Commission	86,407
40	Members of the Parole Commission	79,774
41	Chairman, Utilities Commission	118,512
42	Members of the Utilities Commission	106,415
43	Executive Director, Agency for Public Telecommunications	79,774
44	General Manager, Ports Railway Commission	72,036
45	Director, Museum of Art	96,964
46	Executive Director, North Carolina Housing Finance Agency	117,113
47	Executive Director, North Carolina Agricultural Finance Authority	92,108
48	State Chief Information Officer	132,353

49  
50 Requested by: Senators Garrou, Dalton, Hagan

51 **JUDICIAL BRANCH OFFICIALS/SALARY INCREASE**

52 **SECTION 30.4.(a)** Effective July 1, 2003, the annual salaries, payable  
53 monthly, for specified judicial branch officials for the 2003-2004 and 2004-2005 fiscal  
54 years are:

55	<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
----	----------------------------------	----------------------

1		
2	Chief Justice, Supreme Court	\$ 120,574
3	Associate Justice, Supreme Court	117,424
4	Chief Judge, Court of Appeals	114,487
5	Judge, Court of Appeals	112,531
6	Judge, Senior Regular Resident Superior Court	109,473
7	Judge, Superior Court	106,415
8	Chief Judge, District Court	96,630
9	Judge, District Court	93,573
10	Administrative Officer of the Courts	109,473
11	Assistant Administrative Officer of the Courts	99,994

12 **SECTION 30.4.(b)** The district attorney or public defender of a judicial  
 13 district, with the approval of the Administrative Officer of the Courts or the  
 14 Commission on Indigent Defense Services, respectively, shall set the salaries of  
 15 assistant district attorneys or assistant public defenders, respectively, in that district such  
 16 that the average salaries of assistant district attorneys or assistant public defenders in  
 17 that district do not exceed sixty-one thousand two hundred eighty dollars (\$61,280) and  
 18 the minimum salary of any assistant district attorney or assistant public defender is at  
 19 least thirty-one thousand five hundred ninety-seven dollars (\$31,597) effective July 1,  
 20 2003.

21 **SECTION 30.4.(c)** Effective July 1, 2003, the salaries in effect for the  
 22 2003-2004 and 2004-2005 fiscal years for permanent, full-time employees of the  
 23 Judicial Department, except for those whose salaries are itemized in this Part, shall be  
 24 increased by one and eighty-one hundredths percent (1.81%).  
 25

26 Requested by: Senators Garrou, Dalton, Hagan

27 **CLERK OF SUPERIOR COURT/SALARY INCREASES**

28 **SECTION 30.5.** Effective July 1, 2003, G.S. 7A-101(a) reads as rewritten:

29 "(a) The clerk of superior court is a full-time employee of the State and shall  
 30 receive an annual salary, payable in equal monthly installments, based on the population  
 31 of the county as determined in subsection (a1) of this section, according to the following  
 32 schedule:

33 Population	Annual Salary
34 Less than 100,000	<del>\$69,911</del> \$71,176
35 100,000 to 149,999	<del>78,452</del> 79,872
36 150,000 to 249,999	<del>86,994</del> 88,569
37 250,000 and above	<del>95,537</del> 97,266.

38  
 39 The salary schedule in this subsection is intended to represent the following  
 40 approximate percentage of the salary of a chief district court judge:

41 Population	Annual Salary
42 Less than 100,000	73%
43 100,000 to 149,999	82%
44 150,000 to 249,999	91%
45 250,000 and above	100%.

46  
 47 When a county changes from one population group to another, the salary of the clerk  
 48 shall be changed, on July 1 of the fiscal year for which the change is reported, to the  
 49 salary appropriate for the new population group, except that the salary of an incumbent  
 50 clerk shall not be decreased by any change in population group during his continuance  
 51 in office."  
 52

53 Requested by: Senators Garrou, Dalton, Hagan, Thomas

54 **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY**  
 55 **INCREASES/CLERK OF COURT PERSONNEL FLEXIBILITY**

1           **SECTION 30.6.(a)** Effective July 1, 2003, assistant and deputy clerks shall  
2 receive salary increases in the amount of one and eighty-one hundredths percent  
3 (1.81%), except that any person entitled to a step increase pursuant to G.S. 7A-102 for  
4 the 2003-2004 fiscal year shall not receive the one and eighty-one hundredths percent  
5 (1.81%) increase provided by this act.

6           **SECTION 30.6.(b)** Effective July 1, 2003, G.S. 7A-102 reads as rewritten:

7       "**§ 7A-102. Assistant and deputy clerks; appointment; number; salaries; duties.**

8       (a) The numbers and salaries of assistant clerks, deputy clerks, and other  
9 employees in the office of each clerk of superior court shall be determined by the  
10 Administrative Officer of the Courts after consultation with the clerk concerned. All  
11 personnel in the clerk's office are employees of the State. The clerk appoints the  
12 assistants, deputies, and other employees in ~~his~~the clerk's office to serve at his or her  
13 pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks  
14 of superior court, conformed to the office of assistant or deputy clerk, as the case may  
15 be. ~~The~~Except as provided by subsection (c2) of this section, the job classifications and  
16 related salaries of each employee within the office of each superior court clerk shall be  
17 subject to the approval of the Administrative Officer of the Courts after consultation  
18 with each clerk concerned and shall be subject to the availability of funds appropriated  
19 for that purpose by the General Assembly.

20       (b) An assistant clerk is authorized to perform all the duties and functions of the  
21 office of clerk of superior court, and any act of an assistant clerk is entitled to the same  
22 faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence  
23 and correctness of any record in the clerk's office, to take the proofs and examinations  
24 of the witnesses touching the execution of a will as required by G.S. 31-17, and to  
25 perform any other ministerial act which the clerk may be authorized and empowered to  
26 do, in his own name and without reciting the name of his principal. The clerk is  
27 responsible for the acts of his assistants and deputies. With the consent of the clerk of  
28 superior court of each county and the consent of the presiding judge in any proceeding,  
29 an assistant or deputy clerk is authorized to perform all the duties and functions of the  
30 office of the clerk of superior court in another county in any proceeding in the district or  
31 superior court that has been transferred to that county from the county in which the  
32 assistant or deputy clerk is employed.

33       (c) Notwithstanding the provisions of subsection (a), the Administrative Officer  
34 of the Courts shall establish an incremental salary plan for assistant clerks and for  
35 deputy clerks based on a series of salary steps corresponding to the steps contained in  
36 the Salary Plan for State Employees adopted by the Office of State Personnel, subject to  
37 a minimum and a maximum annual salary as set forth below. On and after July 1, 1985,  
38 each assistant clerk and each deputy clerk shall be eligible for an annual step increase in  
39 his salary plan based on satisfactory job performance as determined by each clerk.  
40 Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the  
41 office of superior court clerk would warrant an annual salary greater than the salary first  
42 established under this section, that assistant or deputy clerk shall be eligible on and after  
43 July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after  
44 July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps  
45 in his salary plan, and shall remain eligible for a two-step increase each year as  
46 recommended by each clerk until that assistant or deputy clerk's annual salary  
47 corresponds to his number of years of service. Any person covered by this subsection  
48 who would not receive a step increase in fiscal year 1995-96 because that person is at  
49 the top of the salary range as it existed for fiscal year 1994-95 shall receive a salary  
50 increase to the maximum annual salary provided by subsection (c1) of this section.

51       (c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time  
52 deputy clerk serving as head bookkeeper per county, shall be paid an annual salary  
53 subject to the following minimum and maximum rates:

54  
55                           Assistant Clerks and Head Bookkeeper

  Annual Salary



1	Minimum	\$26,515	\$26,995
2	Maximum	46,464	47,305
3			
4	Deputy Clerks		Annual Salary
5	Minimum	\$22,565	\$22,973
6	Maximum	35,934	36,584

7 (c2) The clerk of superior court may appoint assistant clerks, deputy clerks, and a  
 8 head bookkeeper and set their salaries above the minimum rate established for the  
 9 positions by subsection (c1) of this section if, in the clerk's discretion, (i) the needs of  
 10 the clerk's office would be best served by an appointment above the minimum rate, (ii)  
 11 the appointee's skills and experience support the higher rate, and (iii) the Administrative  
 12 Office of the Courts certifies that there are sufficient funds available.

13 (d) Full-time assistant clerks, licensed to practice law in North Carolina, who are  
 14 employed in the office of superior court clerk on and after July 1, 1984, and full-time  
 15 assistant clerks possessing a masters degree in business administration, public  
 16 administration, accounting, or other similar discipline from an accredited college or  
 17 university who are employed in the office of superior court clerk on and after July 1,  
 18 1997, are authorized an annual salary of not less than three-fourths of the maximum  
 19 annual salary established for assistant clerks; the clerk of superior court, with the  
 20 approval of the Administrative Office of the Courts, may establish a higher annual  
 21 salary but that salary shall not be higher than the maximum annual salary established for  
 22 assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law  
 23 school, who are employed in the office of superior court clerk on and after July 1, 1984,  
 24 are authorized an annual salary of not less than two-thirds of the maximum annual  
 25 salary established for assistant clerks; the clerk of superior court, with the approval of  
 26 the Administrative Office of the Courts, may establish a higher annual salary, but the  
 27 entry-level salary may not be more than three-fourths of the maximum annual salary  
 28 established for assistant clerks, and in no event may be higher than the maximum annual  
 29 salary established for assistant clerks. The-Except as provided by subsection (c2) of this  
 30 section, the entry-level annual salary for all other assistant and deputy clerks employed  
 31 on and after July 1, 1984, shall be at the minimum rates as herein established.

32 (e) A clerk of superior court may apply to the Director of the Administrative  
 33 Office of the Courts to enter into contracts with local governments for the provision by  
 34 the State of services of assistant clerks, deputy clerks, and other employees in the office  
 35 of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

36 (f) The Director of the Administrative Office of the Courts may provide  
 37 assistance requested pursuant to subsection (e) of this section only upon a showing by  
 38 the senior resident superior court judge, supported by facts, that the overwhelming  
 39 public interest warrants the use of additional resources for the speedy disposition of  
 40 cases involving drug offenses, domestic violence, or other offenses involving a threat to  
 41 public safety.

42 (g) The terms of any contract entered into with local governments pursuant to  
 43 subsection (e) of this section shall be fixed by the Director of the Administrative Office  
 44 of the Courts in each case. Nothing in this section shall be construed to obligate the  
 45 General Assembly to make any appropriation to implement the provisions of this  
 46 section or to obligate the Administrative Office of the Courts to provide the  
 47 administrative costs of establishing or maintaining the positions or services provided for  
 48 under this section. Further, nothing in this section shall be construed to obligate the  
 49 Administrative Office of the Courts to maintain positions or services initially provided  
 50 for under this section."  
 51

52 Requested by: Senators Garrou, Dalton, Hagan  
 53 **MAGISTRATES/SALARY INCREASES/LIMIT**

54 **SECTION 30.7.(a)** Effective July 1, 2003, magistrates shall receive salary  
 55 increases in the amount of one and eighty-one hundredths percent (1.81%), except that

1 any person entitled to a step increase pursuant to G.S. 7A-171.1 for the 2003-2004 fiscal  
 2 year shall not receive the one and eighty-one hundredths (1.81%) percent increase  
 3 provided by this act.

4 **SECTION 30.7.(b)** Effective July 1, 2003, G.S. 7A-171.1 reads as rewritten:

5 **"§ 7A-171.1. Duty hours, salary, and travel expenses within county.**

6 (a) The Administrative Officer of the Courts, after consultation with the chief  
 7 district judge and pursuant to the following provisions, shall set an annual salary for  
 8 each magistrate.

- 9 (1) A full-time magistrate shall be paid the annual salary indicated in the  
 10 table set out in this subdivision. A full-time magistrate is a magistrate  
 11 who is assigned to work an average of not less than 40 hours a week  
 12 during the term of office. The Administrative Officer of the Courts  
 13 shall designate whether a magistrate is full-time. Initial appointment  
 14 shall be at the entry rate. A magistrate's salary shall increase to the  
 15 next step every two years on the anniversary of the date the magistrate  
 16 was originally appointed for increases to Steps 1 through 3, and every  
 17 four years on the anniversary of the date the magistrate was originally  
 18 appointed for increases to Steps 4 through 6.

19  
 20 Table of Salaries of Full-Time Magistrates

21

Step Level	Annual Salary	
Entry Rate	<del>\$26,889</del>	<u>\$27,376</u>
Step 1	<del>29,525</del>	<u>30,059</u>
Step 2	<del>32,393</del>	<u>32,979</u>
Step 3	<del>35,523</del>	<u>36,166</u>
Step 4	<del>38,952</del>	<u>39,657</u>
Step 5	<del>42,721</del>	<u>43,494</u>
Step 6	<del>46,864</del>	<u>47,712</u>

- 30  
 31 (2) A part-time magistrate is a magistrate who is assigned to work an  
 32 average of less than 40 hours of work a week during the term, except  
 33 that no magistrate shall be assigned an average of less than 10 hours of  
 34 work a week during the term. A part-time magistrate is included, in  
 35 accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10)  
 36 and G.S. 135-40.2(a). The Administrative Officer of the Courts  
 37 designates whether a magistrate is a part-time magistrate. A part-time  
 38 magistrate shall receive an annual salary based on the following  
 39 formula: The average number of hours a week that a part-time  
 40 magistrate is assigned work during the term shall be multiplied by the  
 41 annual salary payable to a full-time magistrate who has the same  
 42 number of years of service prior to the beginning of that term as does  
 43 the part-time magistrate and the product of that multiplication shall be  
 44 divided by the number 40. The quotient shall be the annual salary  
 45 payable to that part-time magistrate.

- 46 (3) Notwithstanding any other provision of this subsection, an individual  
 47 who, when initially appointed as a full-time magistrate, is licensed to  
 48 practice law in North Carolina, shall receive the annual salary provided  
 49 in the Table in subdivision (1) of this subsection for Step 4. This  
 50 magistrate's salary shall increase to the next step every four years on  
 51 the anniversary of the date the magistrate was originally appointed. An  
 52 individual who, when initially appointed as a part-time magistrate, is  
 53 licensed to practice law in North Carolina, shall be paid an annual  
 54 salary based on that for Step 4 and determined according to the  
 55 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	\$21,325	\$21,711
1 or more but less than 3 years of service	22,389	22,794
3 or more but less than 5 years of service	24,530	24,974

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: Senators Garrou, Dalton, Hagan  
**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 nine hundred four dollars (\$89,904) payable monthly. The

1 Legislative Services Commission shall review the salary of the principal clerks prior to  
2 submission of the proposed operating budget of the General Assembly to the Governor  
3 and Advisory Budget Commission and shall make appropriate recommendations for  
4 changes in those salaries. Any changes enacted by the General Assembly shall be by  
5 amendment to this paragraph."  
6

7 Requested by: Senators Garrou, Dalton, Hagan  
8 **SERGEANT-AT-ARMS AND READING CLERKS**

9 **SECTION 30.9.** Effective July 1, 2003, G.S. 120-37(b) reads as rewritten:

10 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a  
11 salary of ~~two hundred ninety two dollars (\$292.00)~~ two hundred ninety-seven dollars  
12 (\$297.00) per week plus subsistence at the same daily rate provided for members of the  
13 General Assembly, plus mileage at the rate provided for members of the General  
14 Assembly for one round trip only from their homes to Raleigh and return. The  
15 sergeants-at-arms shall serve during sessions of the General Assembly and at such time  
16 prior to the convening of, and subsequent to adjournment or recess of, sessions as may  
17 be authorized by the Legislative Services Commission. The reading clerks shall serve  
18 during sessions only."  
19

20 Requested by: Senators Garrou, Dalton, Hagan  
21 **LEGISLATIVE EMPLOYEES**

22 **SECTION 30.10.** The Legislative Services Officer shall increase the salaries  
23 of nonelected employees of the General Assembly in effect for fiscal year 2002-2003 by  
24 one and eighty-one hundredths percent (1.81%). Nothing in this act limits any of the  
25 provisions of G.S. 120-32.  
26

27 Requested by: Senators Garrou, Dalton, Hagan  
28 **COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES**

29 **SECTION 30.11.** The Director of the Budget shall transfer from the Reserve  
30 for Compensation Increases, created in this act for fiscal years 2003-2004 and  
31 2004-2005, funds to the North Carolina Community College System Office necessary to  
32 provide an annual salary increase of one and eighty-one hundredths percent (1.81%)  
33 including funds for the employer's retirement and social security contributions,  
34 commencing July 1, 2003, for all permanent full-time community college institutional  
35 personnel supported by State funds.  
36

37 Requested by: Senators Garrou, Dalton, Hagan  
38 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES**

39 **SECTION 30.12.(a)** The Director of the Budget shall transfer to the Board  
40 of Governors of The University of North Carolina sufficient funds from the Reserve for  
41 Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005,  
42 to provide an annual salary increase of one and eighty-one hundredths percent (1.81%),  
43 including funds for the employer's retirement and social security contributions,  
44 commencing July 1, 2003, for all employees of The University of North Carolina, as  
45 well as employees other than teachers of the North Carolina School of Science and  
46 Mathematics, supported by State funds and whose salaries are exempt from the State  
47 Personnel Act (EPA).  
48

49 **SECTION 30.12.(b)** The Director of the Budget shall transfer to the Board  
50 of Governors of The University of North Carolina sufficient funds from the Reserve for  
51 Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005,  
52 to provide an average annual salary increase of one and eighty-one hundredths percent  
53 (1.81%), including funds for the employer's retirement and social security contributions,  
54 commencing July 1, 2003, for all teaching employees of the North Carolina School of  
55 Science and Mathematics supported by State funds and whose salaries are exempt from  
the State Personnel Act (EPA). These funds shall be allocated to individuals according

1 to the rules adopted by the Board of Trustees of the North Carolina School of Science  
2 and Mathematics and may not be used for any purpose other than for salary increases  
3 and necessary employer contributions provided by this section.  
4

5 Requested by: Senators Garrou, Dalton, Hagan

6 **MOST STATE EMPLOYEES**

7 **SECTION 30.13.(a)** The salaries in effect June 30, 2003, of all permanent  
8 full-time State employees whose salaries are set in accordance with the State Personnel  
9 Act and who are paid from the General Fund or the Highway Fund shall be increased on  
10 or after July 1, 2003, unless otherwise provided by this act, by one and eighty-one  
11 hundredths percent (1.81%).

12 **SECTION 30.13.(b)** Except as otherwise provided in this act, the fiscal year  
13 2003-2004 salaries for permanent full-time State officials and persons in exempt  
14 positions that are recommended by the Governor or the Governor and the Advisory  
15 Budget Commission and set by the General Assembly shall be increased by one and  
16 eighty-one hundredths percent (1.81%), commencing July 1, 2003.

17 **SECTION 30.13.(c)** The salaries in effect for fiscal year 2003-2004 for all  
18 permanent part-time State employees shall be increased on and after July 1, 2003, by  
19 pro rata amounts of the one and eighty-one hundredths percent (1.81%) salary increase  
20 provided for permanent full-time employees covered under subsection (a) of this  
21 section.

22 **SECTION 30.13.(d)** The Director of the Budget may allocate out of special  
23 operating funds or from other sources of the employing agency, except tax revenues,  
24 sufficient funds to allow a salary increase, on and after July 1, 2003, in accordance with  
25 subsection (a), (b), or (c) of this section, including funds for the employer's retirement  
26 and social security contributions, for the permanent full-time and part-time employees  
27 of the agency, provided the employing agency elects to make available the necessary  
28 funds.

29 **SECTION 30.13.(e)** Within regular Executive Budget Act procedures as  
30 limited by this act, all State agencies and departments may increase on an equitable  
31 basis the rate of pay of temporary and permanent hourly State employees, subject to  
32 availability of funds in the particular agency or department, by pro rata amounts of the  
33 one and eighty-one hundredths percent (1.81%) salary increase provided for permanent  
34 full-time employees covered by the provisions of subsection (a) of this section,  
35 commencing July 1, 2003.  
36

37 Requested by: Senators Garrou, Dalton, Hagan

38 **ALL STATE-SUPPORTED PERSONNEL**

39 **SECTION 30.14.(a)** Salaries and related benefits for positions that are  
40 funded partially from the General Fund or Highway Fund and partially from sources  
41 other than the General Fund or Highway Fund shall be increased from the General Fund  
42 or Highway Fund appropriation only to the extent of the proportionate part of the  
43 salaries paid from the General Fund or Highway Fund.

44 **SECTION 30.14.(b)** The granting of the salary increases under this act does  
45 not affect the status of eligibility for salary increments for which employees may be  
46 eligible unless otherwise required by this act.

47 **SECTION 30.14.(c)** The salary increases provided in this act are to be  
48 effective July 1, 2003, and do not apply to persons separated from State service due to  
49 resignation, dismissal, reduction in force, death, or retirement or whose last workday is  
50 prior to July 1, 2003.

51 Payroll checks issued to employees after July 1, 2003, which represent  
52 payment of services provided prior to July 1, 2003, shall not be eligible for salary  
53 increases provided for in this act. This subsection shall apply to all employees, subject  
54 to or exempt from the State Personnel Act, paid from State funds, including public  
55 schools, community colleges, and The University of North Carolina.

1           **SECTION 30.14.(d)** The Director of the Budget shall transfer from the  
2 Reserve for Compensation Increases in this act for fiscal year 2003-2004 all funds  
3 necessary for the salary increases provided by this act, including funds for the  
4 employer's retirement and social security contributions.

5           **SECTION 30.14.(e)** Nothing in this act authorizes the transfer of funds  
6 between the General Fund and the Highway Fund for salary increases.

7  
8 Requested by:           Senators Garrou, Dalton, Hagan

9 **STUDY COMPENSATION OF CERTAIN HIGH-LEVEL OFFICERS**

10           **SECTION 30.15.** The Office of State Personnel (OSP) and the Office of  
11 State Budget and Management (OSBM) shall study jointly the relative compensation of  
12 members of the Council of State, State department heads, and other high-ranking  
13 elected and nonelected public officials whose salaries are set by the General Assembly  
14 to determine whether the officers are being compensated at rates in accordance with:

- 15           (1) The officer's scope of responsibilities and span of control.
- 16           (2) The critical nature of the officer's department, agency, institution, or  
17 function.
- 18           (3) The relative size of the operations and budget under the officer's direct  
19 control.
- 20           (4) The required credentials, knowledge, and experience necessary to  
21 competently manage the officer's organization or function.

22           In conducting this study, the OSP and OSBM shall focus on the relative  
23 compensation among these various officers to determine the appropriate salary levels  
24 for the officers given the factors identified in this section. By April 15, 2004, OSP and  
25 OSBM shall report their findings and recommendations to the Joint Legislative  
26 Commission on Governmental Operations.

27  
28 Requested by:           Senators Garrou, Dalton, Hagan, Albertson

29 **TEMPORARY SALES TAX TRANSFER FOR TEMP SALES TAX FOR**  
30 **WILDLIFE RESOURCES COMMISSION SALARIES**

31           **SECTION 30.15A.** For the 2003-2004 and 2004-2005 fiscal years, the  
32 Secretary of Revenue shall transfer at the end of each quarter from the State sales and  
33 use tax net collections received by the Department of Revenue under Article 5 of  
34 Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources  
35 Fund to fund the cost of a salary increase authorized by the General Assembly for  
36 employees of the Wildlife Resources Commission.

37  
38 Requested by:           Senators Garrou, Dalton, Hagan

39 **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

40           **SECTION 30.16.(a)** Required employer salary-related contributions for  
41 employees whose salaries are paid from department, office, institution, or agency  
42 receipts shall be paid from the same source as the source of the employees' salary. If an  
43 employee's salary is paid in part from the General Fund or Highway Fund and in part  
44 from department, office, institution, or agency receipts, required employer salary-related  
45 contributions may be paid from the General Fund or Highway Fund only to the extent of  
46 the proportionate part paid from the General Fund or Highway Fund in support of the  
47 salary of the employee, and the remainder of the employer's requirements shall be paid  
48 from the source that supplies the remainder of the employee's salary. The requirements  
49 of this section as to source of payment are also applicable to payments on behalf of the  
50 employee for hospital-medical benefits, longevity pay, unemployment compensation,  
51 accumulated leave, workers' compensation, severance pay, separation allowances, and  
52 applicable disability income benefits.

