

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 914*
Committee Substitute Favorable 4/20/05
Senate Appropriations/Base Budget Committee Substitute Adopted 7/18/06

Short Title: State Budget Act.

(Public)

Sponsors:

Referred to:

March 28, 2005

A BILL TO BE ENTITLED

AN ACT TO RECODIFY MANY OF THE PROVISIONS OF THE EXECUTIVE BUDGET ACT AND THE CAPITAL IMPROVEMENT PLANNING ACT INTO A STATE BUDGET ACT THAT REVISES AND CLARIFIES THE PROCEDURES FOR PREPARING, ENACTING, AND ADMINISTERING THE STATE BUDGET, TO MAKE CONFORMING CHANGES, AND TO REPEAL VARIOUS STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Except for sections recodified by this act, Article 1 of Chapter 143 of the General Statutes is repealed.

SECTION 2. Article 1B of Chapter 143 of the General Statutes and Section 23.11 of S.L. 2006-66 are repealed.

SECTION 3. The General Statutes are amended by adding a new Chapter to read:

"Chapter 143C.

"State Budget Act.

"Article 1.

"General Provisions.

"§ 143C-1-1. Purpose and definitions.

(a) Title of Chapter. – This Chapter is the 'State Budget Act' and may be cited by that name.

(b) The provisions of this Chapter shall apply to every State agency and to every non-State entity that receives or expends any State funds. No State agency or non-State entity shall expend any State funds except in accordance with an act of appropriation and the requirements of this Chapter.

(c) Purpose. – This Chapter establishes procedures for the following:

(1) Preparing the recommended State budget.

(2) Enacting the State budget.

- 1 (3) Administering the State budget.
2 (d) Definitions. – The following definitions apply in this Chapter:
3 (1) Appropriation. – An enactment by the General Assembly authorizing
4 the withdrawal of money from the State treasury. An enactment by the
5 General Assembly that authorizes, specifies, or otherwise provides that
6 funds may be used for a particular purpose is not an appropriation.
7 (2) Biennium. – The two fiscal years beginning on July 1 of each
8 odd-numbered year and ending on June 30 of the next odd-numbered
9 year.
10 (3) Budget. – A plan to provide and spend money for specified programs,
11 functions, activities, or objects during a fiscal year.
12 (4) Budget year. – The fiscal year for which a budget is proposed and
13 enacted.
14 (5) Capital improvement. – A term that includes real property acquisition,
15 new construction or rehabilitation of existing facilities, and repairs and
16 renovations.
17 (6) Capital Improvements Appropriations Act. – An act of the General
18 Assembly containing appropriations for one or more capital
19 improvement projects.
20 (7) Certified budget. – The budget as enacted by the General Assembly
21 including adjustments made for (i) distributions to State agencies from
22 statewide reserves appropriated by the General Assembly, (ii)
23 distributions of reserves appropriated to a specific agency by the
24 General Assembly, and (iii) organizational or budget changes directed
25 by the General Assembly but left to the Director to carry out.
26 (8) Controller. – The Office of the State Controller.
27 (9) Current Operations Appropriations Act. – An act of the General
28 Assembly estimating revenue availability for and appropriating money
29 for the current operations of State government during one or more
30 budget years.
31 (10) Departmental receipt. – Fees, licenses, federal funds, grants, fines,
32 penalties, tuition, and other similar collections or credits generated by
33 State agencies in the course of performing their governmental
34 functions that are applied to the cost of a program administered by the
35 State agency or transferred to the Civil Penalty and Forfeiture Fund
36 pursuant to G.S. 115C-457.1, and that are not defined as tax proceeds
37 or nontax revenues. Departmental receipts may include moneys
38 transferred into a fiscal year from a prior fiscal year.
39 (11) Director. – The Director of the Budget, who is the Governor.
40 (12) Encumbrance. – A financial obligation created by a purchase order,
41 contract, salary commitment, unearned or prepaid collections for
42 services provided by the State, or other legally binding agreement.
43 (13) Fiscal period. – A fiscal biennium beginning in odd-numbered years or
44 the first or second fiscal year within a fiscal biennium.