53           **SECTION 30.16.(b)** Effective July 1, 2003, the State's employer  
54 contribution rates budgeted for retirement and related benefits as percentage of covered  
55 salaries for the 2003-2004 fiscal year are (i) four and fourteen hundredths percent

1 (4.14%) - Teachers and State Employees; (ii) nine and fourteen hundredths percent  
2 (9.14%) - State Law Enforcement Officers; (iii) ten and fifty-six hundredths percent  
3 (10.56%) - University Employees' Optional Retirement System; (iv) ten and fifty-six  
4 hundredths percent (10.56%) - Community College Optional Retirement Program; (v)  
5 fifteen and twelve hundredths percent (15.12%) - Consolidated Judicial Retirement  
6 System; and (vi) three and twenty hundredths percent (3.20%) - Legislative Retirement  
7 System. Each of the foregoing contribution rates includes three and twenty hundredths  
8 percent (3.20%) for hospital and medical benefits. The rate for Teachers and State  
9 Employees, State Law Enforcement Officers, the Community College Optional  
10 Retirement Program, and the University Employees' Optional Retirement Program  
11 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates  
12 for Teachers and State Employees and State Law Enforcement Officers include sixteen  
13 hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law  
14 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

15 **SECTION 30.16.(c)** Effective July 1, 2004, the State's employer  
16 contribution rates budgeted for retirement and related benefits as percentage of covered  
17 salaries for the 2004-2005 fiscal year are (i) five and ninety-seven hundredths percent  
18 (5.97%) - Teachers and State Employees; (ii) ten and ninety-seven hundredths percent  
19 (10.97%) - State Law Enforcement Officers; (iii) ten and fifty-six hundredths percent  
20 (10.56%) - University Employees' Optional Retirement System; (iv) ten and fifty-six  
21 hundredths percent (10.56%) - Community College Optional Retirement Program; (v)  
22 fifteen and twelve hundredths percent (15.12%) - Consolidated Judicial Retirement  
23 System; and (vi) three and twenty hundredths percent (3.20%) - Legislative Retirement  
24 System. Each of the foregoing contribution rates includes three and twenty hundredths  
25 percent (3.20%) for hospital and medical benefits. The rate for Teachers and State  
26 Employees, State Law Enforcement Officers, the Community College Optional  
27 Retirement Program, and the University Employees' Optional Retirement Program  
28 includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates  
29 for Teachers and State Employees and State Law Enforcement Officers include sixteen  
30 hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law  
31 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

32 **SECTION 30.16.(d)** The maximum annual employer contributions, payable  
33 monthly, by the State for each covered employee or retiree for the 2003-2004 fiscal year  
34 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)  
35 Medicare-eligible employees and retirees - two thousand five hundred eighteen dollars  
36 (\$2,518), and (ii) non-Medicare-eligible employees and retirees - three thousand three  
37 hundred seven dollars (\$3,307).

38 **SECTION 30.16.(e)** The maximum annual employer contributions, payable  
39 monthly, by the State for each covered employee or retiree for the 2004-2005 fiscal year  
40 to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i)  
41 Medicare-eligible employees and retirees - two thousand six hundred twelve dollars  
42 (\$2,612), and (ii) non-Medicare-eligible employees and retirees - three thousand four  
43 hundred thirty-two dollars (\$3,432).

44  
45 Requested by: Senators Garrou, Dalton, Hagan

46 **RETIREMENT COLAS**

47 **SECTION 30.17.(a)** G.S. 135-5 is amended by adding a new subsection to  
48 read:

49 "(III) From and after July 1, 2003, the retirement allowance to or on account of  
50 beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased  
51 by one and forty-five hundredths percent (1.45%) of the allowance payable on June 1,  
52 2003, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2003, the  
53 retirement allowance to or on account of beneficiaries whose retirement commenced  
54 after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of  
55 one and forty-five hundredths percent (1.45%) of the allowance payable as determined

1 by the Board of Trustees based upon the number of months that a retirement allowance  
2 was paid between July 1, 2002, and June 30, 2003."

3 **SECTION 30.17.(b)** G.S. 135-65 is amended by adding a new subsection to  
4 read:

5 "(x) From and after July 1, 2003, the retirement allowance to or on account of  
6 beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased  
7 by one and forty-five hundredths percent (1.45%) of the allowance payable on June 1,  
8 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on  
9 account of beneficiaries whose retirement commenced after July 1, 2002, but before  
10 June 30, 2003, shall be increased by a prorated amount of one and forty-five hundredths  
11 percent (1.45%) of the allowance payable as determined by the Board of Trustees based  
12 upon the number of months that a retirement allowance was paid between July 1, 2002,  
13 and June 30, 2003."

14 **SECTION 30.17.(c)** G.S. 120-4.22A is amended by adding a new subsection  
15 to read:

16 "(r) In accordance with subsection (a) of this section, from and after July 1, 2003,  
17 the retirement allowance to or on account of beneficiaries whose retirement commenced  
18 on or before January 1, 2003, shall be increased by one and forty-five hundredths  
19 percent (1.45%) of the allowance payable on June 1, 2003. Furthermore, from and after  
20 July 1, 2003, the retirement allowance to or on account of beneficiaries whose  
21 retirement commenced after January 1, 2003, but before June 30, 2003, shall be  
22 increased by a prorated amount of one and forty-five hundredths percent (1.45%) of the  
23 allowance payable as determined by the Board of Trustees based upon the number of  
24 months that a retirement allowance was paid between January 1, 2003, and June 30,  
25 2003."

26  
27 Requested by: Senators Garrou, Dalton, Hagan, Kerr

28 **INCREASE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND**  
29 **RESCUE SQUAD WORKERS' PENSION FUND**

30 **SECTION 30.19.** G.S. 58-86-55 reads as rewritten:

31 **"§ 58-86-55. Monthly pensions upon retirement.**

32 Any member who has served 20 years as an "eligible fireman" or "eligible rescue  
33 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S.  
34 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly  
35 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~  
36 ~~fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month. Any  
37 retired fireman receiving a pension shall, effective ~~July 1, 2002,~~ July 1, 2003, receive a  
38 pension of ~~one hundred fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars  
39 (\$158.00) per month.

40 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and  
41 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad  
42 member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a  
43 pension hereunder until the member's official duties as a fireman or rescue squad  
44 worker for which the member is paid compensation shall have been terminated and the  
45 member shall have retired as such according to standards or rules fixed by the board of  
46 trustees.

47 A member who is totally and permanently disabled while in the discharge of the  
48 member's official duties as a result of bodily injuries sustained or as a result of extreme  
49 exercise or extreme activity experienced in the course and scope of those official duties  
50 and who leaves the fire or rescue squad service because of this disability shall be  
51 entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred~~  
52 ~~fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month  
53 beginning the first month after the member's fifty-fifth birthday. All applications for  
54 disability are subject to the approval of the board who may appoint physicians to  
55 examine and evaluate the disabled member prior to approval of the application, and



1 annually thereafter. Any disabled member shall not be required to make the monthly  
2 payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

3 A member who is totally and permanently disabled for any cause, other than line of  
4 duty, who leaves the fire or rescue squad service because of this disability and who has  
5 at least 10 years of service with the pension fund, may be permitted to continue making  
6 a monthly contribution of ten dollars (\$10.00) to the fund until the member has made  
7 contributions for a total of 240 months. The member shall upon attaining the age of 55  
8 years be entitled to receive a pension as provided by this section. All applications for  
9 disability are subject to the approval of the board who may appoint physicians to  
10 examine and evaluate the disabled member prior to approval of the application and  
11 annually thereafter.

12 A member who, because his residence is annexed by a city under Part 2 or Part 3 of  
13 Article 4 of Chapter 160A of the General Statutes, or whose department is closed  
14 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A  
15 of the General Statutes, or whose volunteer department is taken over by a city or county,  
16 and because of such annexation or takeover is unable to perform as a fireman or rescue  
17 squad worker of any status, and if the member has at least 10 years of service with the  
18 pension fund, may be permitted to continue making a monthly contribution of ten  
19 dollars (\$10.00) to the fund until the member has made contributions for a total of 240  
20 months. The member upon attaining the age of 55 years and completion of such  
21 contributions shall be entitled to receive a pension as provided by this section. Any  
22 application to make monthly contributions under this section shall be subject to a  
23 finding of eligibility by the Board of Trustees upon application of the member.

24 The pensions provided shall be in addition to all other pensions or benefits under any  
25 other statutes of the State of North Carolina or the United States, notwithstanding any  
26 exclusionary provisions of other pensions or retirement systems provided by law."  
27

28 Requested by: Senators Rand , Garrou, Dalton, Hagan

29 **TRANSFER THE DISABILITY INCOME PLAN AND THE DEATH BENEFIT**  
30 **PLAN FOR TEACHERS AND STATE EMPLOYEES AND THE SEPARATE**  
31 **INSURANCE BENEFITS PLAN FOR LAW ENFORCEMENT OFFICERS**  
32 **TO THE EXECUTIVE ADMINISTRATOR AND BOARD OF TRUSTEES OF**  
33 **THE TEACHERS' AND STATE EMPLOYEES' MAJOR MEDICAL PLAN**

34 **SECTION 30.20.(a)** G.S. 135-101 reads as rewritten:

35 **"§ 135-101. Definitions.**

36 The following words and phrases as used in this Article, unless a different meaning  
37 is plainly required by the context, shall have the following meanings:

- 38 (1) "Base rate of compensation" shall mean the regular monthly rate of  
39 compensation not including pay for shift premiums, overtime, or other  
40 types of extraordinary pay; in all cases of doubt, the Executive  
41 Administrator and the Board of Trustees shall determine what is "base  
42 rate of compensation".
- 43 (2) "Beneficiary" shall mean any person in receipt of a disability  
44 allowance or other benefit as provided in this Article.
- 45 (3) "Benefits" shall mean the monthly disability income payments made  
46 pursuant to the provisions of this Article. In the event of death on or  
47 after the first day of a month, or in the event the short-term disability  
48 benefit ends on or after the first day of a month where the beneficiary  
49 is eligible and applies for an early service or a service retirement  
50 allowance the first of the following month, the monthly benefit shall  
51 not be prorated and shall equal the benefits paid in the previous month.
- 52 (4) "Board of Trustees" shall mean the Board of Trustees of the Teachers'  
53 and State Employees' Comprehensive Major Medical Plan as provided  
54 in G.S. 135-39. Retirement System as provided in G.S. 135-6.

- 1 (5) "Compensation" shall mean any compensation as the term is defined in  
2 G.S. 135-1(7a).
- 3 (6) "Disability" or "Disabled" shall mean the ~~mental or physical incapacity~~  
4 ~~for the further performance of duty of a participant or beneficiary;~~  
5 physical or cognitive limitations that prevent working as determined  
6 by the Executive Director and the Board of Trustees; provided that  
7 such incapacity was not the result of terrorist activity, active  
8 participation in a riot, committing or attempting to commit a felony, or  
9 intentionally self-inflicted injury.
- 10 (7) "Earnings" shall mean all income for personal services rendered or  
11 otherwise receivable, including, but not limited to, salaries and wages,  
12 fees, commissions, royalties, awards and other similar items and  
13 self-employment; in all cases of doubt, the Board of Trustees shall  
14 determine what are "earnings".
- 15 (8) "Employee" shall mean any employee as the term is defined in G.S.  
16 135-1(10).
- 17 (9) "Employer" shall mean any employer as the term is defined in G.S.  
18 135-1(11).
- 19 (10) "Medical Board" shall mean the board of physicians as provided in  
20 G.S. 135-102(d).
- 21 (11) "Member" shall mean any member as the term is defined in G.S.  
22 135-1(13).
- 23 (12) "Membership service" shall mean any service as defined in G.S.  
24 135-1(14).
- 25 (13) "Participant" shall mean any teacher or employee eligible to participate  
26 in the Plan as provided in G.S. 135-103.
- 27 (14) "Plan" shall mean the Disability Income Plan of North Carolina as  
28 provided in this Article.
- 29 (15) "Retirement" shall mean the withdrawal from active service with a  
30 retirement allowance granted under the provisions of Article 1 of this  
31 Chapter.
- 32 (16) "Retirement System" shall mean the Teachers' and State Employees'  
33 Retirement System of North Carolina as defined in G.S. 135-2.
- 34 (17) "Service" shall mean service as a teacher or employee as defined in  
35 G.S. 135-1(10) or G.S. 135-1(25).
- 36 (18) "State" shall mean the State of North Carolina.
- 37 (19) "Teacher" shall mean any teacher as the term is defined in G.S.  
38 135-1(25).
- 39 (20) "Trial Rehabilitation" shall mean a return to service in any capacity, if  
40 the return occurs within the waiting period as provided in G.S.  
41 135-104 and shall mean a return to service in the same capacity that  
42 existed prior to the ~~disability~~ disability, or in any occupation for which  
43 the beneficiary or participant is reasonably qualified for by training or  
44 experience, if the return occurs within the short-term disability period  
45 as provided in G.S. 135-105.
- 46 (21) "Workers' Compensation" shall mean any disability income benefits  
47 provided under the North Carolina Workers' Compensation Act,  
48 excluding any payments for a permanent partial disability rating."

49 **SECTION 30.20.(b)** G.S. 135-102 reads as rewritten:

50 **"§ 135-102. Administration.**

51 (a) The provisions of this Article shall be administered by the ~~Department of~~  
52 ~~State Treasurer~~ Executive Administrator and the Board of Trustees of the Teachers' and  
53 State Employees' ~~Retirement System~~ Comprehensive Major Medical Plan and all  
54 expenses in connection with the administration of the Plan, except for expenses incurred

1 by and properly charged to the employer, shall be charged against and paid from the  
2 trust fund as created and provided in this Article.

3 (b) The Plan shall have the power and privileges of a corporation and under the  
4 name of Disability Income Plan of North Carolina shall all of its business be transacted,  
5 all of its funds invested and all of its cash, securities and other property be held.

6 (c) ~~The Department of State Treasurer~~ Executive Administrator and the Board of  
7 Trustees shall have the full power and authority to adopt rules for the administration of  
8 the Plan not inconsistent with the provisions of this Article. ~~The Department of State~~  
9 ~~Treasurer and the Board of Trustees may appoint those agents, contractors, and~~  
10 ~~employees as they deem advisable to carry out the terms and conditions of the Plan.~~  
11 Executive Administrator and the Board of Trustees may contract with a third-party  
12 administrator or insurer to carry out the terms and conditions of the Plan after a  
13 competitive bidding process.

14 (d) ~~The Department of State Treasurer~~ Executive Administrator and the Board of  
15 Trustees shall designate a Medical Board to be composed of not fewer than three nor  
16 more than five physicians not eligible for benefits under the Plan. Other physicians,  
17 medical clinics, institutions or agencies may be employed to conduct such medical  
18 examinations and tests necessary to provide the Medical Board with clinical evidence as  
19 may be needed to determine eligibility for benefits under the Plan. The Medical Board  
20 shall investigate the results of medical examinations, clinical evidence, all essential  
21 statements and certifications by and on behalf of applicants for benefits and shall report  
22 in writing to the Board of Trustees the conclusions and recommendations upon all  
23 matters referred to it.

24 (e) ~~The Department of State Treasurer~~ Executive Administrator and the Board of  
25 Trustees may provide the benefits according to the terms and conditions of the Plan as  
26 provided in this Article either by purchasing a contract or contracts with any insurance  
27 company licensed to do business in this State or by establishing a separate trust fund  
28 qualified under Section 501(c)(9) of the Internal Revenue Code of 1986."

29 **SECTION 30.20.(c)** G.S. 135-105(a) reads as rewritten:

30 "(a) Any participant who ~~becomes disabled and is no longer able to perform his~~  
31 ~~usual occupation is unable to perform the duties of the participant's job or any other~~  
32 available jobs with the State may, after at least 365 calendar days succeeding his date of  
33 initial employment as a teacher or employee and at least one year of contributing  
34 membership service, receive a benefit commencing on the first day succeeding the  
35 waiting period; provided that the participant's employer and attending physician shall  
36 certify that such participant ~~is mentally or physically incapacitated for the further~~  
37 ~~performance of duty, cannot perform the duties of the participant's job or any other jobs~~  
38 available with the State, that such incapacity was incurred at the time of active  
39 employment and has been continuous thereafter; provided further that the requirement  
40 for one year of contributing membership service must have been earned within 36  
41 calendar months immediately preceding the date of disability and further, salary  
42 continuation used during the period as provided in G.S. 135-104 shall count toward the  
43 aforementioned one year requirement.

44 Notwithstanding the requirement that the incapacity was incurred at the time of  
45 active employment, any participant who becomes disabled while on an employer  
46 approved leave of absence and who is eligible for and in receipt of temporary total  
47 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97  
48 of the General Statutes, will be eligible for all benefits provided under this Article."

49 **SECTION 30.20.(d)** G.S. 135-106(a) reads as rewritten:

50 "(a) Upon the application of a beneficiary or participant or of his legal  
51 representative or any person deemed by the Board of Trustees to represent the  
52 participant or beneficiary, any beneficiary or participant who has had five or more years  
53 of membership service may receive long-term disability benefits from the Plan upon  
54 approval by the Board of Trustees, commencing on the first day succeeding the  
55 conclusion of the short-term disability period provided for in G.S. 135-105, provided

1 the beneficiary or participant makes application for such benefit within 180 days after  
2 the short-term disability period ceases, after salary continuation payments cease, or after  
3 monthly payments for Workers' Compensation cease, whichever is later; Provided, that  
4 the beneficiary or participant withdraws from active service by terminating employment  
5 as a teacher or State employee; Provided, that the Medical Board shall certify that such  
6 beneficiary or participant is ~~mentally or physically incapacitated for the further~~  
7 ~~performance of duty, unable to perform any occupation for which the beneficiary or~~  
8 ~~participant is reasonably qualified for by training or experience,~~ that such incapacity  
9 was incurred at the time of active employment and has been continuous thereafter, that  
10 such incapacity is likely to be permanent; Provided further that the Medical Board shall  
11 not certify any beneficiary or participant as disabled who is in receipt of any payments  
12 on account of the same incapacity which existed when the beneficiary first established  
13 membership in the Retirement System. The Board of Trustees may extend this 180-day  
14 filing requirement upon receipt of clear and convincing evidence that application was  
15 delayed through no fault of the disabled beneficiary or participant and was delayed due  
16 to the employers' miscalculation of the end of the 180-day filing period. However, in no  
17 instance shall the filing period be extended beyond an additional 180 days.

18 The Board of Trustees may require each beneficiary who becomes eligible to receive  
19 a long-term disability benefit to have an annual medical review or examination for the  
20 first five years and thereafter once every three years after the commencement of benefits  
21 under this section. However, the Board of Trustees may require more frequent  
22 examinations and upon the advice of the Medical Board shall determine which cases  
23 require such examination. Should any beneficiary refuse to submit to any examination  
24 required by this subsection or by the Medical Board, his long-term disability benefit  
25 shall be suspended until he submits to an examination, and should his refusal last for  
26 one year, his benefit may be terminated by the Board of Trustees. If the Medical Board  
27 finds that a beneficiary is no longer ~~mentally or physically incapacitated for the further~~  
28 ~~performance of duty, unable to perform any occupation for which the beneficiary or~~  
29 ~~participant is reasonably qualified for by training or experience,~~ the Medical Board shall  
30 so certify this finding to the Board of Trustees, and the Board of Trustees may terminate  
31 the beneficiary's long-term disability benefits effective on the last day of the month in  
32 which the Medical Board certifies that the beneficiary is no longer disabled.

33 As to the requirement of five years of membership service, any participant or  
34 beneficiary who does not have five years of membership service within the 96 calendar  
35 months prior to conclusion of the short-term disability period or cessation of salary  
36 continuation payments, whichever is later, shall not be eligible for long-term disability  
37 benefits.

38 Notwithstanding the requirement that the incapacity was incurred at the time of  
39 active employment, any participant who becomes disabled while on an employer  
40 approved leave of absence and who is eligible for and in receipt of temporary total  
41 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97  
42 of the General Statutes, will be eligible for all benefits provided under this Article."

43 **SECTION 30.20.(e)** G.S. 135-109 reads as rewritten:

44 **"§ 135-109. Reports of earnings.**

45 ~~The Department of State Treasurer~~ Executive Administrator and Board of Trustees  
46 shall require each beneficiary to annually provide a copy of the beneficiary's federal  
47 income tax return certified by the beneficiary to be a true and exact copy of such tax  
48 return filed with the United States Internal Revenue Service and shall require such other  
49 statements of earnings as may be necessary to administer the provisions of this Article.  
50 The benefit payable to a beneficiary who does not or refuses to provide the information  
51 requested within 60 days after such request shall not be paid a benefit until the  
52 information so requested is provided, and should such refusal or failure to provide such  
53 information continue for 180 days after such request the right of a beneficiary to a  
54 benefit under the Article shall be terminated."

55 **SECTION 30.20.(f)** G.S. 135-5(l) reads as rewritten:

1       "~~(1) Death Benefit Plan.—There is hereby created a Group Life Insurance Plan~~  
2 ~~(hereinafter called the "Plan") which is established as an employee welfare benefit plan~~  
3 ~~that is separate and apart from the Retirement System and under which the members of~~  
4 ~~the Retirement System shall participate and be eligible for group life insurance benefits.~~  
5 ~~Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees~~  
6 ~~under the Group Life Insurance Plan, of the death, in service, of a member who had~~  
7 ~~completed at least one full calendar year of membership in the Retirement System, there~~  
8 ~~shall be paid to such person as he shall have nominated by written designation duly~~  
9 ~~acknowledged and filed with the Board of Trustees, if such person is living at the time~~  
10 ~~of the member's death, otherwise to the member's legal representatives, a death benefit.~~  
11 ~~Such death benefit shall be equal to the greater of:~~

- 12       ~~(1) The compensation on which contributions were made by the member~~  
13 ~~during the calendar year preceding the year in which his death occurs,~~  
14 ~~or~~  
15       ~~(2) The greatest compensation on which contributions were made by the~~  
16 ~~member during a 12 month period of service within the 24 month~~  
17 ~~period of service ending on the last day of the month preceding the~~  
18 ~~month in which his last day of actual service occurs;~~  
19       ~~(3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049,~~  
20 ~~s. 2.~~

21 ~~subject to a minimum of twenty five thousand dollars (\$25,000) and to a maximum of~~  
22 ~~fifty thousand dollars (\$50,000). Such death benefit shall be payable apart and separate~~  
23 ~~from the payment of the member's accumulated contributions under the System on his~~  
24 ~~death pursuant to the provisions of subsection (f) of this section. For the purpose of the~~  
25 ~~Plan, a member shall be deemed to be in service at the date of his death if his death~~  
26 ~~occurs within 180 days from the last day of his actual service.~~

27 ~~The death benefit provided in this subsection (1 ) shall not be payable,~~  
28 ~~notwithstanding the member's compliance with all the conditions set forth in the~~  
29 ~~preceding paragraph, if his death occurs~~

- 30       ~~(1) After December 31, 1968 and after he has attained age 70; or~~  
31       ~~(2) After December 31, 1969 and after he has attained age 69; or~~  
32       ~~(3) After December 31, 1970 and after he has attained age 68; or~~  
33       ~~(4) After December 31, 1971 and after he has attained age 67; or~~  
34       ~~(5) After December 31, 1972 and after he has attained age 66; or~~  
35       ~~(6) After December 31, 1973 and after he has attained age 65; or~~  
36       ~~(7) After December 31, 1978, but before January 1, 1987, and after he has~~  
37 ~~attained age 70.~~

38 ~~Notwithstanding the above provisions, the death benefit shall be payable on account~~  
39 ~~of the death of any member who died or dies on or after January 1, 1974, but before~~  
40 ~~January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or~~  
41 ~~she had not yet attained age 66, was at the time of death completing the work year for~~  
42 ~~those individuals under specific contract, or during the fiscal year for those individuals~~  
43 ~~not under specific contract, in which he or she attained 65, and otherwise met all~~  
44 ~~conditions for payment of the death benefit.~~

45 ~~Notwithstanding the above provisions, the Board of Trustees may and is specifically~~  
46 ~~authorized to provide the death benefit according to the terms and conditions otherwise~~  
47 ~~appearing in this Plan in the form of group life insurance, either (i) by purchasing a~~  
48 ~~contract or contracts of group life insurance with any life insurance company or~~  
49 ~~companies licensed and authorized to transact business in this State for the purpose of~~  
50 ~~insuring the lives of members in service, or (ii) by establishing a separate trust fund~~  
51 ~~qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended,~~  
52 ~~for such purpose. To that end the Board of Trustees is authorized, empowered and~~  
53 ~~directed to investigate the desirability of utilizing group life insurance by either of the~~  
54 ~~foregoing methods for the purpose of providing the death benefit. If a separate trust~~  
55 ~~fund is established, it shall be operated in accordance with rules and regulations adopted~~

1 by the Board of Trustees and all investment earnings on the trust fund shall be credited  
2 to such fund.

3 In administration of the death benefit the following shall apply:

- 4 (1) For the purpose of determining eligibility only, in this subsection  
5 "calendar year" shall mean any period of 12 consecutive months or, if  
6 less, the period covered by an annual contract of employment. For all  
7 other purposes in this subsection "calendar year" shall mean the 12  
8 months beginning January 1 and ending December 31.
- 9 (2) Last day of actual service shall be:
- 10 a. When employment has been terminated, the last day the  
11 member actually worked.
- 12 b. When employment has not been terminated, the date on which  
13 an absent member's sick and annual leave expire, unless he is  
14 on approved leave of absence and is in service under the  
15 provisions of G.S. 135-4(h).
- 16 (3) For a period when a member is on leave of absence, his status with  
17 respect to the death benefit will be determined by the provisions of  
18 G.S. 135-4(h).
- 19 (4) A member on leave of absence from his position as a teacher or State  
20 employee for the purpose of serving as a member or officer of the  
21 General Assembly shall be deemed to be in service during sessions of  
22 the General Assembly and thereby covered by the provisions of the  
23 death benefit. The amount of the death benefit for such member shall  
24 be the equivalent of the salary to which the member would have been  
25 entitled as a teacher or State employee during the 12-month period  
26 immediately prior to the month in which death occurred, not to be less  
27 than twenty five thousand dollars (\$25,000) nor to exceed fifty  
28 thousand dollars (\$50,000).

29 The provisions of the Retirement System pertaining to Administration, G.S. 135-6,  
30 and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

31 A member who is a beneficiary of the Disability Income Plan provided for in Article  
32 6 of this Chapter shall be eligible for group life insurance benefits as provided in this  
33 subsection, notwithstanding that the member is no longer an employee or teacher or that  
34 the member's death occurs after the eligibility period after active service. The basis of  
35 the death benefit payable hereunder shall be the higher of the death benefit computed as  
36 above or a death benefit based on compensation used in computing the benefit payable  
37 under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post disability  
38 increases, all subject to the maximum dollar limitation as provided above. A member in  
39 receipt of benefits from the Disability Income Plan under the provisions of G.S.  
40 135-112 whose right to a benefit accrued under the former Disability Salary  
41 Continuation Plan shall not be covered under the provisions of this paragraph.

42 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this  
43 subsection, of the death of a retired member of the Retirement System on or after July 1,  
44 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving  
45 spouse of the deceased retired member or to the deceased retired member's legal  
46 representative if not survived by a spouse; provided the retired member has elected,  
47 when first eligible, to make, and has continuously made, in advance of his death  
48 required contributions as determined by the Board of Trustees on a fully contributory  
49 basis, through retirement allowance deductions or other methods adopted by the Board  
50 of Trustees, to a group death benefit trust fund administered by the Board of Trustees  
51 separate and apart from the Retirement System's Annuity Savings Fund and Pension  
52 Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of  
53 five thousand dollars (\$5,000) upon the completion of twenty-four months of  
54 contributions required under this subsection. Should death occur before the completion  
55 of twenty-four months of contributions required under this subsection, the deceased

1 retired member's surviving spouse or legal representative if not survived by a spouse  
2 shall be paid the sum of the retired member's contributions required by this subsection  
3 plus interest to be determined by the Board of Trustees.

4 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this  
5 subsection, of the death of a retired member of the Retirement System on or after  
6 January 1, 1999, there shall be paid a death benefit to the surviving spouse of the  
7 deceased retired member or to the deceased retired member's legal representative if not  
8 survived by a spouse; provided the retired member has elected, when first eligible, to  
9 make, and has continuously made, in advance of his death required contributions as  
10 determined by the Board of Trustees on a fully contributory basis, through retirement  
11 allowance deductions or other methods adopted by the Board of Trustees, to a group  
12 death benefit trust fund administered by the Board of Trustees separate and apart from  
13 the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This  
14 death benefit shall be a lump-sum payment in the amount of six thousand dollars  
15 (\$6,000) upon the completion of 24 months of contributions required under this  
16 subsection. Should death occur before the completion of 24 months of contributions  
17 required under this subsection, the deceased retired member's surviving spouse or legal  
18 representative if not survived by a spouse shall be paid the sum of the retired member's  
19 contributions required by this subsection plus interest to be determined by the Board of  
20 Trustees."

21 **SECTION 30.20.(g)** G.S. 135-5(11) is repealed.

22 **SECTION 30.20.(h)** Article 3 of Chapter 135 of the General Statutes is  
23 amended by adding a new Part to read:

24 "Part 6. Death Benefit Plan for Teachers and State Employees.

25 "**§ 135-43. Death benefits.**

26 (a) The provisions of this Part shall be administered by the Executive  
27 Administrator and Board of Trustees of the Teachers' and State Employees'  
28 Comprehensive Major Medical Plan.

29 (b) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan  
30 (hereinafter called the "Plan") which is established as an employee welfare benefit plan  
31 that is separate and apart from the Retirement System and under which the members of  
32 the Teachers' and State Employees' Retirement System shall participate in and be  
33 eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the  
34 Board of Trustees in their capacity as trustees under the Plan, of the death, in service, of  
35 a member who had completed at least one full calendar year of membership in the  
36 Retirement System, there shall be paid to such person as he shall have nominated by  
37 written designation duly acknowledged and filed with the Executive Administrator and  
38 the Board of Trustees, if such person is living at the time of the member's death,  
39 otherwise to the member's legal representatives, a death benefit. Such death benefit shall  
40 be equal to fifty thousand dollars (\$50,000). Such death benefit shall be payable apart  
41 and separate from the payment of the member's accumulated contributions under the  
42 System on his death pursuant to the provisions of G.S. 135-5(f). For the purpose of the  
43 Plan, a member shall be deemed to be in service at the date of his death if his death  
44 occurs within 180 days from the last day of his actual service.

45 Notwithstanding the above provisions, the Executive Administrator and the Board of  
46 Trustees may and is specifically authorized to provide the death benefit according to the  
47 terms and conditions otherwise appearing in this Plan in the form of group life  
48 insurance, either (i) by purchasing a contract or contracts of group life insurance with  
49 any life insurance company or companies licensed and authorized to transact business in  
50 this State for the purpose of insuring the lives of members in service, after a competitive  
51 bidding process as provided for under Article 3 of Chapter 143 of the General Statutes,  
52 or (ii) by establishing a separate trust fund qualified under section 501(c)(9) of the  
53 Internal Revenue Code of 1954, as amended, for such purpose. To that end, the Board  
54 of Trustees is authorized, empowered, and directed to investigate the desirability of  
55 utilizing group life insurance by either of the foregoing methods for the purpose of

1 providing the death benefit. If a separate trust fund is established, it shall be operated in  
2 accordance with rules and regulations adopted by the Board of Trustees, and all  
3 investment earnings on the trust fund shall be credited to such fund.

4 (c) Administration of Death Benefit Plan. – In administration of the death  
5 benefit, the following shall apply:

6 (1) For the purpose of determining eligibility only, in this subsection  
7 "calendar year" shall mean any period of 12 consecutive months or, if  
8 less, the period covered by an annual contract of employment. For all  
9 other purposes, in this subsection "calendar year" shall mean the 12  
10 months beginning January 1 and ending December 31.

11 (2) Last day of actual service shall be:

12 a. When employment has been terminated, the last day the  
13 member actually worked.

14 b. When employment has not been terminated, the date on which  
15 an absent member's sick and annual leave expire, unless he is  
16 on approved leave of absence and is in service under the  
17 provisions of G.S. 135-4(h).

18 (3) For a period when a member is on leave of absence, his status with  
19 respect to the death benefit will be determined by the provisions of  
20 G.S. 135-4(h).

21 (4) A member on leave of absence from his position as a teacher or State  
22 employee for the purpose of serving as a member or officer of the  
23 General Assembly shall be deemed to be in service during sessions of  
24 the General Assembly and thereby covered by the provisions of the  
25 death benefit. The amount of the death benefit for such member shall  
26 be fifty thousand dollars (\$50,000).

27 A member who is a beneficiary of the Disability Income Plan provided for in Article  
28 6 of this Chapter shall be eligible for group life insurance benefits as provided in this  
29 subsection, notwithstanding that the member is no longer an employee or teacher or that  
30 the member's death occurs after the eligibility period after active service. The basis of  
31 the death benefit payable hereunder shall be the higher of the death benefit computed as  
32 above or a death benefit based on compensation used in computing the benefit payable  
33 under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage postdisability  
34 increases, all subject to the maximum dollar limitation as provided above. A member in  
35 receipt of benefits from the Disability Income Plan under the provisions of G.S.  
36 135-112 whose right to a benefit accrued under the former Disability Salary  
37 Continuation Plan shall not be covered under the provisions of this paragraph.

38 (d) Reciprocity of Death Benefit Plan. – Only for the purpose of determining  
39 eligibility for the death benefit provided for in subsection (b) of this section,  
40 membership service standing to the credit of a member of the Legislative Retirement  
41 System or the Consolidated Judicial Retirement System shall be added to the  
42 membership service standing to the credit of a member of the Teachers' and State  
43 Employees' Retirement System. However, in the event that a participant or beneficiary  
44 is a retired member of the Legislative Retirement System or the Consolidated Judicial  
45 Retirement System whose retirement benefit was suspended upon entrance into  
46 membership in the Teachers' and State Employees' Retirement System, such  
47 membership service standing to the credit of the retired member prior to retirement shall  
48 be likewise counted. Membership service under this section shall not be counted twice  
49 for the same period of time. In no event shall a death benefit provided for in G.S.  
50 135-5(l) be paid if a death benefit is paid under G.S. 135-63."

51 **SECTION 30.20.(i)** G.S. 143-166.60(b) reads as rewritten:

52 "(b) The Boards of Trustees of the Teachers' and State Employees' Retirement  
53 System and the Local Governmental Employees' Retirement System shall jointly The  
54 Executive Administrator and the Board of Trustees of the Teachers' and State  
55 Employees' Comprehensive Major Medical Plan shall administer the Plan and shall,



1 under the terms and conditions otherwise appearing in this Article, provide Plan benefits  
 2 either (i) by establishing a separate trust fund in conformance with Section 501(c)(9) of  
 3 the Internal Revenue Code of 1954 as amended or, (ii) by causing the Plan to affiliate  
 4 with a master trust providing the same benefits for participants."

5 **SECTION 30.20.(j)** G.S. 135-39.5 is amended by adding three new  
 6 subdivisions to read:

7 "(28) Administering the Disability Income Plan under Article 6 of Chapter  
 8 135 of the General Statutes.

9 (29) Administering the Death Benefit Plan for teachers and State employees  
 10 under Part 6 of Article 3 of Chapter 135 of the General Statutes.

11 (30) Administering the Separate Insurance Benefits Plan under Article 12F  
 12 of Chapter 143 of the General Statutes."

13 **SECTION 30.20.(k)** This section becomes effective January 1, 2004.  
 14

15 Requested by: Senators Rand, Garrou, Dalton, Hagan

16 **STATEWIDE BENEFIT COMMITTEE ESTABLISHED TO PROVIDE A**  
 17 **MENU OF PORTABLE SUPPLEMENTAL BENEFITS FOR ALL STATE**  
 18 **EMPLOYEES**

19 **SECTION 30.21.** G.S. 58-31-60 reads as rewritten:

20 "**§ 58-31-60. Competitive selection of payroll Payroll deduction insurance products**  
 21 **paid for by State employees.**

22 (a) ~~Employee Insurance State Employee Benefit Committee.~~ – The Department  
 23 of Administration shall establish a State Employee Benefit Committee (hereinafter  
 24 "Committee") head of each State government employee payroll unit offering payroll  
 25 deduction insurance products to employees shall appoint an Employee Insurance  
 26 Committee for the following purposes:

27 (1) To review insurance products currently offered through payroll  
 28 deduction to ~~the all~~ State employees ~~in the Employee Insurance~~  
 29 ~~Committee's payroll unit~~ to determine if those products meet the needs  
 30 and desires of ~~employees in the Employee Insurance Committee's~~  
 31 ~~payroll unit.~~ State employees.

32 (2) To select the types of insurance products that reflect the needs and  
 33 desires of ~~employees in the Employee Insurance Committee's payroll~~  
 34 ~~unit.~~ all State employees.

35 (3) To competitively select the best insurance ~~products of the types~~  
 36 ~~determined by the Employee Insurance Committee to reflect the needs~~  
 37 ~~and desires of the employees of that payroll unit.~~ products.

38 As used in this section, "insurance product" includes a prepaid legal services plan  
 39 registered under G.S. 84-23.1.

40 (b) ~~Appointment of Employee Insurance Committee Members.~~ – ~~The members~~  
 41 ~~of the Employee Insurance Committee shall be appointed by the head of the payroll~~  
 42 ~~unit.~~ State Employee Benefit Committee. – The Governor shall appoint the members of  
 43 the State Employee Benefit Committee. The Committee shall consist of not less than  
 44 five or more than nine individuals a majority of whom have been employed ~~in the~~  
 45 ~~payroll unit~~ by the State for at least one year. The committee members shall, except  
 46 where necessary initially to establish the rotation herein prescribed, serve three-year  
 47 terms with approximately one-third of the terms expiring annually. Committee  
 48 membership make-up shall fairly represent the work force ~~in the payroll unit~~ and be  
 49 selected without regard to any political or other affiliations. It shall be the duty of the  
 50 ~~payroll unit head to assure that the Employee Insurance Committee~~ Department of  
 51 Administration to assure that the Committee is completely autonomous in its selection  
 52 of insurance products and insurance companies and that no member of the Employee  
 53 Insurance Committee has any conflict of interest in serving on the Committee. A  
 54 ~~committee on employee benefits elected or appointed by the faculty representative body~~  
 55 ~~of a constituent institution of The University of North Carolina shall be deemed~~

1 ~~constituted and functioning as an employee insurance committee in accordance with this~~  
2 ~~section.~~ Any decision rendered by the ~~Employee Insurance Committee~~ where the  
3 autonomy of the Committee or a conflict of interest is questioned shall be subject to  
4 appeal pursuant to the Administrative Procedure Act, ~~or in the case of departments,~~  
5 ~~boards and commissions which are specifically exempt from the Administrative~~  
6 ~~Procedure Act, pursuant to the appeals procedure prescribed for such department, board~~  
7 ~~or commission. Act.~~

8 (c) Payroll Deduction Slots. – Each payroll unit shall be entitled to not less than  
9 four payroll deduction slots to be used for payment of insurance premiums for products  
10 selected by the ~~Employee Insurance Committee~~ and offered to the employees of the  
11 payroll unit. The ~~Employee Insurance Committee~~ shall select only one company per  
12 payroll deduction slot. The Company selected by the ~~Employee Insurance Committee~~  
13 shall be permitted to sell through payroll deduction only the products specifically  
14 approved by the ~~Employee Insurance Committee~~. The assignment by the ~~Employee~~  
15 ~~Insurance Committee~~ of a payroll deduction slot shall be for a period of not less than  
16 two years unless the insurance company shall be in violation of the terms of the written  
17 agreement specified in this subsection. The insurance company awarded a payroll  
18 deduction slot shall, pursuant to a written agreement setting out the rights and duties of  
19 the insurance company, be afforded an adequate opportunity to solicit employees of the  
20 payroll unit by making such employees aware that a representative of the company will  
21 be available at a specified time and at a location convenient to the employees.

22 Notwithstanding any other provision of the General Statutes, once an employee has  
23 selected an insurance product for payroll deduction, that product may not be removed  
24 from payroll deduction for that employee without his or her specific written consent.

25 When an employee retires from State employment and payroll deduction under this  
26 section is no longer available, the insurance company may not terminate life insurance  
27 products purchased under the payroll deduction plan without the retiree's specific  
28 written consent solely because the premium is no longer deducted from payroll.

29 (c1) Procedure for Selection of Insurance Product Proposals. – All insurance  
30 product proposals shall be sealed. The Committee shall open all proposals in public and  
31 record them in the minutes of the Committee, at which time the proposals become  
32 public records open to public inspection.

33 After the public opening, the Committee shall review the proposals, examining the  
34 cost and quality of the products, the reputation and capabilities of the insurance  
35 companies submitting the proposals, and other appropriate criteria. ~~The Committee shall~~  
36 ~~determine which proposal, if any, would meet the needs and desires of the employees of~~  
37 ~~that Committee's payroll unit and shall award a payroll deduction slot to the company~~  
38 ~~submitting the proposal that meets those needs and desires.~~ The Committee may reject  
39 any or all proposals.

40 A company may seek to modify or withdraw a proposal only after the public  
41 opening and only on the basis that the proposal contains an unintentional clerical error  
42 as opposed to an error in judgment. A company seeking to modify or withdraw a  
43 proposal shall submit to the Committee a written request, with facts and evidence in  
44 support of its position, prior to the award of the payroll deduction slot, but not later than  
45 two days after the public opening of the proposals. The Committee shall promptly  
46 review the request, examine the nature of the error, and determine whether to permit or  
47 deny the request.

48 (d) Criminal Penalty. – It shall be a Class 3 misdemeanor for any State employee,  
49 who has supervisory authority over any member of the ~~Employee Insurance Committee~~,  
50 to attempt to influence the autonomy of ~~any Employee Insurance~~ the Committee either  
51 in the appointment of members to such Committee or in the operation of such  
52 Committee; or for anyone to open a sealed insurance product proposal or disclose or  
53 exhibit the contents of a sealed insurance product proposal, prior to the public opening  
54 of the proposal. The Commissioner of Insurance shall have the authority to investigate

1 complaints alleging acts subject to the criminal penalty and shall report his findings to  
2 the Attorney General of North Carolina."  
3

4 Requested by: Senators Garrou, Dalton, Hagan

5 **SALARY STUDY**

6 **SECTION 30.22.** The Senate Appropriations/Base Budget Committee and  
7 the House Appropriations Committee shall study the compensation plans for State  
8 employees. In the course of the study, the Committees shall (i) review the  
9 compensation plans currently in effect for State employees, (ii) consider differences in  
10 the longevity compensation, special pay plans, performance pay plans, and other  
11 components of the plans, and (iii) consider ways to modify the plans to promote equity  
12 and efficiency in State government.  
13

14 **PART XXXI. CAPITAL APPROPRIATIONS**

15  
16 Requested by: Senators Garrou, Hagan, Dorsett

17 **CAPITAL APPROPRIATIONS/GENERAL FUND**

18 **SECTION 31.1.** There is appropriated from the General Fund for the  
19 2003-2004 fiscal year the following amount for capital improvements:

	<b>2003-2004</b>
20	
21 Department of Environment and Natural Resources	
22 Water Resources Development Projects	\$27,601,000
23 Department of Cultural Resources	
24 International Civil Rights Museum	1,000,000
25	
26 <b>TOTAL CAPITAL APPROPRIATION</b>	<b>\$28,601,000</b>
27	

28 Requested by: Senators Garrou, Dalton, Hagan, Thomas

29 **WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

30 **SECTION 31.2.(a)** The Department of Environment and Natural Resources  
31 shall allocate the funds appropriated in this act for water resources development projects  
32 to the following projects whose costs are as indicated:  
33

<b>Name of Project</b>	<b>2003-2004</b>
34	
35	
36 (1) Wilmington Harbor Deepening	\$6,800,000
37 (2) Morehead City Harbor Maintenance	100,000
38 (3) Morehead City Harbor Section 933 Nourishment	4,661,000
39 (4) Wilmington Harbor Maintenance	2,700,000
40 (5) Manteo (Shallowbag) Bay Channel Maintenance	3,500,000
41 (6) John H. Kerr Reservoir Operations Evaluation	200,000
42 (7) Beaufort Harbor Maintenance Dredging	80,000
43 (8) Carolina Beach Renourishment (New Hanover County)	1,125,000
44 (9) Kure Beach Renourishment (New Hanover County)	1,177,000
45 (10) Ocean Isle Beach Renourishment (Brunswick County)	813,000
46 (11) Bogue Banks Shore Protection Study (Carteret County)	200,000
47 (12) Surf City/North Topsail Beach Protection Study	150,000
48 (13) Princeville Flood Control Study	400,000
49 (14) West Onslow Beach (Topsail)	75,000
50 (15) Deep Creek (Yadkin County) Watershed Management	1,500,000
51 (16) State Local Projects	2,500,000
52 (17) Currituck Sound Water Management Study	150,000
53 (18) Aquatic Weed Control, Lake Gaston and Statewide	300,000
54 (19) Swan Quarter (Hyde County) Flood Control Dikes	100,000
55 (20) Little Sugar Creek Restoration (Mecklenburg County)	20,000

1	(21)	Neuse River Basin Feasibility Study	100,000
2	(22)	Environmental Restoration Projects	700,000
3	(23)	Projected Feasibility Studies	100,000
4	(24)	Planning Assistance to Communities	<u>150,000</u>
5			
6	<b>TOTAL</b>		<b>\$27,601,000</b>

7  
8 **SECTION 31.2.(b)** Where the actual costs are different from the estimated  
9 costs under subsection (a) of this section, the Department may adjust the allocations  
10 among projects as needed. If any projects funded under subsection (a) of this section  
11 are delayed and the budgeted State funds cannot be used during the 2003-2004 fiscal  
12 year, or if the projects funded under subsection (a) of this section are accomplished at a  
13 lower cost, the Department may use the resulting fund availability to fund any of the  
14 following:

- 15 (1) Corps of Engineers project feasibility studies.
- 16 (2) Corps of Engineers projects whose schedules have advanced and  
17 require State-matching funds in fiscal year 2003-2004.
- 18 (3) State-local water resources development projects.

19 Funds not expended or encumbered for these purposes shall revert to the  
20 General Fund at the end of the 2004-2005 fiscal year.

21 **SECTION 31.2.(c)** The Department shall make quarterly reports on the use  
22 of these funds to the Joint Legislative Commission on Governmental Operations, the  
23 Fiscal Research Division, and the Office of State Budget and Management. Each report  
24 shall include all of the following:

- 25 (1) All projects listed in this section.
- 26 (2) The estimated cost of each project.
- 27 (3) The date that work on each project began or is expected to begin.
- 28 (4) The date that work on each project was completed or is expected to be  
29 completed.
- 30 (5) The actual cost of each project.

31 The quarterly reports shall also show those projects advanced in schedule,  
32 those projects delayed in schedule, and an estimate of the amount of funds expected to  
33 revert to the General Fund.

34 **SECTION 31.2.(d)** Notwithstanding G.S. 143-23, if additional federal funds  
35 that require a State match are received for water resources projects or for beach  
36 renourishment projects for the 2003-2004 fiscal year, the Director of the Budget may,  
37 after consultation with the Joint Legislative Commission on Governmental Operations,  
38 transfer funds from General Fund appropriations to match the federal funds.  
39

40 Requested by: Senators Garrou, Dalton, Hagan

#### 41 **PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

42 **SECTION 31.3.** The appropriations made by the 2003 General Assembly  
43 for capital improvements shall be disbursed for the purposes provided by this act.  
44 Expenditure of funds shall not be made by any State department, institution, or agency  
45 until an allotment has been approved by the Governor as Director of the Budget. The  
46 allotment shall be approved only after full compliance with the Executive Budget Act,  
47 Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction  
48 contracts for projects to be financed in whole or in part with self-liquidating  
49 appropriations, the Director of the Budget shall approve the elements of the method of  
50 financing of those projects including the source of funds, interest rate, and liquidation  
51 period. Provided, however, that if the Director of the Budget approves the method of  
52 financing a project, the Director shall report that action to the Joint Legislative  
53 Commission on Governmental Operations at its next meeting.

54 Where direct capital improvement appropriations include the purpose of  
55 furnishing fixed and movable equipment for any project, those funds for equipment

1 shall not be subject to transfer into construction accounts except as authorized by the  
2 Director of the Budget. The expenditure of funds for fixed and movable equipment and  
3 furnishings shall be reviewed and approved by the Director of the Budget prior to  
4 commitment of funds.