- 1 (14) Fiscal year. – The annual period beginning July 1 and ending on the
2 following June 30.
- 3 (15) Fund. – A fiscal and accounting entity with a self-balancing set of
4 accounts recording cash and other resources, together with all related
5 liabilities and residual equities or balances, and changes therein, for
6 the purpose of carrying on stated programs, activities, and objectives
7 of State government.
- 8 (16) General Fund Operating Budget. – The sum of all appropriations from
9 the General Fund for a fiscal year, except appropriations for (i) capital
10 improvements, including repairs and renovations, and (ii) one-time
11 expenditures due to natural disasters or other emergencies shall not be
12 included.
- 13 (17) Information technology. – As defined in G.S. 147-33.81(2).
- 14 (18) Non-State entity. – Any of the following that is not a State agency: an
15 individual, a firm, a partnership, an association, a county, a
16 corporation, or any other organization or group acting as a unit. The
17 term includes a unit of local government and public authority.
- 18 (19) Nontax revenue. – Revenue that is not a tax proceed and that is
19 required by statute to be credited to the General Fund.
- 20 (20) Object or line item. – An expenditure or receipt in a recommended or
21 enacted budget that is designated in the Budget Code Structure of the
22 North Carolina Accounting System Uniform Chart of Accounts
23 prescribed by the Office of the State Controller.
- 24 (21) Performance information. – The organizational structure, agency
25 activity statements, performance indicators, and analyses of program
26 efficiency and effectiveness.
- 27 (22) Public authority. – A municipal corporation that is not a unit of local
28 government or a local governmental authority, board, commission,
29 council, or agency that (i) is not a municipal corporation and (ii)
30 operates on an area, regional, or multiunit basis, and the budgeting and
31 accounting systems of which are not fully a part of the budgeting and
32 accounting systems of a unit of local government.
- 33 (23) Purpose or program. – A group of objects or line items for support of a
34 specific activity outlined in a recommended or enacted budget that is
35 designated by a nine-digit fund code in accordance with the Budget
36 Code Structure of the North Carolina Accounting System Uniform
37 Chart of Accounts prescribed by the Office of the State Controller.
- 38 (24) State agency. – A unit of the executive, legislative, or judicial branch
39 of State government, such as a department, an institution, a division, a
40 commission, a board, a council, or The University of North Carolina.
41 The term does not include a unit of local government or a public
42 authority.

- 1 (25) State funds. – Any moneys including federal funds deposited in the
2 State treasury except moneys deposited in a trust fund or agency fund
3 as described in G.S. 143C-1-3.
- 4 (26) State resources. – All financial and nonfinancial assets of the State.
- 5 (27) State revenue. – An increase, other than interfund transfers and debt
6 issue proceeds, in the financial assets of any State governmental or
7 proprietary fund.
- 8 (28) Statutory appropriation. – An appropriation that authorizes the
9 withdrawal of funds from the State treasury during fiscal years
10 extending beyond the current fiscal biennium, without further act of
11 the General Assembly.
- 12 (29) Unit of local government. – A municipal corporation that has the
13 power to levy taxes, including a consolidated city-county, as defined
14 by G.S. 160B-2(1), and all boards, agencies, commissions, authorities,
15 and institutions thereof that are not municipal corporations.
- 16 (30) Unreserved fund balance. – The available General Fund cash balance
17 effective June 30 after excluding documented encumbrances, unearned
18 revenue, federal grants, statutory requirements, and other legal
19 obligations to General Fund cash as determined by the State
20 Controller. Beginning unreserved fund balance equals ending
21 unreserved fund balance from the prior fiscal year.

22 **"§ 143C-1-2. Appropriations: constitutional requirement; reversions.**

23 (a) Appropriation Required to Withdraw State Funds From the State Treasury. –
24 In accordance with Section 7 of Article V of the North Carolina Constitution, no money
25 shall be drawn from the State treasury but in consequence of appropriations made by
26 law. A law enacted by the General Assembly that authorizes the expenditure of money
27 from the State treasury is an appropriation; however, an enactment by the General
28 Assembly that authorizes, specifies, or otherwise provides that funds may be used for a
29 particular purpose is not an appropriation.

30 (b) Reversions. – Unless otherwise provided by law, at the end of the fiscal year
31 the unexpended, unencumbered balance of an appropriation reverts to the fund from
32 which the appropriation was made; except that (i) an appropriation to the General
33 Assembly shall not revert unless otherwise provided by the Legislative Services
34 Commission, (ii) an appropriation for a capital improvement project shall revert as
35 provided by G.S. 143C-8-11, and (iii) an appropriation for the implementation of
36 information technology (IT) projects shall not revert until the project is implemented or
37 abandoned.

38 **"§ 143C-1-3. Fund types.**

39 (a) Types. – The Controller shall account for State resources through use of the
40 fund types listed in this subsection. The Controller may not establish a fund type that
41 differs from the listed fund types unless the Governmental Accounting Standards Board
42 has approved the use of the different fund type.

43 The fund types are described as follows, except that where a conflict exists between
44 a description used in this section and the definition of the corresponding fund type

1 issued by the Governmental Accounting Standards Board, it is presumed that the
2 definition issued by the Governmental Accounting Standards Board shall prevail.

3
4 Governmental Funds.

- 5 (1) Capital Projects Funds. – Accounts for financial resources to be used
6 for the acquisition or construction of major capital facilities other than
7 those financed by proprietary funds or in trust funds for individuals,
8 private organizations, or other governments. Capital outlays financed
9 from general obligation bond proceeds should be accounted for
10 through a capital projects fund.
- 11 (2) Debt Service Funds. – Accounts for the accumulation of resources for,
12 and the payment of, general long-term debt principal and interest.
- 13 (3) General Fund. – Accounts for all financial resources except those
14 required to be reported in another fund.
- 15 (4) Special Revenue Funds. – Accounts for the proceeds of specific
16 revenue sources, other than trusts for individuals, private
17 organizations, or other governments or for major capital projects, that
18 are legally restricted to expenditure for specified purposes.
- 19 (5) Permanent Funds. – Accounts for resources that are legally restricted
20 to the extent that only earnings, and not principal, may be used for
21 purposes that support the reporting government's programs.

22
23 Proprietary Funds.

- 24 (6) Enterprise Funds. – Accounts for any activity for which a fee is
25 charged to external users for goods or services. Activities are required
26 to be reported as enterprise funds if any one of the following criteria is
27 met. Each of these criteria should be applied in the context of the
28 activity's principal revenue sources.
- 29 a. The activity is financed with debt that is secured solely by a
30 pledge of the net revenues from fees and charges of the activity.
- 31 b. Laws or regulations require that the activity's costs of providing
32 services, including capital costs, be recovered with fees and
33 charges rather than with taxes or similar revenues.
- 34 c. The pricing policies of the activity establish fees and charges
35 designed to recover its costs, including capital costs.
- 36 (7) Internal Service Funds. – Accounts for any activity that provides goods
37 or services to other funds, departments, or agencies of the primary
38 government and its component units, or to other governments, on a
39 cost-reimbursement basis. Internal service funds should be used only if
40 the reporting government is the predominant participant in the activity.
41 Otherwise, the activity should be reported as an enterprise fund.

42
43 Agency and Trust Funds.

1 (8) Agency Funds. – Accounts for resources held by the reporting
2 government in a purely custodial capacity. Agency funds typically
3 involve only the receipt, temporary investment, and remittance of
4 fiduciary resources to individuals, private organizations, or other
5 governments.

6 (9) Investment Trust Funds. – Accounts for the external portion of
7 investment pools reported by the sponsoring government.

8 (10) Pension and Other Employee Benefit Trust Funds. – Accounts for
9 resources that are required to be held in trust for the members and
10 beneficiaries of defined benefit pension plans, defined contribution
11 plans, other postemployment benefit plans, or other employee benefit
12 plans.