5 Capital improvement projects authorized by the 2003 General Assembly shall  
6 be completed, including fixed and movable equipment and furnishings, within the limits  
7 of the amounts of the direct or self-liquidating appropriations provided, except as  
8 otherwise provided in this act. Capital improvement projects authorized by the 2003  
9 General Assembly for the design phase only shall be designed within the scope of the  
10 project as defined by the approved cost estimate filed with the Director of the Budget,  
11 including costs associated with site preparation, demolition, and movable and fixed  
12 equipment.

13  
14 Requested by: Senators Garrou, Dalton, Hagan

15 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

16 **SECTION 31.4.** When each capital improvement project appropriated by the  
17 2003 General Assembly, other than those projects under the Board of Governors of The  
18 University of North Carolina, is placed under a construction contract, direct  
19 appropriations shall be encumbered to include all costs for construction, design,  
20 investigation, administration, movable equipment, and a reasonable contingency.  
21 Unencumbered direct appropriations remaining in the project budget shall be placed in a  
22 project reserve fund credited to the Office of State Budget and Management. Funds in  
23 the project reserve may be used for emergency repair and renovation projects at State  
24 facilities with the approval of the Director of the Budget. The project reserve fund may  
25 be used, at the discretion of the Director of the Budget, to allow for award of contracts  
26 where bids exceed appropriated funds, if those projects supplemented were designed  
27 within the scope intended by the applicable appropriation or any authorized change in it,  
28 and if, in the opinion of the Director of the Budget, all means to award contracts within  
29 the appropriation were reasonably attempted. At the discretion of the Director of the  
30 Budget, any balances in the project reserve fund shall revert to the original source.

31  
32 Requested by: Senators Garrou, Dalton, Hagan

33 **EXPENDITURES OF FUNDS FROM THE RESERVE FOR REPAIRS AND**  
34 **RENOVATIONS**

35 **SECTION 31.5.** Of the funds in the Reserve for Repairs and Renovations  
36 for the 2003-2004 fiscal year, forty-six percent (46%) shall be allocated to the Board of  
37 Governors of The University of North Carolina for repairs and renovations pursuant to  
38 G.S. 143-15.3A, in accordance with guidelines developed in The University of North  
39 Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as  
40 approved by the Board of Governors of The University of North Carolina, and fifty-four  
41 percent (54%) shall be allocated to the Office of State Budget and Management for  
42 repairs and renovations pursuant to G.S. 143-15.3A.

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

49 Notwithstanding G.S. 143-15.3A, the Office of State Budget and  
50 Management shall allocate funds from the Reserve to complete the construction of  
51 State-owned facilities that are partially completed; the remainder of funds shall be  
52 allocated for other repairs and renovations projects.

53 The Board of Governors and the Office of State Budget and Management  
54 shall submit to the Joint Legislative Commission on Governmental Operations and to  
55 the Fiscal Research Division of the Legislative Services Office, for their review, the

1 proposed allocations of these funds. Subsequent changes in the proposed allocations  
2 shall be reported prior to expenditure to the Joint Legislative Commission on  
3 Governmental Operations and to the Fiscal Research Division of the Legislative  
4 Services Office.

5  
6 Requested by: Senators Garrou, Dalton, Hagan

7 **PROJECT COST INCREASE**

8 **SECTION 31.7.** Upon the request of the administration of a State agency,  
9 department, or institution, the Director of the Budget may, when in the Director's  
10 opinion it is in the best interest of the State to do so, increase the cost of a capital  
11 improvement project. Provided, however, that if the Director of the Budget increases  
12 the cost of a project, the Director shall report that action to the Joint Legislative  
13 Commission on Governmental Operations at its next meeting. The increase may be  
14 funded from gifts, federal or private grants, special fund receipts, excess patient receipts  
15 above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or  
16 direct capital improvement appropriations to that department or institution.

17  
18 Requested by: Senators Garrou, Dalton, Hagan

19 **NEW PROJECT AUTHORIZATION**

20 **SECTION 31.8.** Upon the request of the administration of any State agency,  
21 department, or institution, the Director of the Budget may authorize the construction of  
22 a capital improvement project not specifically authorized by the General Assembly if  
23 such project is to be funded by gifts, federal or private grants, special fund receipts,  
24 excess patient receipts above those budgeted at the University of North Carolina  
25 Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the  
26 construction of a capital improvement project pursuant to this section, the Director shall  
27 consult with the Joint Legislative Commission on Governmental Operations.

28  
29 Requested by: Senators Garrou, Dalton, Hagan

30 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

31 **SECTION 31.9.** Funds that become available by gifts, excess patient  
32 receipts above those budgeted at the University of North Carolina Hospitals at Chapel  
33 Hill, federal or private grants, receipts becoming a part of special funds by act of the  
34 General Assembly, or any other funds available to a State department or institution may  
35 be utilized for advance planning through the working drawing phase of capital  
36 improvement projects, upon approval of the Director of the Budget. The Director of the  
37 Budget may make allocations from the Advance Planning Fund for advance planning  
38 through the working drawing phase of capital improvement projects, except that this  
39 revolving fund shall not be utilized by the Board of Governors of The University of  
40 North Carolina or the State Board of Community Colleges.

41  
42 Requested by: Senators Garrou, Dalton, Hagan

43 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

44 **SECTION 31.10.** Except as permitted in previous sections of this act, the  
45 appropriations for capital improvements made by the 2003 General Assembly may be  
46 expended only for specific projects set out by the 2003 General Assembly and for no  
47 other purpose. Construction of all capital improvement projects enumerated by the  
48 2003 General Assembly shall be commenced, or self-liquidating indebtedness with  
49 respect to them shall be incurred, within 12 months following the first day of the fiscal  
50 year in which the funds are available. If construction contracts on those projects have  
51 not been awarded or self-liquidating indebtedness has not been incurred within that  
52 period, the direct appropriation for those projects shall revert to the original source, and  
53 the self-liquidating appropriation shall lapse; except that direct appropriations may be  
54 placed in a reserve fund as authorized in this act. This deadline with respect to both  
55 direct and self-liquidating appropriations may be extended with the approval of the

1 Director of the Budget up to an additional 12 months if circumstances and conditions  
2 warrant such extension.

#### 3 4 **PART XXXII. REGULATORY FEE FOR UTILITIES COMMISSION**

5  
6 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

7 **SECTION 32.1.(a)** The percentage rate to be used in calculating the public  
8 utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%)  
9 for each public utility's North Carolina jurisdictional revenues earned during each  
10 quarter that begins on or after July 1, 2003.

11 **SECTION 32.1.(b)** The electric membership corporation regulatory fee  
12 imposed under G.S. 62-302(b1) for the 2003-2004 fiscal year is two hundred thousand  
13 dollars (\$200,000).

14 **SECTION 32.1.(c)** This section becomes effective July 1, 2003.

#### 15 16 **PART XXXIII. INSURANCE REGULATORY CHARGE**

17  
18 Requested by: Senators Swindell, Garrou, Dalton, Hagan

19 **SECTION 33.1.(a)** The percentage rate to be used in calculating the  
20 insurance regulatory charge under G.S. 58-6-25 is six and five-tenths percent (6.5%) for  
21 the 2003 calendar year.

22 **SECTION 33.1.(b)** This section is effective when it becomes law.

#### 23 24 **PART XXXIV. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES**

25  
26 Requested by: Senators Purcell, Reeves, Garrou, Dalton, Hagan

27 **SECTION 34.1.(a)** G.S. 131D-2(b)(1) reads as rewritten:

28 "(b) Licensure; inspections. –

29 (1) The Department of Health and Human Services shall inspect and  
30 license, under rules adopted by the Medical Care Commission, all  
31 adult care homes for persons who are aged or mentally or physically  
32 disabled except those exempt in subsection (c) of this section. Licenses  
33 issued under the authority of this section shall be valid for one year  
34 from the date of issuance unless revoked earlier by the Secretary for  
35 failure to comply with any part of this section or any rules adopted  
36 hereunder. Licenses shall be renewed annually upon filing and the  
37 Department's approval of the renewal application. The Department  
38 shall charge each adult care home with six or fewer beds a  
39 nonrefundable annual license fee in the amount of two hundred fifty  
40 dollars (\$250.00). The Department shall charge each adult care home  
41 with more than six beds a nonrefundable annual license fee in the  
42 amount of three hundred fifty dollars (\$350.00) plus a nonrefundable  
43 annual per-bed fee of twelve dollars and fifty cents (\$12.50). A license  
44 shall not be renewed if outstanding ~~fees~~ ~~fees~~, ~~fees~~, and penalties  
45 imposed by the State against the home have not been paid. Fines and  
46 penalties for which an appeal is pending are exempt from  
47 consideration. The renewal application shall contain all necessary and  
48 reasonable information that the Department may by rule require.  
49 Except as otherwise provided in this subdivision, the Department may  
50 amend a license by reducing it from a full license to a provisional  
51 license for a period of not more than 90 days whenever the Department  
52 finds that:

53 a. The licensee has substantially failed to comply with the  
54 provisions of Articles 1 and 3 of Chapter 131D of the General  
55 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>



200-399 beds	\$550.00	\$12.50
400-699 beds	\$750.00	\$12.50
700+ beds	\$950.00	\$12.50
Other Hospitals:	\$500.00	\$12.50."

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 Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of four hundred fifty dollars (\$450.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents (\$12.50)."

SECTION 34.3.(b) This section becomes effective October 1, 2003.

SECTION 34.4.(a) G.S. 131E-138(c) reads as rewritten:

"(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of three hundred fifty dollars (\$350.00)."

SECTION 34.4.(b) This section becomes effective October 1, 2003.

SECTION 34.5.(a) G.S. 131E-147(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 Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of seven hundred dollars (\$700.00) plus a nonrefundable annual per-operating room fee in the amount of fifty dollars (\$50.00)."

SECTION 34.5.(b) This section becomes effective October 1, 2003.

SECTION 34.6.(a) G.S. 131E-167(a) reads as rewritten:

"(a) Applications for certification shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A certificate shall be granted to the applicant for a period not to exceed ~~two years~~ one year upon a determination by the Department that the applicant has substantially complied with the provisions of this Article and the rules promulgated by the Department under this Article. The Department shall charge the applicant a nonrefundable annual certification fee in the amount of two hundred fifty dollars (\$250.00)."

SECTION 34.6.(b) This section becomes effective October 1, 2003.

SECTION 34.7.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform abortions.**

The Department of Health and Human Services shall charge each hospital or clinic certified by the Department as a facility suitable for the performance of abortions, as authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of seven hundred dollars (\$700.00)."

SECTION 34.7.(b) This section becomes effective October 1, 2003.

SECTION 34.8.(a) G.S. 122C-23 is amended by adding the following new subsection to read:

"(h) The Department shall charge facilities licensed under this Chapter that have licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-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>

**SECTION 34.8.(b)** This section becomes effective October 1, 2003.

**SECTION 34.9.(a)** Part 3 of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in continuing care retirement communities.**

The Department shall charge continuing care retirement communities licensed under Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult care home beds licensed by the Department a nonrefundable annual base license fee in the amount of four hundred fifty dollars (\$450.00) plus a nonrefundable annual per-bed fee in the amount of twelve dollars and fifty cents (\$12.50)."

**SECTION 34.9.(b)** This section becomes effective October 1, 2003.

**SECTION 34.10.** Reserved.

**SECTION 34.11.(a)** Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-267. Fees for departmental review of health care facility construction projects.**

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed twenty-five thousand dollars (\$25,000) for any single project:

<u>Institutional Project</u>	<u>Project Fee</u>
<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 than 7 beds</u>	<u>\$175.00 plus \$0.10/square foot of project space</u>

<u>Residential Project</u>	<u>Project Fee</u>
<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 project space."</u>

**SECTION 34.11.(b)** This section becomes effective October 1, 2003.

**SECTION 34.12.(a)** G.S. 110-90 reads as rewritten:

**"§ 110-90. Powers and duties of Secretary of Health and Human Services.**

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

(1) To administer the licensing program for child care facilities.

(1a) To establish a fee for the licensing of child care centers. The amount of the fee may not exceed the amount listed in this subdivision.

<u>Capacity of Center</u>	<u>Maximum Fee</u>
<u>12 or fewer children</u>	<u>\$ 35.00</u>

- |   |  |                             |          |
|---|--|-----------------------------|----------|
| 1 |  | <u>13-50 children</u>       | \$125.00 |
| 2 |  | <u>51-100 children</u>      | \$250.00 |
| 3 |  | <u>101 or more children</u> | \$400.00 |
- 4           (2) To obtain and coordinate the necessary services from other State  
5 departments and units of local government which are necessary to  
6 implement the provisions of this Article.
  - 7           (3) To employ the administrative personnel and staff as may be necessary  
8 to implement this Article where required services, inspections or  
9 reports are not available from existing State agencies and units of local  
10 government.
  - 11          (4) To issue a rated license to any child care facility which meets the  
12 standards established by this Article. The rating shall be based on  
13 program standards, education levels of staff, and compliance history of  
14 the child care facility.
  - 15          (5) To revoke the license of any child care facility that ceases to meet the  
16 standards established by this Article and rules on these standards  
17 adopted by the Commission, or that demonstrates a pattern of  
18 noncompliance with this Article or the rules, or to deny a license to  
19 any applicant that fails to meet the standards or the rules. These  
20 revocations and denials shall be done in accordance with the  
21 procedures set out in G.S. 150B and this Article and rules adopted by  
22 the Commission.
  - 23          (6) To prosecute or defend on behalf of the State, through the office of the  
24 Attorney General, any legal actions arising out of the administration or  
25 enforcement of this Article.
  - 26          (7) To promote and coordinate educational programs and materials for  
27 operators of child care facilities which are designed to improve the  
28 quality of child care available in the State, using the resources of other  
29 State and local agencies and educational institutions where  
30 appropriate.
  - 31          (8) Repealed by Session Laws 1997-506, s. 5.
  - 32          (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an  
33 administrative penalty pursuant to G.S. 110-102.2, or to order  
34 summary suspension of a license. These actions shall be done in  
35 accordance with the procedures set out in G.S. 150B and this Article  
36 and rules adopted by the Commission.
  - 37          (10) To issue final agency decisions in all G.S. 150B contested cases  
38 proceedings filed as a result of actions taken under this Article  
39 including, but not limited to the denial, revocation, or suspension of a  
40 license or the levying of a civil or administrative penalty.
  - 41          (11) To issue a license to any child care arrangement that does not meet the  
42 definition of child care facility in G.S. 110-86 whenever the operator  
43 of the arrangement chooses to comply with the requirements of this  
44 Article and the rules adopted by the Commission and voluntarily  
45 applies for a child care facility license. The Commission shall adopt  
46 rules for the issuance or removal of the licenses."

47 **SECTION 34.12.(b)** This section becomes effective October 1, 2003.

48 **SECTION 34.13.(a)** G.S. 130A-5 is amended by adding the following new  
49 subdivision to read:

50       "(15) To establish a fee to cover the cost of analyzing clinical Pap smear  
51 specimens sent to the State Laboratory by local health departments and  
52 State-owned facilities and for reporting the results of the analysis. This  
53 fee shall be in addition to the charge for the Pap smear test kit."

54 **SECTION 34.13.(b)** This section becomes effective July 1, 2003.  
55

1 **PART XXXV. FEES FOR DEPARTMENT OF ENVIRONMENT AND**  
 2 **NATURAL RESOURCES AND DEPARTMENT OF**  
 3 **AGRICULTURE AND CONSUMER SERVICES**  
 4

5 Requested by: Senators Weinstein, Garrou, Dalton, Hagan

6 **SECTION 35.1.(a)** G.S. 113-34(c) reads as rewritten:

7 "(c) The Department, with the approval of the Governor and Council of State,  
 8 may enter into leases of lands and waters for State parks, State lakes and recreational  
 9 purposes; and the Department may construct, operate, and maintain on the lands and  
 10 waters suitable public service facilities and conveniences and may charge and collect  
 11 reasonable fees for each of the following:

- 12 (1) The erection, maintenance and use of docks, piers and other structures  
 13 as may be permitted in or on the waters under its own rules.  
 14 (2) Fishing privileges in the waters, provided that the privileges shall be  
 15 extended only to holders of bona fide North Carolina fishing licenses,  
 16 and provided further that all State fishing laws and rules are complied  
 17 with.  
 18 (3) Vehicle access for off-road driving at the beach at Fort Fisher State  
 19 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 **SECTION 35.2.(a)** G.S. 130A-294.1(e) reads as rewritten:

26 "(e) A person who generates either one kilogram or more of any acute hazardous  
 27 waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) as revised 1 July 1987, or 1000  
 28 kilograms or more of hazardous waste, in any calendar month during the year beginning  
 29 1 July and ending 30 June shall pay an annual fee of ~~five hundred dollars (\$500.00)~~ one  
 30 thousand dollars (\$1,000)."

31 **SECTION 35.2.(b)** G.S. 130A-294.1(f) reads as rewritten:

32 "(f) A person who generates 100 kilograms or more of hazardous waste in any  
 33 calendar month during the year beginning 1 July and ending 30 June but less than 1000  
 34 kilograms of hazardous waste in each calendar month during that year shall pay an  
 35 annual fee of ~~twenty five dollars (\$25.00)~~ one hundred twenty-five dollars (\$125.00)."

36 **SECTION 35.2.(c)** This section becomes effective July 1, 2003.

37 **SECTION 35.3.(a)** The Board of Agriculture shall charge the following fees  
 38 for animal disease diagnostic tests or services:

	<u>Test/Service</u>	<u>Fee</u>
41	(1) Pullorum	\$0.10
42	(2) M Synoviae	0.50
43	(3) M. meleagridis	0.50
44	(4) Necropsy	25.00
45	(5) M Gallisep.	0.50
46	(6) Mg,Ms,Mm-HI	1.00
47	(7) Histopathology	15.00
48	(8) Cytology	10.00
49	(9) Necropsy Disposal	
50	10 to 100 pounds	5.00
51	101 to 500 pounds	15.00
52	More than 500 pounds	30.00
53	(10) Companion Animal Culture	10.00

54 **SECTION 35.3.(b)** The Board of Agriculture shall, pursuant to G.S.  
 55 106-420, charge a fee of fifty dollars (\$50.00) for nursery dealer certification.

1           **SECTION 35.3.(c)** This section becomes effective July 1, 2003.

2           **SECTION 35.4.(a)** G.S. 143-452(b) reads as rewritten:

3           "(b) Applications for pesticide applicator license shall be in the form and shall  
4 contain the information prescribed by the Board. Each application shall be accompanied  
5 by a non-refundable fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) for each  
6 pesticide applicator's license. In addition, an annual inspection fee of ~~ten dollars~~  
7 ~~(\$10.00)~~ twenty-five dollars (\$25.00) shall be submitted for each aircraft to be licensed.  
8 Should any aircraft fail to pass inspection, making it necessary for a second inspection  
9 to be made, the Board shall require an additional ~~ten dollar (\$10.00)~~ twenty-five-dollar  
10 (\$25.00) inspection fee. In addition to the required inspection, unannounced inspections  
11 may be made without charge to determine if equipment is properly calibrated and  
12 maintained in conformance with the laws and regulations. All aircraft licensed to apply  
13 pesticides shall be identified by a license plate or decal furnished by the Board at no  
14 cost to the licensee, which plate or decal shall be affixed on the aircraft in a location and  
15 manner prescribed by the Board. No applicator inspection or license fee, original or  
16 renewal, shall be charged to State agencies or local governments or their employees.  
17 Inspections of ground pesticide application equipment may be made. Any such  
18 equipment determined to be faulty or unsafe shall not be used for the purpose of  
19 applying a pesticide(s) until such time as proper repairs and/or alterations are made."

20           **SECTION 35.4.(b)** G.S. 143-448(b) reads as rewritten:

21           "(b) Applications for a pesticide dealer license shall be in the form and shall  
22 contain the information prescribed by the Board. Each application shall be accompanied  
23 by a non-refundable fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00). All licenses  
24 issued under this Part shall expire on December 31 of the year for which they are  
25 issued."

26           **SECTION 35.4.(c)** G.S. 143-448(c) reads as rewritten:

27           "(c) The license for a pesticide dealer may be renewed annually upon application  
28 to the Board, accompanied by a fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) for  
29 each license, on or before the first day of January of the calendar year for which the  
30 license is issued."

31           **SECTION 35.4.(d)** G.S. 143-455(a) reads as rewritten:

32           "(a) No person shall perform services as a pest control consultant without first  
33 procuring from the Board a license. Applications for a consultant license shall be in the  
34 form and shall contain the information prescribed by the Board. The application for a  
35 license shall be accompanied by a non-refundable annual fee of ~~thirty dollars~~  
36 ~~(\$30.00)~~ fifty dollars (\$50.00)."

37           **SECTION 35.4.(e)** G.S. 143-442(b) reads as rewritten:

38           "(b) The applicant shall pay an annual registration fee of ~~thirty dollars (\$30.00)~~  
39 one hundred dollars (\$100.00) plus an additional annual assessment for each brand or  
40 grade of pesticide registered. The annual assessment shall be fifty dollars (\$50.00) if the  
41 applicant's gross sales of the pesticide in this State for the preceding 12 months for the  
42 period ending September 30th were more than five thousand dollars (\$5,000.00) and  
43 twenty-five dollars (\$25.00) if gross sales were less than five thousand dollars  
44 (\$5,000.00). An additional two hundred dollars (\$200.00) delinquent registration  
45 penalty shall be assessed against the registrant for each brand or grade of pesticide  
46 which is marketed in North Carolina prior to registration as required by this Article. In  
47 the case of multi-year registration, the annual fee and additional assessment for each  
48 year shall be paid at the time of the initial registration. The Board shall give a pro rata  
49 refund of the registration fee and additional assessment to the registrant in the event that  
50 registration is canceled by the Board or by the United States Environmental Protection  
51 Agency."

52           **SECTION 35.4.(f)** This section becomes effective July 1, 2003.

53           **SECTION 35.5.(a)** G.S. 113-35(b) reads as rewritten:

54           "(b) The Department may construct and operate within the State forests, State  
55 parks, State lakes and any other areas under its charge suitable public service facilities

1 and conveniences, and may charge and collect reasonable fees for the use of same; it  
 2 may also charge and collect reasonable fees for:

- 3 (1) The erection, maintenance and use of docks, piers and such other  
 4 structures as may be permitted in or on State lakes under its own  
 5 ~~rules; rules.~~
- 6 (2) Hunting privileges on State forests and fishing privileges in State  
 7 forests, State parks and State lakes, provided that such privileges shall  
 8 be extended only to holders of bona fide North Carolina hunting and  
 9 fishing licenses, and provided further that all State game and fish laws  
 10 are complied with.
- 11 (3) The erection, maintenance, and use of a marina at Carolina Beach."

12 **SECTION 35.5.(b)** G.S. 113-35(c) reads as rewritten:

13 "(c) The Department may make reasonable rules for the operation ~~and use~~ of boats  
 14 or other craft on the surface of the ~~said waters but shall not be authorized to charge or~~  
 15 ~~collect fees for such operation or use.~~ lakes and other waters under its charge. The  
 16 Department may charge and collect reasonable fees for the use of boats and other  
 17 watercraft that are purchased and maintained by the Department; however, the  
 18 Department shall not charge a fee for the use or operation of any other boat or  
 19 watercraft on these waters."