13 (11) Private-Purpose Trust Funds. – Accounts for all other trust
14 arrangements under which principal and income benefit individuals,
15 private organizations, or other governments.

16 (b) Designation. – If State resources are designated by law as a fund or an
17 account within a fund and there is a conflict between the legal designation and the
18 appropriate accounting designation of the State resources, then the Controller shall
19 determine the appropriate designation of the State resources based on the intended use
20 and financial treatment of the State resources as set out in the law establishing the fund
21 or account. The Controller shall determine the fund type of all separate funds and
22 account for them accordingly. The Controller shall keep the total number of funds to the
23 minimum number practical.

24 (c) Notwithstanding subsections (a) and (b) of this section, funds established for
25 The University of North Carolina and its constituent institutions pursuant to the
26 following statutes are exempt from Chapter 143C of the General Statutes and shall be
27 accounted for as provided by those statutes, except that the provisions of Article 8 of
28 Chapter 143C of the General Statutes shall apply to the funds: G.S. 116-35, 116-36,
29 116-36.1, 116-36.2, 116-36.4, 116-36.5, 116-36.6, 116-44.4, 116-68, 116-220, 116-235,
30 116-238.

31 **"§ 143C-1-4. Interest earnings credited to the General Fund; interest earnings on**
32 **Highway Fund and Highway Trust Fund credited to those funds.**

33 (a) Interest Earnings Credited to the General Fund. – Unless otherwise provided
34 by law, interest earned on all funds shall be credited to the General Fund.

35 (b) Exception for Interest Earnings on Highway Fund and Highway Trust Fund. –
36 Interest earned by the Highway Fund and the Highway Trust Fund shall be credited to
37 the Highway Fund and the Highway Trust Fund respectively.

38 "Article 2.

39 "Director of the Budget.

40 **"§ 143C-2-1. Governor is Director of the Budget.**

41 (a) Governor is Director of the Budget. – The Governor is the Director of the
42 Budget. In that capacity, the Governor is required by Article III, Section 5(3) of the
43 North Carolina Constitution to prepare and recommend a budget and to administer the
44 budget as enacted by the General Assembly. The Governor's powers under this Chapter

1 extend to all agencies, institutions, departments, bureaus, boards, and commissions of
2 the State of North Carolina under whatever name now or hereafter known. The
3 Governor may delegate the authority to perform a power or duty of the Director under
4 this Chapter to the Office of State Budget and Management or to one or more persons.

5 (b) State Agencies and Non-State Entities to Provide Information Requested by
6 the Director; Examination of Persons and Agencies by Director. – Upon request, all
7 State agencies and non-State entities subject to this act shall furnish the Director, in the
8 form and at the time requested by the Director, any information desired by the Director
9 in relation to their respective activities or fiscal affairs so long as the information is not
10 confidential pursuant to federal or State law. The Director may subpoena and examine
11 under oath any person directly or indirectly responsible for the operations of any
12 executive State agency or any non-State entity subject to the provisions of this Chapter.

13 (c) Governor May Request State Auditor to Audit State Agency or Non-State
14 Entity Receiving State Funds. – As authorized by G.S. 147-64.6(c)(3), the Governor
15 may request the State Auditor to make an audit of or cause an audit to be made of the
16 books and accounts of any State agency and may require that the cost of the audit be
17 borne by the State agency. The Governor may also request the State Auditor to make an
18 audit of or cause an audit to be made of the books and records of any non-State entity
19 receiving State funds pursuant to the State Auditor's authority granted in G.S. 147-64.7.

20 **"§ 143C-2-2. Collection of State Budget Statistics.**

21 The Director shall coordinate the efforts of governmental agencies to collect,
22 disseminate, and analyze economic, demographic, and social statistics pertinent to State
23 budgeting. The Director shall do all of the following:

- 24 (1) Prepare and release the official demographic and economic estimates
25 and projections for the State.
- 26 (2) Conduct special economic and demographic analyses and studies to
27 support statewide budgeting.
- 28 (3) Develop and coordinate cooperative arrangements with federal, State,
29 and local governmental agencies to facilitate the exchange of data to
30 support State budgeting.
- 31 (4) Report major trends that influence revenues and expenditures in the
32 State budget in the current fiscal year and that may influence revenues
33 and expenditures over the next five fiscal years.