20 **SECTION 35.5.(c)** The Department of Environment and Natural Resources  
 21 shall, pursuant to G.S. 113-35(b), as amended by subsections (a) and (b) of this section,  
 22 charge the following fees for the use of public service facilities and conveniences  
 23 located in State forests, State parks, State lakes, and other areas under the charge of the  
 24 Division of Parks and Recreation:

<u>Facility/Convenience</u>	<u>Fee</u>
25 Special activity permit	\$ 30.00
26 Swimming fees/Adult	\$ 4.00
27 Swimming fees/Child	\$ 3.00
28 State Lake private pier permit, based on length of pier,	
29 Average per year	\$ 80.00
30 State Lake commercial pier permit, based on length of pier	
31 Average per year	\$ 200.00
32 Admission fee for Falls and Jordan Lakes per car	\$ 5.00
33 Sr. Citizen admission fee for Falls and Jordan Lakes per car	\$ 4.00
34 Hammocks Beach Ferry fee/Adult	\$ 5.00
35 Hammocks Beach Ferry fee/Child	\$ 3.00
36 Fees for camping per night	\$ 15.00
37 Fees for camping with hookups per night	\$ 20.00
38 Fees for primitive camping per night	\$ 9.00
39 Fees for primitive group camping	
40 \$ 1.00 Per person per night	
41 Minimum per night	\$ 9.00
42 Rental fees for improved group camping, maximum of 35	\$ 40.00
43 Rental fees for improved group camping, maximum of 100	\$ 105.00
44 Rental fees for family cabin per week	\$ 500.00
45 Rental fees for family cabin per day	\$ 100.00
46 Carolina Bch. Marina rental fee for transient rentals,	
47 based on length of boat	
48 Average fee per night	\$ 20.00
49 Carolina Bch. Marina rental fee for long-term rentals,	
50 based on length of boat	
51 Average fee per year	\$2,500.00
52 Boat rental fee for rowboats	
53 First hour	\$ 5.00
54 Each additional hour	\$ 3.00

1	Boat rental fee for paddle boats	
2	First hour	\$ 5.00
3	Each additional hour	\$ 3.00
4	Picnic shelter rental fee/2-table shelter	\$ 25.00
5	Picnic shelter rental fee/4-table shelter	\$ 40.00
6	Picnic shelter rental fee/8-table shelter	\$ 60.00
7	Picnic shelter rental fee/12-table shelter	\$ 85.00

8       **SECTION 35.5.(d)** Nothing in this section shall prohibit the Department of  
9 Environment and Natural Resources from amending the fees under subsection (c) of this  
10 section pursuant to Chapter 150B of the General Statutes.

11       **SECTION 35.5.(e)** Subsection (c) of this section becomes effective January  
12 1, 2004. The remainder of this section becomes effective July 1, 2003.

### 13 14 **PART XXXV-A. DEPARTMENT OF CULTURAL RESOURCES FEES**

15  
16 Requested by:       Senators Swindell, Garrou, Dalton, Hagan

17       **SECTION 35A.1.** G.S. 105-129.35 reads as rewritten:

18 "**§ 105-129.35. Credit for rehabilitating income-producing historic structure.**

19       (a) Credit. – A taxpayer who is allowed a federal income tax credit under section  
20 47 of the Code for making qualified rehabilitation expenditures for a certified historic  
21 structure located in this State is allowed a credit equal to twenty percent (20%) of the  
22 expenditures that qualify for the federal credit. To claim the credit allowed by this  
23 subsection, the taxpayer must provide a copy of the certification obtained from the State  
24 Historic Preservation Officer verifying that the historic structure has been rehabilitated  
25 in accordance with this subsection.

26       (b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S.  
27 105-269.15, a pass-through entity that qualifies for the credit provided in this section  
28 may allocate the credit among any of its owners in its discretion as long as the amount  
29 of credit allocated to an owner does not exceed the owner's adjusted basis in the  
30 pass-through entity, as determined under the Code, at the end of the taxable year in  
31 which the certified historic structure is placed in service. Owners to whom a credit is  
32 allocated are allowed the credit as if they had qualified for the credit directly. A  
33 pass-through entity and its owners must include with their tax returns for every taxable  
34 year in which an allocated credit is claimed a statement of the allocation made by the  
35 pass-through entity and the allocation that would have been required under G.S.  
36 105-131.8 or G.S. 105-269.15.

37       (c) Definitions. – The following definitions apply in this section:

38       (1) Certified historic structure. – Defined in section 47 of the Code.

39       (2) Pass-through entity. – An entity or business, including a limited  
40 partnership, a general partnership, a joint venture, a Subchapter S  
41 Corporation, or a limited liability company, all of which is treated as  
42 owned by individuals or other entities under the federal tax laws, in  
43 which the owners report their share of the income, losses, and credits  
44 from the entity or business on their income tax returns filed with this  
45 State. For the purpose of this section, an owner of a pass-through  
46 entity is an individual or entity who is treated as an owner under the  
47 federal tax laws.

48       (3) Qualified rehabilitation expenditures. – Defined in section 47 of the  
49 Code.

50       (4) State Historic Preservation Officer. – Defined in G.S. 105-129.6."

51       **SECTION 35A.2.** G.S. 105-129.36(c) is recodified as G.S. 105-129.36A and  
52 reads as rewritten:

53 "**§ 105-129.36A. Rules; Rules; fees.**

1 (a) Rules. – The North Carolina Historical Commission, in consultation with the  
2 State Historic Preservation Officer, may adopt rules needed to administer the  
3 certification process required by this section.

4 (b) Fees. – The North Carolina Historical Commission, in consultation with the  
5 State Historic Preservation Officer, may adopt a schedule of fees for providing  
6 certifications required by this Article. In establishing the fee schedule, the Commission  
7 shall consider the administrative and personnel costs incurred by the Department of  
8 Cultural Resources. An application fee may not exceed one percent (1%) of the  
9 completed qualifying rehabilitation expenditures. The proceeds of the fees are receipts  
10 of the Department of Cultural Resources and must be used for performing its duties  
11 under this Article."

12 **SECTION 35A.3.** G.S. 105-129.36(a) reads as rewritten:

13 "(a) Credit. – A taxpayer who is not allowed a federal income tax credit under  
14 section 47 of the Code and who makes rehabilitation expenses for a State-certified  
15 historic structure located in this State is allowed a credit equal to thirty percent (30%) of  
16 the rehabilitation expenses. To qualify for the credit, the taxpayer's rehabilitation  
17 expenses must exceed twenty-five thousand dollars (\$25,000) within a 24-month period.  
18 To claim the credit allowed by this subsection, the taxpayer must ~~attach to the~~  
19 ~~return~~ provide a copy of the certification obtained from the State Historic Preservation  
20 Officer verifying that the historic structure has been rehabilitated in accordance with  
21 this subsection."

22 **SECTION 35A.4.** Article 1 of Chapter 121 of the General Statutes is  
23 amended by adding a new section to read:

24 "**§ 121-7.3. Admission fees.**

25 The Department of Cultural Resources may charge a reasonable admission fee to  
26 any museum administered by the Department. Admission fees collected under this  
27 section are receipts of the Department and shall be deposited in a nonreverting account.  
28 The Department shall retain unbudgeted receipts at the end of each fiscal year,  
29 beginning June 30, 2004, and shall deposit these receipts into the account. Funds in the  
30 account shall be used to support a portion of each museum's operation. The Secretary  
31 may adopt rules necessary to carry out the provisions of this section. The Department  
32 shall provide a quarterly report to the Joint Legislative Commission on Governmental  
33 Operations as the Department's or museums' anticipated use of funds or expend funds  
34 pursuant to this section."

## 35 36 37 **PART XXXV-B. SECRETARY OF STATE FEES**

38 **SECTION 35B.1.(a)** G.S. 25-9-525(a) reads as rewritten:

39 "(a) Initial financing statement or other record: general rule. – Except as otherwise  
40 provided in subsection (e) of this section, the fee for filing and indexing a record under  
41 this Part is:

- 42 (1) ~~Thirty dollars (\$30.00)~~ Thirty-eight dollars (\$38.00) if the record is  
43 communicated in writing and consists of one or two pages;
- 44 (2) Forty-five dollars (\$45.00) if the record is communicated in writing  
45 and consists of more than two pages, plus two dollars (\$2.00) for each  
46 page over 10 pages; and
- 47 (3) Thirty dollars (\$30.00) if the record is communicated by another  
48 medium authorized by filing-office rule."

49 **SECTION 35B.1.(b)** This section becomes effective July 1, 2003.

## 50 51 **PART XXXVI. RESERVED**

## 52 53 **PART XXXVI-A. JUSTICE AND PUBLIC SAFETY FEES**

54  
55 Requested by: Senators Thomas, Garrou, Dalton, Hagan



1           **SECTION 36A.1.** G.S. 7A-37.1 is amended by adding a new subsection to  
2 read:

3           "(c1) In cases referred to nonbinding arbitration as provided in this section, a fee of  
4 one hundred dollars (\$100.00) shall be assessed per arbitration, to be divided equally  
5 among the parties, to cover the cost of providing arbitrators. Fees assessed under this  
6 section shall be paid to the clerk of superior court in the county where the case was filed  
7 and remitted by the clerk to the State Treasurer."

8           **SECTION 36A.2.** G.S. 7A-305(a)(2) reads as rewritten:

9           "(2) For support of the General Court of Justice, the sum of ~~sixty-nine~~  
10 ~~dollars (\$69.00)~~ eighty-two dollars (\$82.00) in the superior court, and  
11 the sum of ~~fifty-four dollars (\$54.00)~~ seventy-five dollars (\$75.00) in  
12 the district court except that if the case is assigned to a magistrate the  
13 sum shall be forty-three dollars (\$43.00). Sums collected under this  
14 subdivision shall be remitted to the State Treasurer. The State  
15 Treasurer shall remit the sum of one dollar and five cents (\$1.05) of  
16 each fee collected under this subdivision to the North Carolina State  
17 Bar for the provision of services described in G.S. 7A-474.4."

18           **SECTION 36A.3.** G.S. 7A-306(a)(2) reads as rewritten:

19           "(2) For support of the General Court of Justice the sum of ~~thirty dollars~~  
20 ~~(\$30.00)~~ seventy-five dollars (\$75.00). In addition, in proceedings  
21 involving land, except boundary disputes, if the fair market value of  
22 the land involved is over one hundred dollars (\$100.00), there shall be  
23 an additional sum of thirty cents (30¢) per one hundred dollars  
24 (\$100.00) of value, or major fraction thereof, not to exceed a  
25 maximum additional sum of two hundred dollars (\$200.00). Fair  
26 market value is determined by the sale price if there is a sale, the  
27 appraiser's valuation if there is no sale, or the appraised value from the  
28 property tax records if there is neither a sale nor an appraiser's  
29 valuation. Sums collected under this subdivision shall be remitted to  
30 the State Treasurer. The State Treasurer shall remit the sum of one  
31 dollar and five cents (\$1.05) of each thirty-dollar (\$30.00) General  
32 Court of Justice fee collected under this subdivision to the North  
33 Carolina State Bar for the provision of services described in G.S.  
34 7A-474.4."

35           **SECTION 36A.4.** G.S. 7A-307(a)(2) reads as rewritten:

36           "(2) For support of the General Court of Justice, the sum of ~~thirty dollars~~  
37 ~~(\$30.00)~~ seventy-five dollars (\$75.00), plus an additional forty cents  
38 (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of  
39 the gross estate, not to exceed three thousand dollars (\$3,000). Gross  
40 estate shall include the fair market value of all personalty when  
41 received, and all proceeds from the sale of realty coming into the  
42 hands of the fiduciary, but shall not include the value of realty. In  
43 collections of personal property by affidavit, the fee based on the gross  
44 estate shall be computed from the information in the final affidavit of  
45 collection made pursuant to G.S. 28A-25-3 and shall be paid when that  
46 affidavit is filed. In all other cases, this fee shall be computed from the  
47 information reported in the inventory and shall be paid when the  
48 inventory is filed with the clerk. If additional gross estate, including  
49 income, comes into the hands of the fiduciary after the filing of the  
50 inventory, the fee for such additional value shall be assessed and paid  
51 upon the filing of any account or report disclosing such additional  
52 value. For each filing the minimum fee shall be fifteen dollars  
53 (\$15.00). Sums collected under this subdivision shall be remitted to the  
54 State Treasurer. The State Treasurer shall remit the sum of one dollar  
55 and five cents (\$1.05) of each thirty-dollar (\$30.00) General Court of

1 Justice fee collected under this subdivision to the North Carolina State  
2 Bar for the provision of services described in G.S. 7A-474.4."

3 **SECTION 36A.5.** This Part becomes effective July 1, 2003, and applies to  
4 fees assessed or collected on or after that date.

5  
6 **PART XXXVII. ADJUST LOCAL GOVERNMENT HOLD HARMLESS**

7  
8 Requested by: Senators Garrou, Dalton, Hagan

9 **SECTION 37.1.** G.S. 105-521 reads as rewritten:

10 "**§ 105-521. Transitional local government hold harmless.**

11 (a) Definitions. – The following definitions apply in this section:

- 12 (1) Local government. – A county or municipality that received a  
13 distribution of local sales taxes in the most recent fiscal year for which  
14 a local sales tax share has been calculated.
- 15 (2) Local sales tax share. – A local government's percentage share of the  
16 two-cent (2¢) sales taxes distributed during the most recent fiscal year  
17 for which data are available.
- 18 (3) Repealed reimbursement amount. – The total amount a local  
19 government would have been entitled to receive during the 2002-2003  
20 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2,  
21 105-277.001, and 105-277.1A, if the Governor had not withheld any  
22 distributions under those sections.
- 23 (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax  
24 authorized in Article 39 of this Chapter and in Chapter 1096 of the  
25 1967 Session Laws, the first one-half cent (1/2¢) local sales and use  
26 tax authorized in Article 40 of this Chapter, and the second one-half  
27 cent (1/2¢) local sales and use tax authorized in Article 42 of this  
28 Chapter.

29 (b) Distributions. – On or before ~~September~~ August 15, 2003, and each  
30 ~~September~~ August 15 thereafter, the Secretary must multiply each local government's  
31 local sales tax share by the estimated amount that all local governments would be  
32 expected to receive during the current fiscal year under G.S. 105-520 if every county  
33 levied the tax under this Article for the year. If the resulting amount is less than one  
34 hundred percent (100%) of the local government's repealed reimbursement amount, the  
35 Secretary must pay the local government the difference, but not less than one hundred  
36 dollars (\$100.00).

37 On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget  
38 and Management and the Fiscal Research Division of the General Assembly must each  
39 submit to the Secretary and to the General Assembly a final projection of the estimated  
40 amount that all local governments would be expected to receive during the upcoming  
41 fiscal year under G.S. 105-520 if every county levied the tax under this Article for the  
42 fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would  
43 affect the projection, an updated projection must be submitted as soon as practicable. If  
44 the Secretary does not use the lower of the two final projections to make the calculation  
45 required by this subsection, the Secretary must report the reasons for this decision to the  
46 Joint Legislative Commission on Governmental Operations within 60 days after  
47 receiving the projections.

48 (c) Source of Funds. – The Secretary must draw the funds distributed under this  
49 section from sales and use tax collections under Article 5 of this Chapter.

50 (d) Reports. – The Secretary must report to the Revenue Laws Study Committee  
51 by January 31, 2004, and each January 31 thereafter, the amount distributed under this  
52 section for the current fiscal year."

53 **SECTION 37.2.** Effective January 1, 2013, G.S. 105-521 is repealed.

54  
55 **PART XXXVIII. TEMPORARILY MAINTAIN STATE SALES TAX RATE**

Requested by: Senators Garrou, Dalton, Hagan

**SECTION 38.1.** Section 34.13(c) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies to sales made on or after that date. This section is repealed effective for sales made on or after July 1, ~~2005, 2003.~~ This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

**PART XXXIX. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE**

Requested by: Senators Garrou, Dalton, Hagan

**SECTION 39.1.** Effective for taxable years beginning on or after January 1, 2006, G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the 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	<del>8.25%</del>

(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	<del>8.25%</del>

(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	<del>8.25%</del>

(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	<del>8.25%</del>

**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 XXXIX-A. DELAY ELIMINATION OF THE MARRIAGE TAX PENALTY FOR STANDARD DEDUCTION**

Requested by: Senators Garrou, Dalton, Hagan

**SECTION 39A.1.** The introductory language of Section 34.19(a) of S.L. 2001-424, as amended by Section 30B.1(a) of S.L. 2002-126, reads as rewritten:

"**SECTION 34.19.(a)** Effective for taxable years beginning on or after January 1, 2003, 2006, G.S. 105-134.6(c)(3) and (4) reads as rewritten:"

**SECTION 39A.2.** The introductory language of Section 34.19(b) of S.L. 2001-424, as amended by Section 30B.1(b) of S.L. 2002-126, reads as rewritten:

"**SECTION 34.19.(b)** Effective for taxable years beginning on or after January 1, 2004, 2007, G.S. 105-134.6(c)(4), as amended by this section, reads as rewritten:"

**PART XXXIX-B. CONFORM CHILD TAX CREDIT TO FEDERAL CREDIT AND DELAY INCREASE IN CHILD TAX CREDIT**

Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

**SECTION 39B.1.** Section 34.20 of S.L. 2001-424, as amended by Section 30B.2 of S.L. 2002-126, is repealed.

**SECTION 39B.2.** G.S. 105-151.24, as amended by Section 39B.1 of this act, reads as rewritten:

"§ 105-151.24. **Credit for children.**

(a) Eligibility. – An individual who is allowed a federal child tax credit under section 24 of the Code for the taxable year and whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed below is allowed a credit against the tax imposed by this Part ~~in an amount equal to sixty dollars (\$60.00)~~ for each dependent child for whom the individual ~~was is allowed to deduct a personal exemption under section 151(c)(1)(B) of the Code~~ the federal credit for the taxable year:

<u>Filing Status</u>	<u>AGI</u>
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000.

(b) Credit Amount. – The amount of the credit is as follows:

<u>Income Years Beginning</u>	<u>Credit</u>
<u>After 2002 but before 2006</u>	<u>\$ 60.00</u>
<u>In 2006</u>	<u>75.00</u>
<u>After 2006</u>	<u>100.00</u>

(c) Nonresident or Part-Year Resident. – A nonresident or part-year resident who claims the credit allowed by this section ~~shall~~ must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

**SECTION 39B.3.** This part becomes effective for taxable years beginning on or after January 1, 2003.

**PART XL. RESERVED**

**PART XLI. RESERVED**

1  
2 **PART XLII. RESERVED**3  
4 **PART XLIII. EQUALIZE INSURANCE TAX RATES ON ARTICLE 65**  
5 **CORPORATIONS**6  
7 Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan8 **SECTION 43.1.** G.S. 105-228.5(d) reads as rewritten:

9 "(d) Tax Rates; Disposition. –

- 10 (1) Workers' Compensation. – The tax rate to be applied to gross
- 
- 11 premiums, or the equivalent thereof in the case of self-insurers, on
- 
- 12 contracts applicable to liabilities under the Workers' Compensation
- 
- 13 Act is two and five-tenths percent (2.5%). The net proceeds shall be
- 
- 14 credited to the General Fund.
- 
- 15 (2) Other Insurance Contracts. – The tax rate to be applied to gross
- 
- 16 premiums on all other taxable contracts issued by insurers
- and to be
- 
- 17
- applied to gross premiums and gross collections from membership
- 
- 18
- dues, exclusive of receipts from cost plus plans, received by Article 65
- 
- 19
- corporations
- is one and nine-tenths percent (1.9%). The net proceeds
- 
- 20 shall be credited to the General Fund.
- 
- 21 (3) Additional Statewide Fire and Lightning Rate. – An additional tax
- 
- 22 shall be applied to gross premiums on contracts of insurance
- 
- 23 applicable to fire and lightning coverage, except in the case of marine
- 
- 24 and automobile policies, at the rate of one and thirty-three hundredths
- 
- 25 percent (1.33%). Twenty-five percent (25%) of the net proceeds of this
- 
- 26 additional tax shall be deposited in the Volunteer Fire Department
- 
- 27 Fund established in Article 87 of Chapter 58 of the General Statutes.
- 
- 28 The remaining net proceeds shall be credited to the General Fund.
- 
- 29 (4) Additional Local Fire and Lightning Rate. – An additional tax shall be
- 
- 30 applied to gross premiums on contracts of insurance applicable to fire
- 
- 31 and lightning coverage within fire districts at the rate of one-half of
- 
- 32 one percent (1/2 of 1%). The net proceeds shall be credited to the
- 
- 33 Department of Insurance for disbursement pursuant to G.S. 58-84-25.
- 
- 34
- ~~(5) (Effective January 1, 2004) Article 65 Corporations. – The tax rate to~~
- 
- 35
- ~~be applied to gross premiums and/or gross collections from~~
- 
- 36
- ~~membership dues, exclusive of receipts from cost plus plans, received~~
- 
- 37
- ~~by Article 65 corporations is one percent (1%). The net proceeds shall~~
- 
- 38
- ~~be credited to the General Fund.~~
- 
- 39 (6)
- (Effective January 1, 2004)**
- Health Maintenance Organizations. – The
- 
- 40 tax rate to be applied to gross premiums on insurance contracts issued
- 
- 41 by health maintenance organizations is one percent (1%). The net
- 
- 42 proceeds shall be credited to the General Fund."

43 **SECTION 43.2.** G.S. 58-6-25(a) and (e) read as rewritten:44 "(a) Charge Levied. – There is levied on each insurance company an annual  
45 charge for the purposes stated in subsection (d) of this section. The charge levied in this  
46 section is in addition to all other fees and taxes. The percentage rate of the charge is  
47 established pursuant to subsection (b) of this section. For each insurance company that  
48 is not ~~an Article 65 corporation nor~~ a health maintenance organization, the rate is  
49 applied to the company's premium tax liability for the taxable year. For ~~Article 65~~  
50 ~~corporations and~~ health maintenance organizations, the rate is applied to a premium tax  
51 liability for the taxable year calculated as if the corporation or organization were paying  
52 tax at the rate in G.S. 105-228.5(d)(2). In determining an insurance company's premium  
53 tax liability for a taxable year, the following shall be disregarded:

- 54 (1) Additional taxes imposed by G.S. 105-228.8.

- 1 (2) The additional local fire and lightning tax imposed by G.S.  
 2 105-228.5(d)(4).  
 3 (3) Any tax credits for guaranty or solvency fund assessments under G.S.  
 4 105-228.5A or G.S. 97-133(a).  
 5 (4) Any tax credits allowed under Chapter 105 of the General Statutes  
 6 other than tax payments made by or on behalf of the taxpayer.  
 7

8 (e) Definitions. – The following definitions apply in this section:

9 ~~(1) Article 65 corporation. – Defined in G.S. 105-228.3.~~

10 (2) Insurance company. – A company that pays the gross premiums tax  
 11 levied in G.S. 105-228.5 and G.S. 105-228.8.

12 (3) Insurer. – Defined in G.S. 105-228.3."

13 **SECTION 43.3.** Notwithstanding the provisions of G.S. 105-228.5(f), the  
 14 following provisions apply to Article 65 Corporations, as defined in G.S. 105-228.3, for  
 15 the 2004 and 2005 taxable years in lieu of the provisions of G.S. 105-228.5(f):

16 Article 65 corporations that are subject to the tax imposed by G.S. 105-228.5  
 17 and have an estimated premium tax liability for the 2004 or 2005 taxable year, not  
 18 including the additional local fire and lightning tax, of ten thousand dollars (\$10,000) or  
 19 more for business done in North Carolina shall remit two estimated tax payments with  
 20 each payment equal to fifty percent (50%) of the taxpayer's estimated premium tax  
 21 liability for the relevant taxable year. The first estimated payment is due on or before  
 22 April 15 of the relevant year and the second estimated payment is due on or before June  
 23 15 of the relevant year. The taxpayer must remit the balance by the following March 15  
 24 in the same manner provided in G.S. 105-228.5(e) for annual returns.

25 An underpayment of an estimated payment required by this section bears  
 26 interest at the rate established under G.S. 105-241.1(i). Any overpayment bears interest  
 27 as provided in G.S. 105-266(b) and, together with the interest, must be credited to the  
 28 taxpayer and applied against the taxes imposed upon the company under G.S.  
 29 105-228.5.

30 The penalties provided in Article 9 of Chapter 105 of the General Statutes  
 31 apply to the estimated tax payments required by this section.