34 **"§ 143C-2-3. Fiscal analysis required for any State agency bill that affects the**
35 **budget.**

36 A State agency proposing a bill that affects the State budget shall prepare a fiscal
37 analysis for the bill and submit the analysis to the Fiscal Research Division upon
38 introduction of the bill. The fiscal analysis shall estimate the impact of the legislation on
39 the State budget for the first five fiscal years the legislation would be in effect.

40 **"§ 143C-2-4. Director of the Budget may direct State Treasurer to borrow money**
41 **for certain payments.**

42 The Director of the Budget, by and with the consent of the Governor and Council of
43 State, may authorize and direct the State Treasurer to borrow in the name of the State, in
44 anticipation of the collection of taxes, such sum as may be necessary to make the

1 payments on the appropriations as even as possible and to preserve the best interest of
2 the State in the conduct of the various State agencies during each fiscal year.

3 "Article 3.

4 "Development of the Governor's Recommended Budget.

5 **"§ 143C-3-1. Budget estimate for the legislative branch.**

6 The Legislative Administrative Officer shall give the Director an estimate of the
7 financial needs of the legislative branch for the upcoming fiscal period in accordance
8 with the schedule prescribed by the Director. The estimates for the legislative branch
9 shall be approved and certified by the President Pro Tempore of the Senate and the
10 Speaker of the House of Representatives. The estimates shall be itemized in accordance
11 with the accounting classifications adopted by the Controller. The Director shall include
12 the estimates in the budget the Director submits to the General Assembly. The Director
13 may recommend changes to these estimates in the budget submitted to the General
14 Assembly.

15 **"§ 143C-3-2. Budget estimate for the judicial branch.**

16 The Administrative Officer of the Courts shall give the Director an estimate of the
17 financial needs of the judicial branch for the upcoming fiscal period in accordance with
18 the schedule prescribed by the Director. The estimates for the judiciary shall be
19 approved and certified by the Chief Justice. The estimates shall be itemized in
20 accordance with the accounting classifications adopted by the Controller. The Director
21 shall include these estimates in the budget the Director submits to the General
22 Assembly. The Director may recommend changes to these estimates in the budget
23 submitted to the General Assembly.

24 **"§ 143C-3-3. Budget requests from State agencies in the executive branch.**

25 (a) General Provisions. – A State agency that is not in the legislative or judicial
26 branch of government shall submit its budget requests for the upcoming fiscal period to
27 the Director in accordance with the schedule prescribed by the Director. The Director
28 shall give each State agency instructions to be used in estimating the funds required to
29 provide necessary State government programs and capital improvements. The estimates
30 shall be itemized in accordance with the accounting classifications adopted by the
31 Controller and shall be approved and certified by the respective head or responsible
32 officer of the agency submitting them.

33 (b) University of North Carolina System Request. – Notwithstanding subsections
34 (c), (d), and (e) of this section, pursuant to G.S. 116-11 the Board of Governors shall
35 prepare a unified budget request for all of the constituent institutions of The University
36 of North Carolina, including repairs and renovations, capital fund requests, and
37 information technology.

38 (c) Repairs and Renovations Funds Request. – In addition to any other
39 information requested by the Director, any State agency proposing to repair or renovate
40 an existing facility shall accompany that request with all of the following:

- 41 (1) A description of current deficiencies and proposed corrections with a
42 review and evaluation of that proposal prepared by the Department of
43 Administration.

- 1 (2) An estimate of project costs and cash flow requirements approved by
2 the Department of Administration.
3 (3) A certification of project feasibility as described in G.S. 143-341.
4 (4) An explanation of the method by which the repair or renovation is to
5 be financed.

6 (d) Capital Funds Request. – In addition to any other information requested by
7 the Director, any State agency proposing to (i) acquire real property, (ii) construct a new
8 facility, (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate
9 an existing facility to accommodate new or expanded uses shall accompany that request
10 with all of the following:

- 11 (1) An estimate of its space needs and other physical requirements,
12 together with a review and evaluation of that estimate prepared by the
13 Department of Administration.
14 (2) An estimate of project costs and cash flow requirements approved by
15 the Department of Administration.
16 (3) A certification of project feasibility as described in G.S. 143-341.
17 (4) An explanation of the method by which the acquisition, construction,
18 or rehabilitation is to be financed.
19 (5) An estimate of maintenance and operating costs, including personnel,
20 for the project, covering the first five years of operation.
21 (6) An estimate of revenues, if any, to be derived from the project,
22 covering the first five years of operation.

23 This subsection does not apply to requests for State resources for railroad,
24 highway, or bridge construction or renovation.

25 (e) Information Technology Request. – In addition to any other information
26 requested by the Director, any State agency requesting significant State resources, as
27 defined by the Director, for the purpose of acquiring or maintaining information
28 technology shall accompany that request with all of the following:

- 29 (1) A statement of its needs for information technology and related
30 resources, including expected improvements to programmatic or
31 business operations, together with a review and evaluation of that
32 statement prepared by the State Chief Information Officer.
33 (2) A statement setting forth the requirements for State resources, together
34 with an evaluation of those requirements by the State Chief
35 Information Officer that takes into consideration the State's current
36 technology, the opportunities for technology sharing, the requirements
37 of Article 3D of Chapter 147 of the General Statutes, and any other
38 factors relevant to the analysis.
39 (3) A statement by the State Chief Information Officer that sets forth
40 viable alternatives, if any, for meeting the agency needs in an
41 economical and efficient manner.
42 (4) In the case of an acquisition, an explanation of the method by which
43 the acquisition is to be financed.

1 This subsection shall not apply to requests submitted by the General Assembly, the
2 Administrative Office of the Courts, or The University of North Carolina.

3 **"§ 143C-3-4. Budget requests from non-State entities.**

4 Unless otherwise provided by law, budget requests from non-State entities shall be
5 submitted to the Director or to a State agency designated by the Director. A State
6 agency designated to receive a budget request from a non-State entity shall evaluate the
7 request and forward its evaluation to the Director in accordance with procedures
8 established by the Director. This section does not apply to the General Assembly or to
9 actions of the General Assembly to appropriate funds to non-State entities.

10 **"§ 143C-3-5. Budget recommendations and budget message.**

11 (a) Budget Proposals. – The Governor shall present budget recommendations to
12 each regular session of the General Assembly at a mutually agreeable time to be fixed
13 by joint resolution.

14 (b) Odd-Numbered Fiscal Years. – In odd-numbered years the budget
15 recommendations shall include the following components:

16 (1) A Recommended State Budget setting forth goals for improving the
17 State with recommended expenditure requirements, funding sources,
18 and performance information for each State government program and
19 for each proposed capital improvement. The Recommended State
20 Budget may be presented in a format chosen by the Director, except
21 that the Recommended State Budget shall clearly distinguish program
22 continuation requirements, program reductions, program eliminations,
23 program expansions, and new programs, and shall explain all proposed
24 capital improvements in the context of the Six-Year Capital
25 Improvements Plan and as required by G.S. 143C-8-6. The Director
26 shall include as continuation requirements the amounts the Director
27 proposes to fund for the enrollment increases in public schools,
28 community colleges, and the university system.

29 (2) A Budget Support Document showing, for each budget code and
30 purpose or program in State government, accounting detail
31 corresponding to the Recommended State Budget.