32 **SECTION 43.4.** This part is effective for taxable years beginning on or after  
 33 January 1, 2004. The Commissioner of Insurance must make a certification to the  
 34 Secretary of Revenue and to the Revisor of Statutes when there are no Article 65  
 35 corporations that offer medical service plans or hospital service plans. This part is  
 36 repealed effective for taxable years beginning on or after the January 1 immediately  
 37 following the certification required by this section.  
 38

#### 39 **PART XLIV. CONTINUE USE TAX LINE ITEM ON INCOME TAX** 40 **FORM**

41  
 42 Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

43 **SECTION 44.1.** Section 18 of S.L. 2000-120 reads as rewritten:

44 "**Section 18.** Section 7 of this act becomes effective January 1, 2001. Sections 10  
 45 and 11 of this act become effective for taxable years beginning on or after January 1,  
 46 ~~2003-2005~~. The remainder of this act is effective when it becomes law."  
 47

#### 48 **PART XLV. CONFORM TO STREAMLINED SALES AND USE TAX** 49 **AGREEMENT**

50  
 51 Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

52 **SECTION 45.1.** The Streamlined Sales and Use Tax Agreement is a historic  
 53 multistate agreement designed to simplify and modernize sales and use tax collection  
 54 and administration. The states and businesses involved in the Streamlined Sales Tax  
 55 Project recognize that a simplified and uniform system saves businesses compliance and

1 audit costs, while also saving states administrative costs and improving voluntary  
2 compliance, which should increase state collections. To participate in the Agreement,  
3 North Carolina must amend or modify some of its sales and use tax law to conform to  
4 the simplifications and uniformity in the Agreement. This part makes many of those  
5 necessary changes. It is the intent of the General Assembly to make any additional  
6 changes necessary to conform to the mandates of the Agreement, including changes to  
7 provide for a uniform local tax base.

8 **SECTION 45.2.** G.S. 105-164.3 reads as rewritten:

9 **"§ 105-164.3. Definitions.**

10 The following definitions apply in this Article:

11 ...  
12 (4a) Computer. – An electronic device that accepts information in digital or  
13 similar form and manipulates it for a result based on a sequence of  
14 instructions.

15 (4b) Computer software. – A set of coded instructions designed to cause a  
16 computer or automatic data processing equipment to perform a task.

17 (5c) Custom computer software. – Computer software that is not prewritten  
18 computer software. The term includes a user manual or other  
19 documentation that accompanies the sale of the software.

20 (5d) Delivered electronically. – Delivered to the purchaser by means other  
21 than tangible storage media.

22 ...  
23 (7a) Direct mail. – Printed material delivered or distributed by the United  
24 States Postal Service or other delivery service to a mass audience or to  
25 addresses on a mailing list provided by the purchaser or at the  
26 direction of the purchaser when the cost of the items is not billed  
27 directly to the recipients. The term includes tangible personal property  
28 supplied directly or indirectly by the purchaser to the direct mail seller  
29 for inclusion in the package containing the printed material. The term  
30 does not include multiple items of printed material delivered to a  
31 single address.

32 ...  
33 (8a) Drug. – A compound, substance, or preparation or a component of one  
34 of these that meets any of the following descriptions and is not food, a  
35 dietary supplement, or an alcoholic beverage:

36 a. Is recognized in the United States Pharmacopoeia,  
37 Homeopathic Pharmacopoeia of the United States, or National  
38 Formulary.

39 b. Is intended for use in the diagnosis, cure, mitigation, treatment,  
40 or prevention of disease.

41 c. Is intended to affect the structure or function of the body.

42 (8b) Durable medical equipment. – Equipment that meets all of the  
43 conditions of this subdivision. The term includes repair and  
44 replacement parts for the equipment. The term does not include  
45 mobility enhancing equipment.

46 a. Can withstand repeated use.

47 b. Primarily and customarily used to serve a medical purpose.

48 c. Generally not useful to a person in the absence of an illness or  
49 injury.

50 d. Not worn in or on the body.

51 (8c) Electronic. – Relating to technology having electrical, digital,  
52 magnetic, wireless, optical, electromagnetic, or similar capabilities.

53 ...  
54 (17) Lease or rental. – A transfer, for consideration, of the use but not the  
55 ownership of property to another for a period of time. A transfer of

1 possession or control of tangible personal property for a fixed or  
2 indeterminate term for consideration. The term does not include any of  
3 the following:

4 a. A transfer of possession or control of property under a security  
5 agreement or deferred payment plan that requires the transfer of  
6 title upon completion of the required payments.

7 b. A transfer of possession or control of property under an  
8 agreement that requires the transfer of title upon completion of  
9 required payments and payment of an option price that does not  
10 exceed the greater of one hundred dollars (\$100.00) or one  
11 percent (1%) of the total required payments.

12 c. The providing of tangible personal property along with an  
13 operator for a fixed or indeterminate period of time if the  
14 operator is necessary for the equipment to perform as designed.  
15 For the purpose of this sub-subdivision, an operator must do  
16 more than maintain, inspect, or set up the tangible personal  
17 property.

18 (17a) Load and leave. – Delivery to the purchaser by use of a tangible  
19 storage media where the tangible storage media is not physically  
20 transferred to the purchaser.

21 ...  
22 (21a) Mobility enhancing equipment. – Equipment that meets all of the  
23 conditions of this subdivision. The term includes repair and  
24 replacement parts for the equipment. The term does not include  
25 durable medical equipment.

26 a. Primarily and customarily used to provide or increase the ability  
27 of an individual to move from one place to another.

28 b. Appropriate for use either in a home or motor vehicle.

29 c. Not generally used by a person with normal mobility.

30 d. Not normally provided on a motor vehicle by a motor vehicle  
31 manufacturer.

32 ...  
33 (25a) Over-the-counter drug. – A drug that can be dispensed under federal  
34 law without a prescription and is required by 21 C.F.R. § 210.66 to  
35 have a label containing a "Drug Facts" panel and a statement of its  
36 active ingredients.

37 ...  
38 (28) Prepared food. – Food that meets at least one of the following  
39 conditions: conditions of this subdivision. Prepared food does not  
40 include food the retailer sliced, repackaged, or pasteurized but did not  
41 otherwise process.

42 a. It is sold in a heated state or it is heated by the retailer.

43 b. It consists of two or more foods mixed or combined by the  
44 retailer for sale as a single item. This sub-subdivision does not  
45 include foods containing raw eggs, fish, meat, or poultry that  
46 require cooking by the consumer as recommended by the Food  
47 and Drug Administration to prevent food borne illnesses.

48 c. It is sold with eating utensils provided by the retailer, such as  
49 plates, knives, forks, spoons, glasses, cups, napkins, and straws.  
50 The term does not include food the retailer sliced, repackaged, or  
51 pasteurized but did not otherwise process.

52 (29) Prescription drug. – A drug that under federal law is required, prior to  
53 being dispensed or delivered, to be labeled with the following  
54 statement: "Caution: Federal law prohibits dispensing without  
55 prescription". Prescription. – An order, formula, or recipe issued orally,



1 in writing, electronically, or by another means of transmission by a  
 2 physician, dentist, veterinarian, or another person licensed to prescribe  
 3 drugs.

4 (29a) Prewritten computer software. – Computer software, including  
 5 prewritten upgrades, that is not designed and developed by the author  
 6 or another creator to the specifications of a specific purchaser. The  
 7 term includes software designed and developed by the author or  
 8 another creator to the specifications of a specific purchaser when it is  
 9 sold to a person other than the specific purchaser.

10 ...  
 11 (30a) Prosthetic device. – A replacement, corrective, or supporting device  
 12 worn on or in the body that meets one of the conditions of this  
 13 subdivision. The term includes repair and replacement parts for the  
 14 device.

15 a. Artificially replaces a missing portion of the body.

16 b. Prevents or corrects a physical deformity or malfunction.

17 c. Supports a weak or deformed portion of the body.

18 ...  
 19 (46) Tangible personal property. – Personal property that may be seen,  
 20 weighed, measured, felt, or touched or is in any other manner  
 21 perceptible to the senses. ~~The term does not include stocks, bonds,~~  
 22 ~~notes, insurance, or other obligations or securities, nor does it include~~  
 23 ~~water delivered by or through main lines or pipes either for~~  
 24 ~~commercial or domestic use or consumption. The term includes~~  
 25 ~~computer software delivered on a storage medium, such as a cd rom, a~~  
 26 ~~disk, or a tape. The term includes electricity, water, gas, steam, and~~  
 27 ~~prewritten computer software."~~

28 **SECTION 45.3.** G.S. 105-164.4B reads as rewritten:

29 **"§ 105-164.4B. ~~Sales are sourced based on destination.~~ Sourcing principles.**

30 (a) General Principles. – The following principles apply in determining where to  
 31 source the sale of a product. These principles apply regardless of the nature of the  
 32 product.

33 (1) Over-the-counter. – When a purchaser receives a product at a business  
 34 location of the seller, the sale is sourced to that business location.

35 (2) Delivery to specified address. – When a purchaser receives a product  
 36 at a location specified by the purchaser and the location is not a  
 37 business location of the seller, the sale is sourced to the location where  
 38 the purchaser receives the product.

39 (3) Delivery address unknown. – When a seller of a product does not  
 40 know the address where a product is received, the sale is sourced to the  
 41 first address or location listed in this subdivision that is known to the  
 42 seller:

43 a. The business or home address of the purchaser.

44 b. The billing address of the purchaser or, if the product is a  
 45 prepaid telephone calling service that authorizes the purchase of  
 46 mobile telecommunications service, the location associated with  
 47 the mobile telephone number.

48 c. The billing address of the purchaser.

49 (b) Periodic Rental Payments. – When a lease or rental agreement requires  
 50 recurring periodic payments, the payments are sourced as follows:

51 (1) For leased or rented property, the first payment is sourced in  
 52 accordance with the principles set out in subsection (a) of this section  
 53 and each subsequent payment is sourced to the primary location of the  
 54 leased or rented property for the period covered by the payment. This

1 subdivision applies to all property except a motor vehicle, an aircraft,  
 2 and transportation equipment.

3 (2) For leased or rented property that is a motor vehicle or an aircraft but  
 4 is not transportation equipment, all payments are sourced to the  
 5 primary location of the leased or rented property for the period covered  
 6 by the payment.

7 (3) For leased or rented property that is transportation equipment, all  
 8 payments are sourced in accordance with the principles set out in  
 9 subsection (a) of this section.

10 (c) Transportation Equipment Defined. – As used in the section, the term  
 11 "transportation equipment" means any of the following used to carry persons or  
 12 property in interstate commerce: a locomotive, a railway car, a commercial motor  
 13 vehicle as defined in G.S. 20-4.01, or an aircraft. The term includes a container  
 14 designed for use on the equipment and a component part of the equipment.

15 (d) Exceptions. – This section does not apply to the following:

16 (1) ~~telecommunications~~ Telecommunications ~~services.~~ –  
 17 Telecommunications services are sourced in accordance with G.S.  
 18 105-164.4C.

19 (2) Direct mail. – Direct mail that meets one of the conditions of this  
 20 subdivision is sourced to the location where the property is delivered.  
 21 In all other cases, direct mail is sourced in accordance with the  
 22 principles set out in subsection (a) of this section.

23 a. Direct mail purchased pursuant to a direct pay permit.

24 b. When the purchaser provides the seller with information to  
 25 show the jurisdictions to which the direct mail is to be  
 26 delivered."

27 **SECTION 45.4.** G.S. 105-164.6A(b) reads as rewritten:

28 "(b) Mandatory Provisions. – The agreements must contain the following  
 29 provisions:

30 (1) The seller is not liable for use tax not paid to it by a customer.

31 (2) A customer's payment of a use tax to the seller relieves the customer of  
 32 liability for the use tax.

33 (3) The seller must remit all use taxes it collects from customers on or  
 34 before the due date specified in the agreement, which may not be later  
 35 than 31 days after the end of a quarter or other collection period. The  
 36 collection period cannot be more often than annually if the seller's  
 37 State and local tax collections are less than one thousand dollars  
 38 (\$1,000) in a calendar year.

39 (4) A seller who fails to remit use taxes collected on behalf of its  
 40 customers by the due date specified in the agreement is subject to the  
 41 interest and penalties provided in Article 9 of this Chapter with respect  
 42 to the taxes to the same extent as if the seller were a retailer and were  
 43 required to collect use taxes under this Article."

44 **SECTION 45.5.** G.S. 105-164.13 reads as rewritten:

45 **"§ 105-164.13. Retail sales and use tax.**

46 The sale at retail, the use, storage or consumption in this State of the following  
 47 tangible personal property is specifically exempted from the tax imposed by this Article:

48  
 49 (12) Sales of any of the following items:

50 a. ~~Therapeutic, prosthetic, or artificial devices, such as pulmonary~~  
 51 ~~respirators or medical beds, that are designed for individual~~  
 52 ~~personal use to correct or alleviate physical illness, disease, or~~  
 53 ~~incapacity and that are sold on the written prescription of a~~  
 54 ~~physician, dentist, or other professional person licensed to~~  
 55 ~~prescribe.~~

- 1           b.     ~~Crutches, artificial limbs, artificial eyes, hearing aids, false~~  
 2           ~~teeth, eyeglasses ground on prescription of a physician or an~~  
 3           ~~optometrist.~~  
 4           e.     ~~Orthopedic appliances designed to be worn by the purchaser or~~  
 5           ~~user.~~  
 6           d.     ~~Durable medical equipment and related medical supplies that~~  
 7           ~~are covered under the Medicare or Medicaid program and are~~  
 8           ~~sold on either a certificate of medical necessity or a written~~  
 9           ~~prescription of a physician, dentist, or other professional person~~  
 10           ~~licensed to prescribe. This exemption applies whether or not the~~  
 11           ~~item is purchased by a Medicare or Medicaid beneficiary.~~  
 12           a.     ~~Prosthetic devices.~~  
 13           b.     ~~Mobility enhancing equipment sold on a prescription.~~  
 14           c.     ~~Durable medical equipment sold on prescription.~~  
 15       (13) ~~All of the following drugs, including the constituent elements and~~  
 16       ~~ingredients used to produce the drugs, the their packaging materials,~~  
 17       ~~materials and any instructions or information about the product drugs~~  
 18       ~~included in the package with the drugs; them:~~  
 19           a.     ~~Prescription drugs. Drugs required by federal law to be~~  
 20           ~~dispensed only on prescription.~~  
 21           b.     ~~Nonprescription drugs sold on prescription of physicians,~~  
 22           ~~dentists, or veterinarians. Over-the-counter drugs sold on~~  
 23           ~~prescription.~~  
 24           c.     ~~Insulin.~~  
 25       ...  
 26       (43) ~~Custom computer software. —"Custom computer software" is software~~  
 27       ~~written in accordance with the specifications of a specific customer.~~  
 28       ~~The term includes a user manual or other documentation that~~  
 29       ~~accompanies the sale of the software. The term does not include~~  
 30       ~~prewritten software that can be installed and executed with no changes~~  
 31       ~~to the software's source code other than changes made to configure~~  
 32       ~~hardware or software. Custom computer software and the portion of~~  
 33       ~~prewritten computer software that is modified or enhanced if the~~  
 34       ~~modification or enhancement is designed and developed to the~~  
 35       ~~specifications of a specific purchaser and the charges for the~~  
 36       ~~modification or enhancement are separately stated.~~  
 37       (43a) ~~Computer software delivered electronically or delivered by load and~~  
 38       ~~leave.~~  
 39       ...  
 40       (50) ~~Fifty percent (50%) of the sales price of tangible personal property~~  
 41       ~~sold through a coin-operated vending machine, other than~~  
 42       ~~closed container soft drinks and tobacco.~~  
 43       (51) ~~Water delivered by or through main lines or pipes for either~~  
 44       ~~commercial or domestic use or consumption."~~

45       **SECTION 45.6.** G.S. 105-164.13B reads as rewritten:

46       "**§ 105-164.13B. Food exempt from tax.**

47       ~~Food~~ Except as provided in this section, food is exempt from the taxes imposed by  
 48       ~~this Article, except as follows:~~ Article. The taxes apply to the following:

- 49       (1) ~~The following items are subject to tax:~~  
 50           a.     ~~Alcoholic beverages, as defined in 105-113.68.~~  
 51           b.     ~~Dietary supplements.~~  
 52           c.     ~~Food sold through a vending machine.~~  
 53       (2) ~~The following items are subject to tax, unless the items are purchased~~  
 54       ~~for home consumption and would be exempt if purchased under the~~  
 55       ~~Federal Food Stamp Program, 7 U.S.C. § 51:~~

- 1 a. Candy.  
2 b. Prepared food.  
3 c. Soft drinks.

4 (1) Alcoholic beverages, as defined in G.S. 105-113.68.

5 (2) Candy.

6 (3) Dietary supplements.

7 (4) Food sold through a vending machine.

8 (5) Prepared food.

9 (6) Soft drinks."

10 **SECTION 45.7.** G.S. 105-164.13C(c) is repealed.

11 **SECTION 45.8.** G.S. 105-164.16(b1) reads as rewritten:

12 "(b1) Monthly. – A taxpayer who is consistently liable for more than one hundred  
13 dollars (\$100.00) but less than ten thousand dollars (\$10,000) a month in State and local  
14 sales and use taxes must file a return and pay the taxes due on a monthly basis. A  
15 monthly return is due by the ~~15<sup>th</sup>~~ 20<sup>th</sup> day of the month following the calendar month  
16 covered by the return."

17 **SECTION 45.9.** G.S. 105-164.27A(a) reads as rewritten:

18 "(a) Tangible Personal Property. – A direct pay permit for tangible personal  
19 property authorizes its holder to purchase any tangible personal property without paying  
20 tax to the seller and authorizes the seller to not collect any tax on a sale to the permit  
21 holder. A person who purchases tangible personal property under a direct pay permit  
22 issued under this subsection is liable for use tax due on the purchase. The tax is payable  
23 when the property is placed in use. A direct pay permit issued under this subsection  
24 does not apply to taxes imposed under G.S. 105-164.4(a)(1f) or G.S. 105-164.4(a)(4a).

25 A person who purchases direct mail may apply to the Secretary for a direct pay  
26 permit for the purchase of direct mail. The direct pay permit issued for direct mail does  
27 not apply to any purchase other than the purchase of direct mail.

28 A person who purchases tangible personal property whose tax status cannot be  
29 determined at the time of the purchase because of one of the reasons listed below may  
30 apply to the Secretary for a direct pay permit for tangible personal property:

- 31 (1) The place of business where the property will be used is not known at  
32 the time of the purchase and a different tax consequence applies  
33 depending on where the property is used.  
34 (2) The manner in which the property will be used is not known at the  
35 time of the purchase and one or more of the potential uses is taxable  
36 but others are not taxable."

37 **SECTION 45.10.** G.S. 105-466(c) reads as rewritten:

38 "(c) Collection of the tax, and liability therefor, must begin and continue only on  
39 and after the first day of the month of either January or July, as set by the board of  
40 county commissioners in the resolution levying the tax. In no event may the tax be  
41 imposed, or the tax rate changed, earlier than the first day of the second succeeding  
42 calendar month after the date of the adoption of the resolution. The county must give the  
43 Secretary at least 90 days advance notice of a new tax levy or tax rate change. The  
44 applicability of a new tax or a tax rate change to purchases from printed catalogs  
45 becomes effective on the first day of a calendar quarter after a minimum of 120 days  
46 from the date the Secretary notifies the seller that receives orders by means of a catalog  
47 or similar publication of the new tax or tax rate change."

48 **SECTION 45.11.** Sections 45.2 through 45.10 of this act become effective  
49 July 1, 2003. The remainder of this part is effective when it becomes law.

## 50 PART XLVI. SECURITY INTEREST DEBT

51 Requested by: Senators Kerr, Hoyle, Garrou, Dalton, Hagan

52 **SECTION 46.1.** Repair and Renovation. – This section authorizes the  
53 issuance or incurrence of special indebtedness in a maximum aggregate principal  
54  
55

1 amount of two hundred fifty million dollars (\$250,000,000) to be used only in  
2 accordance with this section for the repair and renovation of State facilities and related  
3 infrastructure that are supported from the General Fund.

4 Proceeds of the Repair and Renovation special indebtedness shall be used  
5 only for the purposes and in accordance with the procedures provided in G.S.  
6 143-15.3A, the Repairs and Renovations Reserve Account.

7 Except in the case of an emergency as provided in G.S. 143-15.3A, the  
8 Director of the Budget shall use the Repair and Renovations funds only for repairs and  
9 renovations that have been approved by an act of the General Assembly or, if the  
10 General Assembly is not in session, for repairs and renovations about which the  
11 Director of the Budget has first consulted with the Joint Legislative Commission on  
12 Governmental Operations under G.S. 143-15.3A(c). The Director of the Budget shall  
13 direct the State Treasurer to carry out the financing for repair and renovation projects  
14 selected pursuant to this section. Special indebtedness authorized by this section shall be  
15 issued or incurred only in accordance with Article 9 of Chapter 142 of the General  
16 Statutes, as enacted by this part.

17 **SECTION 46.2.** Chapter 142 of the General Statutes is amended by adding a  
18 new Article to read:

19 "Article 9.

20 "State Capital Facilities Finance Act.

21 **"§ 142-80. Short title.**

22 This Article may be cited as the State Capital Facilities Finance Act.

23 **"§ 142-81. Findings and purpose.**

24 The General Assembly finds as follows:

- 25 (1) There is a continuing need for capital facilities for the State, many of  
26 which will continue to be provided on a "pay-as-you-go" basis by  
27 direct appropriations.  
28 (2) The State will also continue to provide capital facilities through the  
29 issuance of general obligation bonds.  
30 (3) There is a need, however, for the use of alternative financing methods,  
31 such as authorized in this Article, to facilitate the providing of capital  
32 facilities when circumstances and conditions warrant the providing of  
33 capital facilities through financing methods in addition to direct  
34 appropriations and the issuance of general obligation bonds.  
35 (4) The use of these alternative financing methods as authorized in this  
36 Article will provide financing flexibility to the State and permit the  
37 State to take advantage of changing financial and economic  
38 environments.

39 **"§ 142-82. Definitions.**

40 The following definitions apply in this Article:

- 41 (1) Bonded indebtedness. – Limited obligation bonds and bond  
42 anticipation notes, including refunding bonds and notes, authorized to  
43 be issued under this Article.  
44 (2) Bonds or notes. – Limited obligation bonds and notes authorized to be  
45 issued under this Article.  
46 (3) Capital facility. – Any one or more of the following:  
47 a. Any one or more buildings, utilities, structures, or other  
48 facilities or property developments, including streets and  
49 landscaping, and the acquisition of equipment, machinery, and  
50 furnishings in connection with these items.  
51 b. Additions, extensions, enlargements, renovations, and  
52 improvements to existing buildings, utilities, structures, or other  
53 facilities or property developments, including streets and  
54 landscaping.  
55 c. Land or an interest in land.