32 a. The Budget Support Document shall employ the North Carolina
33 Accounting System Uniform Chart of Accounts adopted by the
34 State Controller to show both uses and sources of funds and
35 shall display in separate parallel columns all of the following:
36 (i) actual expenditures and receipts for the most recent fiscal
37 year for which actual information is available, (ii) the certified
38 budget for the preceding fiscal year, (iii) the currently
39 authorized budget for the preceding fiscal year, (iv) program
40 continuation requirements for each fiscal year of the biennium,
41 (v) proposed expenditures and receipts for each fiscal year of
42 the biennium, and (vi) proposed increases and decreases.

- 1 b. The Budget Support Document shall include detailed
2 information on recommended expenditures for capital
3 improvements as required by G.S. 143C-8-6.
- 4 c. The Budget Support Document shall include accurate
5 projections of receipts, expenditures, and fund balances.
6 Estimated receipts, including tuition collected by university or
7 community college institutions, shall be adjusted to reflect
8 actual collections from the previous fiscal year, unless the
9 Director recommends a change that will result in collections in
10 the budget year that differ from prior year actuals, or the
11 Director otherwise determines there is a more reasonable basis
12 upon which to accurately project receipts. Revenue and
13 expenditure detail provided in the Budget Support Document
14 shall be no less detailed than the two-digit level in the North
15 Carolina Accounting System Uniform Chart of Accounts as
16 prescribed by the State Controller.
- 17 d. The Budget Support Document shall clearly identify all
18 proposed expenditures supported by existing or proposed
19 appropriations, including statutory appropriations.
- 20 (3) A Current Operations Appropriation Act that makes appropriations for
21 each fiscal year of the upcoming biennium for the operating expenses
22 of all State agencies as contained in the Recommended State Budget,
23 together with a Capital Improvements Appropriations Act that
24 authorizes any capital improvements projects.
- 25 (4) The biennial State Information Technology Plan as outlined in
26 G.S. 147-33-72B to be consistent in facilitating the goals outlined in
27 the Recommended State Budget.
- 28 (c) Even-Numbered Fiscal Years. – In even-numbered years, the Governor may
29 recommend changes in the enacted budget for the second year of the biennium. These
30 recommendations shall be presented as amendments to the enacted budget and shall be
31 incorporated in a recommended Current Operations Appropriation Act and a
32 recommended Capital Improvements Appropriations Act as necessary. Any
33 recommended changes shall clearly distinguish program reductions, program
34 eliminations, program expansions, and new programs, and shall explain all proposed
35 capital improvements in the context of the Six-Year Capital Improvements Plan and as
36 required by G.S. 143C-8-6. The Governor shall provide sufficient supporting
37 documentation and accounting detail, consistent with that required by G.S. 143C-3-5(b),
38 corresponding to the recommended amendments to the enacted budget.
- 39 (d) Funds Included in Budget. – Consistent with requirements of the North
40 Carolina Constitution, Article 5, Section 7(a), the Governor's Recommended State
41 Budget, together with the Budget Support Document, shall include recommended
42 expenditures of State funds from all Governmental and Proprietary Funds, as those
43 funds are described in G.S. 143C-1-3. Except where provided otherwise by federal law,
44 funds received from the federal government become State funds when deposited in the

1 State treasury and shall be classified and accounted for in the Governor's budget
2 recommendations no differently than funds from other sources.

3 (e) Revenue Estimates. – The recommended Current Operations Appropriations
4 Act shall contain a statement showing the estimates of General Fund availability,
5 Highway Fund availability, and Highway Trust Fund availability upon which the
6 Recommended State Budget is based.

7 (f) Budget Message. – The Governor's budget recommendations shall be
8 accompanied by a written budget message that does all of the following:

9 (1) Explains the goals embodied in the recommended budget.

10 (2) Explains important features of the activities anticipated in the budget.

11 (3) Explains the assumptions underlying the statement of revenue
12 availability.

13 (4) Sets forth the reasons for changes from the previous biennium or fiscal
14 year, as appropriate, in terms of programs, program goals,
15 appropriation levels, and revenue yields.

16 (5) Identifies anticipated sources of funding for major spending initiatives.