- 1           d.     Other infrastructure.  
2           e.     Furniture, fixtures, equipment, vehicles, machinery, and similar  
3                 items.  
4       (4)   Certificates of participation. – Certificates or other instruments  
5           delivered by a special corporation evidencing the assignment of  
6           proportionate undivided interests in rights to receive payments  
7           pursuant to a financing contract.  
8       (5)   Certificates of participation indebtedness. – Financing contract  
9           indebtedness incurred by the State under a plan of finance in which a  
10          special corporation obtains funds to pay the cost of a capital facility to  
11          be financed through the delivery by the special corporation of  
12          certificates of participation.  
13       (6)   Cost. – Any of the following in financing the cost of capital facilities  
14           as authorized by this Article:  
15          a.     The cost of constructing, reconstructing, renovating, repairing,  
16                 enlarging, acquiring, and improving capital facilities, including  
17                 the acquisition of land, rights-of-way, easements, franchises,  
18                 equipment, machinery, furnishings, and other interests in real or  
19                 personal property acquired or used in connection with a capital  
20                 facility.  
21          b.     The cost of engineering, architectural, and other consulting  
22                 services.  
23          c.     The cost of providing personnel to ensure effective  
24                 management of capital facilities.  
25          d.     Finance charges, reserves for debt service, and other types of  
26                 reserves required pursuant to the terms of any special  
27                 indebtedness or related documents, interest before and during  
28                 construction or acquisition of a capital facility and, if  
29                 considered advisable by the State Treasurer, for a period not  
30                 exceeding two years after the estimated date of completion of  
31                 construction or acquisition.  
32          e.     Administrative expenses and charges.  
33          f.     The cost of bond insurance, investment contracts, credit  
34                 enhancement facilities and liquidity facilities, interest rate swap  
35                 agreements or other derivative products, financial and legal  
36                 consultants, and related costs of the incurrence or issuance of  
37                 special indebtedness.  
38          g.     The cost of reimbursing the State, a State agency, or a special  
39                 corporation for any payments made for any cost described in  
40                 this subdivision.  
41          h.     Any other costs and expenses necessary or incidental to the  
42                 purposes of this Article.  
43       (7)   Credit facility. – An agreement that:  
44          a.     Is entered into by the State with a bank, savings and loan  
45                 association, or other banking institution, an insurance company,  
46                 reinsurance company, surety company, or other insurance  
47                 institution, a corporation, investment banking firm, or other  
48                 investment institution, or any financial institution or other  
49                 similar provider of a credit facility, which provider may be  
50                 located within or without the United States of America; and  
51          b.     Provides for prompt payment of all or any part of the principal  
52                 or purchase price (whether at maturity, presentment or tender  
53                 for purchase, redemption, or acceleration), redemption  
54                 premium, if any, and interest with respect to any special  
55                 indebtedness payable on demand or tender by the owner in

- 1                    consideration of the State's agreeing to repay the provider of the  
2                    credit facility in accordance with the terms and provisions of  
3                    the agreement.
- 4            (8)    Department of Administration. – The North Carolina Department of  
5            Administration, created by Article 36 of Chapter 143 of the General  
6            Statutes, or if the Department is abolished or otherwise divested of its  
7            functions under this Article, the public body succeeding it in its  
8            principal functions or upon which are conferred by law the rights,  
9            powers, and duties given by this Article to the Department.
- 10           (9)    Financing contract. – A contract entered into pursuant to this Article to  
11           finance capital facilities and constituting a lease-purchase contract,  
12           installment-purchase contract, or other similar type installment  
13           financing contract. The term does not include, however, a contract that  
14           meets any one of the following conditions:
- 15           a.        It constitutes an operating lease under generally accepted  
16           accounting principles.
- 17           b.        It provides for the payment under the contract over its full term,  
18           including periods that may be added to the original term  
19           through the exercise of options to renew or extend, of an  
20           aggregate principal amount of not in excess of five thousand  
21           dollars (\$5,000) or any greater amount that may be established  
22           by the Council of State if the Council of State determines (i) the  
23           aggregate amount to be paid under these contracts will not have  
24           a significant impact on the State budgetary process or the  
25           economy of the State and (ii) the change will lessen the  
26           administrative burden on the State.
- 27           c.        It is executed and provides for the making of all payments  
28           under the contract, including payment to be made during any  
29           period that may be added to the original term through the  
30           exercise of options to renew or extend, in the same fiscal year.
- 31           (10)   Financing contract indebtedness. – Indebtedness incurred pursuant to a  
32           financing contract, including certificates of participation indebtedness.
- 33           (11)   Fiscal period. – A fiscal biennium or a fiscal year of the fiscal  
34           biennium.
- 35           (12)   Fiscal year. – The fiscal year of the State beginning on July 1 of one  
36           calendar year and ending on June 30 of the next calendar year.
- 37           (13)   Limited obligation bond. – A limited obligation bond issued pursuant  
38           to G.S. 142-88 and payable and secured as provided in G.S. 142-89.
- 39           (14)   Par formula. – A provision or formula adopted by the State to provide  
40           for the adjustment, from time to time, of the interest rate or rates borne  
41           or provided for by any special indebtedness, including any of the  
42           following:
- 43           a.        A provision providing for an adjustment so that the purchase  
44           price of special indebtedness in the open market would be as  
45           close to par as possible.
- 46           b.        A provision providing for an adjustment based upon a  
47           percentage or percentages of a prime rate or base rate, which  
48           percentages may vary or be applied for different periods of  
49           time.
- 50           c.        Any provision that the State Treasurer determines is consistent  
51           with this Article and will not materially and adversely affect the  
52           financial position of the State and the marketing of special  
53           indebtedness at a reasonable interest cost to the State.

- 1           (15) Person. – An individual, a firm, a partnership, an association, a  
2 corporation, a limited liability company, or any other organization or  
3 group acting as a unit.
- 4           (16) Special corporation. – Either of the following:  
5           a. A nonprofit corporation created under Chapter 55A of the  
6 General Statutes for the purpose of facilitating the incurrence of  
7 certificates of participation indebtedness by the State under this  
8 Article.  
9           b. A private corporation or other entity issuing certificates of  
10 participation pursuant to this Article.
- 11           (17) Special indebtedness. – Financing contract indebtedness and bonded  
12 indebtedness issued or incurred pursuant to this Article.
- 13           (18) State. – The State of North Carolina, including any State agency.
- 14           (19) State agency. – Any agency, institution, board, commission, bureau,  
15 council, department, division, officer, or employee of the State. The  
16 term does not include counties, municipal corporations, political  
17 subdivisions, local boards of education, or other local public bodies.
- 18           (20) State Treasurer. – The incumbent Treasurer, from time to time, of the  
19 State.

20 **"§ 142-83. Authorization of special indebtedness; General Assembly approval.**

21 The State may incur or issue special indebtedness subject to the terms and conditions  
22 provided in this Article for the purpose of financing the cost of capital facilities that  
23 meet one of the following conditions:

- 24           (1) The General Assembly has enacted legislation describing the capital  
25 facility and authorizing its financing by the incurrence or issuance of  
26 special indebtedness up to a specific maximum amount.
- 27           (2) The General Assembly has enacted legislation authorizing the  
28 incurrence or issuance of special indebtedness up to a specific  
29 maximum amount for a specific category of capital facilities, and the  
30 capital facility meets all of the conditions set in that legislation.

31 **"§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

32           (a) Notice and Certificate. – Whenever the State or a State agency determines  
33 that special indebtedness is appropriate to finance capital facilities, it shall notify the  
34 Department of Administration. If the Department of Administration concurs, it shall  
35 provide written notice to the State Treasurer advising the State Treasurer of this  
36 determination.

37           After the filing of the notice and after any preliminary conference, the State  
38 Treasurer shall consult with the Office of State Budget and Management as to the  
39 revenues expected by that Office to be available to pay all sums to come due on the  
40 special indebtedness during its term. If, after consulting with the Office of State Budget  
41 and Management, the State Treasurer determines by written certificate that it may be  
42 desirable to use special indebtedness to finance the capital facilities, the Department of  
43 Administration shall request the Council of State to give its preliminary approval of the  
44 use of special indebtedness to finance the capital facilities. The Department of  
45 Administration must promptly file copies of the notice and certificate required by this  
46 subsection with the Governor and the Council of State.

47           (b) Preliminary Approval. – The Council of State, upon receipt of the notice and  
48 certificate required by subsection (a) of this section, shall adopt a resolution granting or  
49 denying preliminary approval of the financing. A resolution granting preliminary  
50 approval may include any other terms, conditions, and restrictions the Council of State  
51 considers appropriate and not inconsistent with the provisions of this Article.

52           (c) Final Approval. – Before any special indebtedness may be incurred or issued  
53 pursuant to this Article, the Council of State must authorize the indebtedness by  
54 resolution, either as part of or separate from the resolution required by subsection (b) of  
55 this section. The resolution must do all of the following:



- 1           (1) Authorize the providing of a particular capital facility or, in general  
2 terms, the types or classifications of capital facilities to be provided.
- 3           (2) Set the aggregate principal amount or maximum principal amount of  
4 the special indebtedness authorized.
- 5           (3) Set the maturity or maximum maturity of the special indebtedness  
6 authorized.
- 7           (4) Set the rate, rates, or maximum rate of interest, which may be fixed or  
8 vary over a period of time, of the special indebtedness authorized.
- 9           (5) Include any other conditions or matters not inconsistent with the  
10 provisions of this Article in the discretion of the Council of State,  
11 which may include the adoption or approvals as may be authorized in  
12 G.S. 142-88 and G.S. 142-89.

13           (d) Financing Terms. – No special indebtedness shall be incurred or issued  
14 without the prior written approval of the State Treasurer as provided in this subsection,  
15 which is in addition to the certificate given by the State Treasurer pursuant to subsection  
16 (a) of this section. In determining whether to approve the proposed financing, the State  
17 Treasurer may consider any factors the State Treasurer considers relevant in order to  
18 find and determine all of the following:

- 19           (1) The amounts to become due under the special indebtedness, including  
20 the interest component or rate, are adequate and not excessive for the  
21 purpose proposed.
- 22           (2) The increase, if any, in State revenues, including taxes, necessary to  
23 pay the sums to become due under the special indebtedness, is not  
24 excessive.
- 25           (3) The special indebtedness can be incurred or issued on terms desirable  
26 to the State.

27           (e) Designation of Facilities. – If the Council of State authorized in general terms  
28 the types or classifications of capital facilities to be financed, then the particular capital  
29 facilities and the principal amount of special indebtedness to be incurred or issued for  
30 each particular capital facility shall be determined by the Department of Administration  
31 after considering any factors it considers relevant in order to determine that the  
32 particular capital facility to be provided is desirable for the efficient operation of the  
33 State and its agencies and is in the best interests of the State.

34           (f) Type of Debt and Security. – In the absence of a determination by the  
35 Council of State, the State Treasurer, after consultation with the Department of  
36 Administration, shall determine the specific security offered and whether the special  
37 indebtedness to be issued or incurred shall be financing contract indebtedness,  
38 certificates of participation indebtedness, bonded indebtedness, or some combination of  
39 these.

40           (g) Administration. – The State Treasurer, after consultation with the Department  
41 of Administration, shall develop appropriate documents for use under this Article. The  
42 State Treasurer shall employ and designate the financial consultants, fiduciaries and  
43 other agents, underwriters, and bond attorneys to be associated with the incurrence or  
44 issuance of special indebtedness pursuant to this Article.

45           (h) Oversight by Joint Legislative Commission. – After all the requirements for  
46 approval and oversight provided in this section have been met, and at least five days  
47 before the issuance or incurrence of the special indebtedness, the State Treasurer must  
48 report to the Joint Legislative Commission on Governmental Operations. This report  
49 must include the details of the proposed special indebtedness, including the capital  
50 facilities to be financed by the indebtedness, the amount of the proposed indebtedness,  
51 the type of indebtedness to be issued or incurred, and any other information required by  
52 the Commission.

53 **"§ 142-85. Security; other requirements.**

54           (a) Security. – In order to secure (i) lease or installment payments to be made to  
55 the lessor, seller, or other person advancing moneys or providing financing under a

1 financing contract, (ii) payment of the principal of and interest on bonded indebtedness,  
2 or (iii) payment obligations of the State to the provider of bond insurance, a credit  
3 facility, a liquidity facility, or a derivative agreement, special indebtedness may create  
4 any combination of the following:

5 (1) A lien on or security interest in one or more, all, or any part of the  
6 capital facilities to be financed by the special indebtedness.

7 (2) If the special indebtedness is to finance construction of improvements  
8 on real property, a lien on or security interest in all or any part of the  
9 land on which the improvements are to be located.

10 (3) If the special indebtedness is to finance renovations or improvements  
11 to existing facilities or the installation of fixtures in existing facilities,  
12 a lien on or security interest in one or more, all, or any part of the  
13 facilities.

14 (b) Value of Security; Multiple Liens. – The estimated value of the property  
15 subject to the lien or security interest need not bear any particular relationship to the  
16 principal amount of the special indebtedness or other obligation it secures. This Article  
17 does not limit the right of the State to grant multiple liens or security interests in a  
18 capital facility or other property to the extent not otherwise limited by the terms of any  
19 special indebtedness.

20 (c) Governor's Budget. – Documentation relating to any special indebtedness  
21 may include provisions requesting the Governor to submit in the Governor's budget  
22 proposal or any amendments or supplements to the budget proposed appropriations  
23 necessary to make the payments required by the special indebtedness.

24 (d) Source of Repayment. – The payment of amounts payable by the State under  
25 special indebtedness or any related documents during any fiscal period shall be limited  
26 to funds appropriated for that purpose by the General Assembly in its discretion.

27 (e) No Deficiency Judgment or Pledge. – No deficiency judgment may be  
28 rendered against the State in any action for breach of any obligation under special  
29 indebtedness or any related documents. The taxing power of the State is not and may  
30 not be pledged directly or indirectly to secure any moneys due under special  
31 indebtedness or any related documents. In the event that the General Assembly does not  
32 appropriate sums sufficient to make payments required under any special indebtedness  
33 or any related documents, the net proceeds received from the sale or other disposition of  
34 the property subject to the lien or security interest shall be applied to satisfy these  
35 payment obligations in accordance with the deed of trust, security agreement, or other  
36 documentation relating to the lien or security interest. These net proceeds are  
37 appropriated for the purpose of making these payments. Any net proceeds in excess of  
38 the amount required to satisfy the obligations of the State under any special  
39 indebtedness or any related documents shall be paid to the State Treasurer for deposit to  
40 the General Fund.

41 (f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness,  
42 or other related document shall not contain a nonsubstitution clause that restricts the  
43 right of the State to (i) continue to provide a service or conduct an activity or (ii) replace  
44 or provide a substitute for any capital facility.

45 (g) Protection of Lender. – Special indebtedness may contain any provisions for  
46 protecting and enforcing the rights and remedies of the person advancing moneys or  
47 providing financing under a financing contract, the owners of bonded indebtedness, or  
48 others to whom the State is obligated under special indebtedness or any related  
49 documents as may be reasonable and proper and not in violation of law. These  
50 provisions may include covenants setting forth the duties of the State in respect of any  
51 of the following:

52 (1) The purposes to which the proceeds of special indebtedness may be  
53 applied.

54 (2) The disposition and application of the revenues of the State, including  
55 taxes.

1           (3) Insuring, maintaining, and other duties with respect to the capital  
2           facilities financed.

3           (4) The disposition of any charges and collection of any revenues and  
4           administrative charges.

5           (5) The terms and conditions of the issuance of additional special  
6           indebtedness.

7           (6) The custody, safeguarding, investment, and application of all moneys.

8           (h) State Property Law Exception. – Chapter 146 of the General Statutes does not  
9           apply to any transfer of the State's interest in property authorized by this Article,  
10           whether to a deed of trust trustee or other secured party as security for special  
11           indebtedness, or to a purchaser of property in connection with a foreclosure or similar  
12           conveyance of property to realize upon the security for special indebtedness following  
13           the State's default on its obligations under the special indebtedness.

14           "**§ 142-86. Financing contract indebtedness.**

15           (a) Documentation. – Financing contract indebtedness shall not be incurred until  
16           all documentation providing for its incurrence has been approved by the State Treasurer,  
17           after the State Treasurer has consulted with the Department of Administration.

18           (b) Interest Component. – A financing contract may provide for payments under  
19           the contract to represent principal and interest components of the cost of the capital  
20           facility to be financed, as determined by the State Treasurer.

21           (c) Bidding. – Financing contracts may be entered into pursuant to any applicable  
22           public or competitive bidding process or any private or negotiated process, to the extent  
23           required by applicable law, and if not so required, as may be determined by the  
24           Department of Administration after consulting with the State Treasurer.

25           (d) Party. – All financing contracts shall be executed on behalf of the State by the  
26           State Treasurer or, upon delegation by the State Treasurer after having approved the  
27           financing contract, by the Department of Administration.

28           (e) Credit Facility. – If the State Treasurer determines that it is in the best interest  
29           of the State, the State Treasurer may arrange for the delivery of a credit facility to  
30           secure payment under any financing contract. The State Treasurer may also provide that  
31           payments by the State representing the interest component of the payments to be made  
32           under a financing contract may be calculated based upon a fixed or a variable rate of  
33           interest.

34           (f) Terms and Conditions. – All other conditions set forth elsewhere in this  
35           Article with respect to financing contract indebtedness shall also be satisfied prior to  
36           incurring any financing contract indebtedness. To the extent applicable as conclusively  
37           determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91  
38           apply to financing contract indebtedness.

39           "**§ 142-87. Additional requirements for certificates of participation indebtedness.**

40           (a) Documentation. – A financing contract shall not be used in connection with  
41           the delivery of certificates of participation by a special corporation until all  
42           documentation providing for its use has been approved by the State Treasurer, after the  
43           State Treasurer has consulted with the Department of Administration. All  
44           documentation providing for the delivery and sale of certificates of participation must  
45           be approved by the State Treasurer.

46           (b) Procedure. – The special corporation, if used, shall request the approval of the  
47           State Treasurer in writing and shall furnish any information and documentation relating  
48           to the delivery and sale of the certificates of participation requested by the State  
49           Treasurer. In determining whether to approve the financing in the documentation, the  
50           State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the  
51           effect of the proposed financing upon any scheduled or proposed sale of debt  
52           obligations by the State or a unit of local government in the State.

53           (c) Terms; Interest. – Certificates of participation may be sold by the State  
54           Treasurer in the manner, either at public or private sale, and for any price or prices that  
55           the State Treasurer determines to be in the best interest of the State and to effect the

1 purposes of this Article, except that the terms of the sale must also be approved by the  
2 special corporation. Interest payable with respect to certificates of participation shall  
3 accrue at the rate or rates determined by the State Treasurer with the approval of the  
4 special corporation.

5 (d) Trust Agreement. – Certificates of participation may be delivered pursuant to  
6 a trust agreement or similar instrument with a corporate trustee approved by the State  
7 Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar  
8 instrument to the extent applicable.

9 (e) Other Conditions. – All other conditions set forth elsewhere in this Article  
10 with respect to certificates of participation indebtedness, including the conditions set  
11 forth in G.S. 142-86, must be satisfied before any certificates of participation  
12 indebtedness is incurred.

13 **"§ 142-88. Bonded indebtedness.**

14 The State Treasurer is authorized, by and with the consent of the Council of State as  
15 provided in this Article, to issue and sell at one time or from time to time bonds of the  
16 State to be designated "State of North Carolina Limited Obligation Bonds, Series \_\_\_\_\_"  
17 or notes of the State as provided in this Article, for the purpose of providing funds, with  
18 any other available funds, for the uses authorized in this Article.

19 **"§ 142-89. Issuance of limited obligation bonds and notes.**

20 (a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or  
21 term bonds or notes, or any combination of these, may mature in any amounts and at  
22 any times, not exceeding 40 years from their dates, may be payable at any places, either  
23 within or without the United States, in any coin or currency of the United States that at  
24 the time of payment is legal tender for payment of public and private debts, may bear  
25 interest at any rates, which may vary from time to time, and may be made redeemable  
26 before maturity, at the option of the State or otherwise as may be provided by the State,  
27 at any prices, including a price greater than the face amount of the bonds or notes, and  
28 under any terms and conditions, all as may be determined by the State Treasurer, by and  
29 with the consent of the Council of State.

30 (b) Signatures; Form and Denomination; Registration. – Bonds or notes may be  
31 issued in certificated or uncertificated form. If issued in certificated form, bonds or  
32 notes shall be signed on behalf of the State by the Governor or shall bear the Governor's  
33 facsimile signature, shall be signed by the State Treasurer or shall bear the State  
34 Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of  
35 the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures  
36 of the Governor and the State Treasurer, the bonds or notes shall also bear a manual  
37 signature which may be that of a bond registrar, trustee, paying agent, or designated  
38 assistant of the State Treasurer. If any officer whose signature or facsimile signature  
39 appears on bonds or notes issued under this Article ceases to be that officer before the  
40 delivery of the bonds or notes, the signature or facsimile signature shall nevertheless  
41 have the same validity for all purposes as if the officer had remained in office until  
42 delivery of the bonds or notes. Bonds or notes issued under this Article may bear the  
43 facsimile signatures of persons, who at the actual time of the execution of the bonds or  
44 notes, were the proper officers to sign any bond or note although at the date of the bond  
45 or note those persons may not have been officers.

46 The form and denomination of bonds or notes, including the provisions with respect  
47 to registration of the bonds or notes and any system for their registration, shall be as  
48 prescribed by the State Treasurer in conformity with this Article.

49 (c) Manner of Sale; Expenses. – Subject to the approval by the Council of State  
50 as to the manner in which bonds or notes will be offered for sale, whether at public or  
51 private sale, whether within or without the United States, and whether by publishing  
52 notices in certain newspapers and financial journals, mailing notices, inviting bids by  
53 correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is  
54 authorized to sell bonds or notes at one time or from time to time at any rates of interest,  
55 which may vary from time to time, and at any prices, including a price less than the face

1 amount of the bonds or notes, as the State Treasurer may determine. All expenses  
2 incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the  
3 State Treasurer from the proceeds of bonds or notes or other available moneys.

4 (d) Application of Proceeds. – The proceeds of any bonds or notes shall be used  
5 solely for the purposes for which the bonds or notes were issued and shall be disbursed  
6 in the manner and under the restrictions, if any, that the Council of State may provide in  
7 the resolution authorizing the issuance of, or in any trust agreement securing, the bonds  
8 or notes.

9 Any additional moneys that may be received by means of a grant or grants from the  
10 United States or any agency or department thereof or from any other source to aid in  
11 financing the cost of a capital facility may be disbursed, to the extent permitted by the  
12 terms of the grant or grants, without regard to any limitations imposed by this Article.

13 (e) Notes; Repayment. – By and with the consent of the Council of State, the  
14 State Treasurer is authorized to borrow money and to execute and issue notes of the  
15 State for the same, but only in any of the following circumstances and under the  
16 following conditions:

17 (1) For anticipating the sale of bonds, the issuance of which the Council of  
18 State has approved, if the State Treasurer considers it advisable to  
19 postpone the issuance of the bonds.

20 (2) For the payment of interest on or any installment of principal of any  
21 bonds then outstanding, if there are not sufficient funds in the State  
22 treasury with which to pay the interest or installment of principal as  
23 they respectively become due.

24 (3) For the renewal of any loan evidenced by notes authorized in this  
25 Article.

26 (4) For the purposes authorized in this Article.

27 (5) For refunding bonds or notes or financing contract indebtedness as  
28 authorized in this Article.

29 Funds derived from the sale of limited obligation bonds or notes may be used in the  
30 payment of any bond anticipation notes issued under this Article. Funds provided by the  
31 General Assembly for the payment of interest on or principal of bonds shall be used in  
32 paying the interest on or principal of any notes and any renewals thereof, the proceeds  
33 of which have been used in paying interest on or principal of the bonds.

34 (f) Refunding Bonds and Notes. – By and with the consent of the Council of  
35 State, the State Treasurer is authorized to issue and sell refunding bonds and notes for  
36 the purpose of refunding special indebtedness and to pay the cost of issuance of the  
37 refunding bonds or notes. The refunding bonds and notes may be combined with any  
38 other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or  
39 notes may be issued at any time prior to the final maturity of the debt or obligation to be  
40 refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to  
41 the immediate payment and retirement of the obligations being refunded or, if not  
42 required for the immediate payment of the obligations being refunded, the proceeds  
43 shall be deposited in trust to provide for the payment and retirement of the obligations  
44 being refunded and to pay any expenses incurred in connection with the refunding.  
45 Money in a trust fund may be invested in (i) direct obligations of the United States  
46 government, (ii) obligations the principal of and interest on which are guaranteed by the  
47 United States government, (iii) to the extent then permitted by law, obligations of any  
48 agency or instrumentality of the United States government, or (iv) certificates of deposit  
49 issued by a bank or trust company located in the State if the certificates are secured by a  
50 pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate  
51 market value, exclusive of accrued interest, equal at least to the principal amount of the  
52 certificates so secured. This section does not limit the duration of any deposit in trust for  
53 the retirement of obligations being refunded but that have not matured and are not  
54 presently redeemable, or if presently redeemable, have not been called for redemption.

1       (g) Security. – Payment of the principal of and the interest on bonds and notes  
2 shall be secured as provided in G.S. 142-85.

3       (h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and  
4 notes issued under this Article may be secured by a trust agreement or similar  
5 instrument between the State and a corporate trustee or by a resolution of the Council of  
6 State providing for the appointment of a corporate trustee. The corporate trustee may be,  
7 in either case, any trust company or bank that has the powers of a trust company within  
8 or without the State. The trust agreement or similar instrument or resolution, hereinafter  
9 referred to as "the trust", may provide for security and pledges and assignments that are  
10 permitted under this Article and may provide for the granting of a lien or security  
11 interest as authorized by G.S. 142-85. The trust may contain any provisions for  
12 protecting and enforcing the rights and remedies of the owners of any bonds or notes  
13 issued under the trust that are reasonable and not in violation of law, including  
14 covenants setting forth the duties of the State with respect to the purposes for which  
15 bond or note proceeds may be applied, the disposition and application of the revenues or  
16 assets of the State, the duties of the State with respect to the capital facilities financed,  
17 the disposition of any charges and collection of any revenues and administrative  
18 charges, the terms and conditions of the issuance of additional bonds and notes, and the  
19 custody, safeguarding, investment, and application of all moneys. All bonds and notes  
20 issued under this Article pursuant to the same trust shall be equally and ratably secured  
21 as provided in the trust, without priority by reasons of number, dates of bonds or notes,  
22 execution, or delivery, in accordance with the provisions of this Article and of the trust.  
23 The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to  
24 the extent and in the manner prescribed in the trust, be subordinated and junior in  
25 standing, with respect to the payment of principal and interest and to the security of the  
26 payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any  
27 bank or trust company that may act as depository of the proceeds of bonds or notes,  
28 revenues, or any other money under this Article to furnish any indemnifying bonds or to  
29 pledge any securities that may be required by the State Treasurer. The trust may set out  
30 the rights and remedies of the owners of any bonds or notes and of any trustee, and may  
31 restrict the individual rights of action by the owners. In addition to the foregoing, the  
32 trust may contain any other provisions the State Treasurer considers appropriate for the  
33 security of the owners of any bonds or notes. Expenses incurred in carrying out the  
34 provisions of the trust may be treated as a part of the cost of any capital facility or as an  
35 administrative charge and may be paid from the proceeds of the bonds or notes or from  
36 any other available funds.

37 **"§ 142-90. Variable rate demand bonds and notes and financing contract**  
38 **indebtedness.**

39       (a) In fixing the details of special indebtedness, the State Treasurer may make the  
40 special indebtedness subject to any of the following conditions:

- 41       (1) It is payable from time to time on demand or tender for purchase by  
42 the owner thereof, if a credit facility supports the special indebtedness,  
43 unless the State Treasurer specifically determines that a credit facility  
44 is not required upon a determination by the State Treasurer that the  
45 absence of a credit facility will not materially and adversely affect the  
46 financial position of the State or the marketing of the bonds or notes or  
47 financing contract indebtedness at a reasonable interest cost to the  
48 State.
- 49       (2) It is additionally supported by a credit facility.
- 50       (3) It is subject to redemption or mandatory tender for purchase prior to  
51 maturity.
- 52       (4) It bears interest at a rate or rates that may be fixed or may vary over  
53 any period of time, as may be provided in the proceedings providing  
54 for the issuance or incurrence of the special indebtedness, including  
55 any variations that may be permitted pursuant to a par formula.

1           (5) It is the subject of a remarketing agreement under which an attempt is  
2 made to remarket special indebtedness to new purchasers before its  
3 presentment for payment to the provider of the credit facility or to the  
4 State.

5           (b) If the aggregate principal amount payable by the State under a credit facility  
6 is in excess of the aggregate principal amount of special indebtedness secured by the  
7 credit facility, whether as a result of the inclusion in the credit facility of a provision for  
8 the payment of interest for a limited period of time or the payment of a redemption  
9 premium or for any other reason, then the amount of authorized but unissued bonds or  
10 notes and financing contract indebtedness during the term of the credit facility shall not  
11 be less than the amount of the excess, unless the payment of the excess is otherwise  
12 provided for by agreement of the State executed by the State Treasurer.

13 **"§ 142-91. Other agreements.**

14 The State Treasurer may authorize, execute, obtain, or otherwise provide for bond  
15 insurance, investment contracts, credit and liquidity facilities, credit enhancement  
16 facilities, interest rate swap agreements and other derivative products, and any other  
17 related instruments and matters the State Treasurer determines are desirable in  
18 connection with the issuance of special indebtedness. The State Treasurer is authorized  
19 to employ and designate any financial consultants, underwriters, fiduciaries, and bond  
20 attorneys to be associated with any incurrence or issuance of special indebtedness under  
21 this Article as the State Treasurer considers appropriate.

22 **"§ 142-92. Tax exemption.**

23 Special indebtedness shall at all times be free from taxation by the State or any  
24 political subdivision or any of their agencies, excepting estate, inheritance, and gift  
25 taxes; income taxes on the gain from the transfer of the indebtedness; and franchise  
26 taxes. The interest component of any payments made by the State under special  
27 indebtedness, including the interest component of any certificates of participation, is not  
28 subject to taxation as to income.

29 **"§ 142-93. Investment eligibility.**

30 Special indebtedness are securities or obligations in which all of the following may  
31 invest, including capital in their control or belonging to them: public officers, agencies,  
32 and public bodies of the State and its political subdivisions; insurance companies, trust  
33 companies, investment companies, banks, savings banks, savings and loan associations,  
34 credit unions, pension or retirement funds, and other financial institutions engaged in  
35 business in the State; and executors, administrators, trustees, and other fiduciaries.  
36 Special indebtedness are securities or obligations that may properly and legally be  
37 deposited with and received by any officer or agency of the State or political  
38 subdivision of the State for any purpose for which the deposit of bonds, notes, or  
39 obligations of the State or any political subdivision is now or may later be authorized by  
40 law.

41 **"§ 142-94. Procurement of capital facilities.**

42 The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General  
43 Statutes and any other laws or rules of the State that relate to the acquisition and  
44 construction of State property apply to the financing of capital facilities through the use  
45 of special indebtedness pursuant to this Article. This section does not apply to the  
46 construction and lease-purchase, including leases with an option to purchase at the end  
47 of the lease term for a nominal sum, of State office buildings pursuant to proposals  
48 submitted before the effective date of this Article in response to requests for proposals,  
49 to the extent any of those proposals, as they may be supplemented or amended, are  
50 approved by the Department of Administration and any of these leases or lease-purchase  
51 agreements are approved by the Council of State in accordance with G.S.  
52 143-341(4)d2."

53 **SECTION 46.3.** G.S. 143-341(4) is amended by adding a new  
54 sub-subdivision to read:

1           "d2. To purchase or finance the purchase of buildings, utilities,  
2           structures, or other facilities or property developments,  
3           including streets and landscaping, the acquisition of land,  
4           equipment, machinery, and furnishings in connection therewith;  
5           additions, extensions, enlargements, renovations, and  
6           improvements to existing buildings, utilities, structures, or other  
7           facilities or property developments, including streets and  
8           landscaping; land or any interest in land; other infrastructure;  
9           furniture, fixtures, equipment, vehicles, machinery, and similar  
10           items; or any combination of the foregoing, through  
11           installment-purchase, lease-purchase, or other similar type  
12           installment financing agreements in the manner and to the  
13           extent provided in Article 9 of Chapter 142 of the General  
14           Statutes. Any contract entered into or any proceeding instituted  
15           contrary to the provisions of this paragraph is voidable in the  
16           discretion of the Council of State."

17           **SECTION 46.4.** Interpretation of Part. (a) Additional Method. – This Part  
18 provides an additional and alternative method for the doing of the things authorized by  
19 this Part and shall be regarded as supplemental and additional to powers conferred by  
20 other laws. Except where expressly provided, this Part shall not be regarded as in  
21 derogation of any powers now existing. The authority granted in this Part is in addition  
22 to other laws now or hereinafter enacted authorizing the State to issue or incur  
23 indebtedness.

24           **SECTION 46.4.(b)** Statutory References. – References in this Part to  
25 specific sections or Chapters of the General Statutes are intended to be references to  
26 those sections or Chapters as they may be amended from time to time by the General  
27 Assembly.

28           **SECTION 46.4.(c)** Liberal Construction. – This Part, being necessary for  
29 the health and welfare of the people of the State, shall be liberally construed to effect its  
30 purposes.

31           **SECTION 46.4.(d)** Severability. – If any provision of this Part or its  
32 application to any person or circumstance is held invalid, that invalidity does not affect  
33 other provisions or applications of the Part that can be given effect without the invalid  
34 provision or application, and to this end the provisions of this Part are severable.

## 35 36 **PART XLVII       LEASE-PURCHASE THREE NEW PRISONS**

37  
38 Requested by:       Senators Thomas, Garrou, Dalton, Hagan, Kerr, Jenkins, Holliman,  
39 Soles

40           **SECTION 47.1.** G.S. 148-37.2 reads as rewritten:

41           "**§ 148-37.2. Lease-purchase of ~~three~~ prison facilities.**

42           (a) Authorization. – The Secretary of Correction may, as provided in this section,  
43 enter contracts with private for-profit or nonprofit firms for the construction of ~~three~~  
44 close security correctional facilities ~~totaling up to 3,000 cells described in subsection~~  
45 (a1) of this section to be operated by the Department pursuant to a lease that contains a  
46 schedule for purchase of the facilities over a period of up to 20 years.

47           The State, with the prior approval of the Council of State and the State Treasurer as  
48 provided in this section, is authorized to execute and deliver one or more lease-purchase  
49 agreements with a special nonprofit corporation providing for the lease-purchase by the  
50 State of the Projects from the special nonprofit corporation in connection with and  
51 under an arrangement whereby certificates of participation are sold and delivered by the  
52 special nonprofit corporation in order to provide funds to pay the purchase price of the  
53 Projects. The Projects will be constructed by selected contractors designated to the  
54 special nonprofit corporation by the State Property Office of the Department of  
55 Administration in consultation with the Department of Correction. The selected



1 contractors will be responsible for arranging for and obtaining their own construction  
2 financing, which will consist solely of private funds. The Projects will be sold to the  
3 special nonprofit corporation, with the purchase price paid by the special nonprofit  
4 corporation from the proceeds of the certificates of participation. The State may lease  
5 the real property upon which the Projects will be located, if owned by the State, to the  
6 selected contractors constructing the Projects and to the special nonprofit corporation  
7 for nominal consideration.

8 (a1) Facilities Authorized. – The following facilities are authorized under this  
9 section:

10 (1) 2001 Facilities. – Three close security correctional facilities totaling up  
11 to 3,000 cells.

12 (2) 2003 Facilities. – Three close security correctional facilities  
13 substantially identical to the facilities described in subdivision (1) of  
14 this subsection and totaling up to 3,000 cells. If the State is able to  
15 negotiate a contract for one or more of these facilities with the selected  
16 contractor for the facilities described in subdivision (1) of this  
17 subsection on terms that are reasonable and desirable to the State as  
18 determined by the State Treasurer, the Secretary of Administration,  
19 and the Council of State, then a request for proposals under subsection  
20 (c) of this section is not required. The remaining provisions of this  
21 section continue to apply.

22 (b) Definitions. – The following definitions apply in this section:

23 (1) Certificates of participation. – Certificates or other instruments  
24 delivered by a special nonprofit corporation as provided in this section  
25 evidencing the assignment of proportionate and undivided interests in  
26 the rights to receive lease payments to be made by the State pursuant  
27 to a lease-purchase agreement.

28 (2) Construction contract agreement. – A contract between the Department  
29 of Correction and the selected contractors for construction of the  
30 Projects, under which the selected contractors will be responsible for  
31 arranging for and obtaining their own construction financing, which  
32 will consist solely of private funds.

33 (3) Lease-purchase agreement. – A lease-purchase agreement entered into  
34 pursuant to this section, under which the State will lease the Projects  
35 from the special nonprofit corporation, with option to purchase.

36 (4) ~~Projects. – Three close security correctional facilities providing up to~~  
37 ~~3,000 cells~~ Facilities described in subsection (a1) of this section to be  
38 constructed by selected contractors, sold to the special nonprofit  
39 corporation, and leased to the State pursuant to this section.

40 (5) Purchase agreement. – A contract under which the special nonprofit  
41 corporation will purchase the Projects from the selected contractors.

42 (6) Selected contractors. – One or more private firms selected to construct  
43 the Projects.

44 (7) Special nonprofit corporation. – A nonprofit corporation created under  
45 Chapter 55A of the General Statutes and designated by the State  
46 Treasurer for entering into the transactions contemplated by this  
47 section.

48 (c) Request for Proposals. – The Secretary of Correction may issue a request for  
49 proposals to private firms for the private firms to construct the Projects in accordance  
50 with plans and specifications developed by the Department of Correction and reviewed  
51 by the Office of State Construction. ~~The request for proposals shall provide for the~~  
52 ~~option of proposing on one or more of the facilities, and shall require each proposer to~~  
53 ~~provide a separate proposal on a single facility of up to 1,000 cells. It is the intent of the~~  
54 ~~General Assembly that the State may decide to accept proposals for only one, for two,~~  
55 ~~or for all three facilities.~~

1 The Secretary of Correction shall make recommendations to the State Property  
2 Office of the Department of Administration on the final award decision. The  
3 Department of Correction and the State Property Office of the Department of  
4 Administration shall consult with the Joint Legislative Commission on Governmental  
5 Operations before making the final award decision. The Department of Administration  
6 shall make the final award decision, which shall then be subject to the approval of the  
7 Council of State.

8 The Department of Correction will enter into a construction contract agreement with  
9 the selected contractors for the construction of the Projects. The special nonprofit  
10 corporation will enter into a purchase agreement with the selected contractors for the  
11 sale of the constructed Projects to the special nonprofit corporation. The Department of  
12 Correction shall furnish plans and specifications for review by the State Construction  
13 Office. Construction contract agreements entered into under this section shall provide  
14 that the Department of Correction and the Office of State Construction shall inspect and  
15 review each facility during construction to ensure and determine jointly that the facility  
16 is suitable for use as a correctional facility and for future acquisition by the State. The  
17 Department of Correction may contract with a design consortium for construction  
18 administration services.

19 (d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may  
20 not be entered into pursuant to this section unless the following conditions are met  
21 before the lease-purchase agreement is entered into: (i) the Council of State, by  
22 resolution, approves the execution and delivery of the lease-purchase agreement, and  
23 (ii) the State Treasurer approves the lease-purchase agreement and all other  
24 documentation related to it, including any leasehold deed of trust or trust agreement in  
25 connection with it. The resolution of the Council of State may include any matters the  
26 Council of State determines. In determining whether to approve the lease-purchase  
27 agreement, the State Treasurer may consider any factors as the State Treasurer considers  
28 relevant in order to find and determine that all of the following conditions are met:

- 29 (1) The principal amount to be financed under the lease-purchase  
30 agreement is adequate and not excessive for the purpose of paying the  
31 cost of the Projects.
- 32 (2) The increase, if any, in State revenues necessary to pay the sums to  
33 become due under the lease-purchase agreement is not excessive.
- 34 (3) The lease-purchase agreement can be entered into on terms desirable  
35 to the State.
- 36 (4) The sale of certificates of participation will not have an adverse effect  
37 on any scheduled or proposed sale of obligations of the State or any  
38 State agency or of any unit of local government in the State.

39 (e) Terms and Conditions. – The following provisions apply to a lease-purchase  
40 agreement entered into under this section:

- 41 (1) In order to secure the performance by the State of its obligations under  
42 the lease-purchase agreement, the lease-purchase agreement may  
43 require the eviction of the State from the occupancy of one or more of  
44 the Projects in the event that the State breaches its obligations and  
45 agreements under the lease-purchase agreement.
- 46 (2) No deficiency judgment may be rendered against the State or any  
47 agency, department, or commission of the State in any action for  
48 breach of any obligation contained in the lease-purchase agreement or  
49 any other related documentation, and the taxing power of the State or  
50 any agency, department, or commission of the State is not and may not  
51 be pledged to secure any moneys due under the lease-purchase  
52 agreement.
- 53 (3) The lease-purchase agreement shall not contain a nonsubstitution  
54 clause that restricts the right of the State to replace or provide a  
55 substitute for the Projects.

- 1           (4) The lease-purchase agreement may include provisions requesting the  
2 Governor to submit in the Governor's budget proposal, or any  
3 amendments or supplements to it, appropriations necessary to make  
4 the payments required under the lease-purchase agreement.
- 5           (5) The lease-purchase agreement may contain any provisions for  
6 protecting and enforcing the rights and remedies of the special  
7 nonprofit corporation that are reasonable and proper and not in  
8 violation of law, including covenants setting forth the duties of the  
9 State with respect to the Projects, which may include provisions  
10 relating to insuring, operating, and maintaining the Projects and the  
11 custody, safeguarding, investment, and application of moneys.
- 12           (6) The lease-purchase agreement may designate the lease payments to be  
13 paid by the State under it to be "principal components" and "interest  
14 components." Any interest component of the lease payments may be  
15 calculated based upon a fixed or variable interest rate or rates as  
16 determined by the State Treasurer.
- 17           (7) The lease-purchase agreement may be entered into by the State, and  
18 certificates of participation may be delivered by the special nonprofit  
19 corporation, at any time, including at times prior to the delivery of the  
20 Projects to the special nonprofit corporation for purchase, and the  
21 related delivery of occupancy of the Projects to the State by the special  
22 nonprofit corporation. The costs incurred in connection with the  
23 preparation of the lease-purchase agreement and related documents  
24 and the delivery of the certificates of participation may be paid from  
25 the proceeds of the certificates of participation.
- 26           (8) The State is authorized to agree in the lease-purchase agreement to  
27 indemnify the special corporation and its directors and agents for any  
28 liabilities that arise to the special corporation or directors or agents on  
29 account of their participation in the activities contemplated by this act.
- 30           (f) Faith and Credit Not Pledged. – The payment of amounts payable by the State  
31 under the lease-purchase agreement and other related documentation during any fiscal  
32 biennium or fiscal year is limited to funds appropriated for that purpose by the General  
33 Assembly in its discretion. No provision of this section and no lease-purchase  
34 agreement creates any pledge of the faith and credit of the State or any agency,  
35 department, or commission of the State within the meaning of any constitutional debt  
36 limitation.
- 37           (g) Certificates of Participation. – The State may cooperate as necessary to  
38 effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of  
39 participation, including participating in the preparation of offering documents, the filing  
40 of required tax forms and agreeing to comply with restrictions on the use of the Projects  
41 as required in order for the interest component of the lease payments to be tax-exempt.  
42 Disclosures and compliance with other federal law requirements by the special  
43 nonprofit corporation shall be under the direction of the State Treasurer. Certificates of  
44 participation may be sold at the direction of the State Treasurer in the manner, either at  
45 public or private sale, and for any price or prices that the State Treasurer determines to  
46 be in the best interest of the State and to effect the purposes of this section. Interest  
47 payable with respect to certificates of participation shall accrue at the rate or rates  
48 determined by the State Treasurer with the approval of the special nonprofit  
49 corporation.
- 50           Certificates of participation may be delivered pursuant to a trust agreement with a  
51 corporate trustee approved by the State Treasurer. The corporate trustee may be any  
52 trust company or bank having the powers of a trust company within or without the State.  
53 A trust agreement may (i) provide for security and pledges and assignments with respect  
54 to the security as may be permitted under this section and further provide for the  
55 enforcement of any lien or security interest created pursuant to this section, and (ii)

1 contain any provisions for protecting and enforcing the rights and remedies of the  
2 owners of any certificates of participation that are reasonable and proper and not in  
3 violation of law as determined by the State Treasurer. The State Treasurer shall  
4 designate the professionals providing legal or financial services relating to the  
5 lease-purchase agreement and the delivery of certificates of participation, including the  
6 provider of any credit facility and the underwriter or placement agent for any  
7 certificates of participation.

8 (h) Tax Exemption. – The lease purchase agreement and any certificates of  
9 participation relating to it shall at all times be free from taxation by the State or any  
10 political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes,  
11 income taxes on the gain from the transfer of the lease-purchase agreement and  
12 certificates of participation, and franchise taxes. The interest component of the lease  
13 payments made by the State under the lease-purchase agreement, including the interest  
14 payable with respect to any certificates of participation, is not subject to taxation as  
15 income.

16 (i) Licensing Requirements. – The private for-profit or nonprofit firms  
17 authorized to respond to requests for ~~proposal~~ proposals authorized by this section, or  
18 entitled to be a ~~Selected Contractor~~ selected contractor pursuant to any response to such  
19 ~~proposal, this section,~~ need not be a licensed general contractor within the meaning of  
20 G.S. 87-1 so that providing a response to such request for proposal the request or  
21 entering a ~~Construction Contract Agreement or Purchase Agreement shall not be~~  
22 ~~deemed~~ construction contract agreement or purchase agreement is not general  
23 contracting within the meaning of G.S. 87-1; ~~provided that this~~ 87-1. This subsection  
24 shall not be deemed to does not remove the actual construction of any prison facility  
25 from the provisions of G.S. 87-1.

26 (j) Minority Business Participation. – G.S. 143-128.2 applies to the Projects  
27 authorized in this section."  
28

## 29 PART XLVIII. GENERAL PROVISIONS

30  
31 Requested by: Senators Garrou, Dalton, Hagan

32 **SECTION 48.1.** Parts 32 through 47 of this act do not affect the rights or  
33 liabilities of the State, a taxpayer, or another person arising under a statute amended or  
34 repealed by those parts before the effective date of its amendment or repeal; nor does it  
35 affect the right to any refund or credit of a tax that accrued under the amended or  
36 repealed statute before the effective date of its amendment or repeal.

37 **SECTION 48.2.** Except as otherwise provided in this act, parts 32 through  
38 48 of this act are effective when this act becomes law.  
39

## 40 PART XLIX. MISCELLANEOUS PROVISIONS

41  
42 Requested by: Senators Garrou, Dalton, Hagan

### 43 EXECUTIVE BUDGET ACT APPLIES

44 **SECTION 49.1.** The provisions of the Executive Budget Act, Chapter 143,  
45 Article 1 of the General Statutes, are reenacted and shall remain in full force and effect  
46 and are incorporated in this act by reference.  
47

48 Requested by: Senators Garrou, Dalton, Hagan

### 49 COMMITTEE REPORT

50 **SECTION 49.2.(a)** The Senate Appropriations/Base Budget Committee  
51 Report on the Continuation, Expansion and Capital Budgets, dated April 28, 2003,  
52 which was distributed in the Senate and used to explain this act, shall indicate action by  
53 the General Assembly on this act and shall therefore be used to construe this act, as  
54 provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be  
55 considered a part of this act and as such shall be printed as a part of the Session Laws.

1           **SECTION 49.2.(b)** The budget enacted by the General Assembly for the  
2 maintenance of the various departments, institutions, and other spending agencies of the  
3 State for the 2003-2005 fiscal biennium is a line-item budget, in accordance with the  
4 Budget Code Structure and the State Accounting System Uniform Chart of Accounts set  
5 out in the Administrative Policies and Procedures Manual of the Office of the State  
6 Controller. This budget includes the appropriations made from all sources including the  
7 General Fund, Highway Fund, special funds, cash balances, federal receipts, and  
8 departmental receipts.

9           The General Assembly amended the itemized budget requests submitted to  
10 the General Assembly by the Director of the Budget and the Advisory Budget  
11 Commission, in accordance with the steps that follow and the line-item detail in the  
12 budget enacted by the General Assembly may be derived accordingly:

- 13           (1) The base budget was adjusted in accordance with the base budget cuts  
14 and additions that were set out in the Senate Appropriations/Base  
15 Budget Committee Report on the Continuation, Expansion and Capital  
16 Budgets, dated April 28, 2003, together with any accompanying  
17 correction sheets.
- 18           (2) Transfers of funds supporting programs were made in accordance with  
19 the Senate Appropriations Committee Report on the Continuation,  
20 Expansion and Capital Budgets, dated April 28, 2003, together with  
21 any accompanying correction sheets.

22           **SECTION 49.2.(c)** The budget enacted by the General Assembly shall be  
23 interpreted in accordance with the special provisions in this act and in accordance with  
24 other appropriate legislation.

25           In the event that there is a conflict between the line-item budget certified by  
26 the Director of the Budget and the budget enacted by the General Assembly, the budget  
27 enacted by the General Assembly shall prevail.

28  
29 Requested by:           Senators Garrou, Dalton, Hagan

30 **MOST TEXT APPLIES ONLY TO THE 2003-2005 FISCAL BIENNIUM**

31           **SECTION 49.3.** Except for statutory changes or other provisions that clearly  
32 indicate an intention to have effects beyond the 2003-2005 fiscal biennium, the textual  
33 provisions of this act apply only to funds appropriated for, and activities occurring  
34 during, the 2003-2005 fiscal biennium.

35  
36 Requested by:           Senators Garrou, Dalton, Hagan

37 **EFFECT OF HEADINGS**

38           **SECTION 49.4.** The headings to the parts and sections of this act are a  
39 convenience to the reader and are for reference only. The headings do not expand,  
40 limit, or define the text of this act, except for effective dates referring to a Part.

41  
42 Requested by:           Senators Garrou, Dalton, Hagan

43 **SEVERABILITY CLAUSE**

44           **SECTION 49.5.** If any section or provision of this act is declared  
45 unconstitutional or invalid by the courts, it does not affect the validity of this act as a  
46 whole or any part other than the part so declared to be unconstitutional or invalid.

47  
48 Requested by:           Senators Garrou, Dalton, Hagan

49 **EFFECTIVE DATE**

50           **SECTION 49.6.** Except as otherwise provided, this act becomes effective  
51 July 1, 2003.