17 (6) Prepares a fiscal analysis that addresses the State's budget outlook for
18 the upcoming five-year period. This fiscal analysis shall include
19 detailed estimates for five years for any proposals to create new or
20 significantly expand programs and for proposals to create new or
21 change existing law.

22 (g) Different Gubernatorial Administrations. – For years in which there will be a
23 change in gubernatorial administrations, the incumbent Governor shall complete the
24 budget recommendations and budget message by December 15 and deliver them to the
25 Governor-elect.

26 "Article 4.

27 "Budget Requirements.

28 **"§ 143C-4-1. Annual balanced budget.**

29 The budget recommended by the Governor and the budget enacted by the General
30 Assembly shall be balanced and shall include two fiscal years beginning on July 1 of
31 each odd-numbered year. Each fiscal year and each fund shall be balanced separately.
32 The budget for a fund is balanced when the beginning unreserved fund balance for the
33 fiscal year, together with the projected receipts to the fund during the fiscal year, is
34 equal to or greater than the sum of appropriations from the fund for that fiscal year.

35 **"§ 143C-4-2. Savings Reserve Account and appropriation of General Fund**
36 **unreserved fund balance.**

37 (a) Creation and Source of Funds. – The Savings Reserve Account is established
38 as a reserve in the General Fund. The Controller shall reserve to the Savings Reserve
39 Account one-fourth of any unreserved fund balance, as determined on a cash basis,
40 remaining in the General Fund at the end of each fiscal year.

41 (b) Use of Funds. – The Savings Reserve Account is a component of the
42 unappropriated General Fund balance. Funds reserved to the Savings Reserve Account
43 shall be available for expenditure only upon an act of appropriation by the General
44 Assembly.

1 (c) Goal for Savings Reserve Account Balance. – The General Assembly
2 recognizes the need to establish and maintain sufficient reserves to address
3 unanticipated events and circumstances such as natural disasters, economic downturns,
4 threats to public safety, health, and welfare, and other emergencies. It is a goal of the
5 General Assembly and the State to accumulate and maintain a balance in the Savings
6 Reserve Account equal to or greater than eight percent (8%) of the prior year's General
7 Fund operating budget.

8 **"§ 143C-4-3. Repairs and Renovations Reserve Account.**

9 (a) Creation and Source of Funds. – The Repairs and Renovations Reserve
10 Account is established as a reserve in the General Fund. The State Controller shall
11 reserve to the Repairs and Renovations Reserve Account one-fourth of any unreserved
12 fund balance, as determined on a cash basis, remaining in the General Fund at the end of
13 each fiscal year.

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

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

33 Funds from the Repairs and Renovations Reserve Account shall not be used for new
34 construction or the expansion of the building area (sq. ft.) of an existing facility unless
35 required in order to comply with federal or State codes or standards.

36 (c) Funds Available Only Upon Appropriation. – Funds reserved to the Repairs
37 and Renovations Reserve Account shall be available for expenditure only upon an act of
38 appropriation by the General Assembly.

39 **"§ 143C-4-4. Contingency and Emergency Fund.**

40 (a) Creation. – The Contingency and Emergency Fund is established within the
41 General Fund. The General Assembly shall appropriate a specific amount to this fund
42 for contingencies and emergencies in the Current Operations Appropriations Act or
43 other appropriations bill.

1 (b) Authorized Uses. – Notwithstanding any other provision of law, funds
2 appropriated to the Contingency and Emergency Fund may be used only for
3 expenditures required: (i) by a court or Industrial Commission order, (ii) to respond to
4 events as authorized under G.S. 166A-5(1)a.9. of the Emergency Management Act, or
5 (iii) for other statutorily authorized purposes or other contingencies and emergencies.

6 (c) Request for Allocation. – A State agency may request an allocation from the
7 Contingency and Emergency Fund by submitting a request in writing to the Director
8 along with any information required by the Director. If the Director approves the
9 request, the Director shall present the request, together with a recommendation, to the
10 Council of State for its approval. If the Council of State approves the request, the
11 Director shall order the Controller to allocate the funds requested. The Director shall
12 report on the request at the next scheduled meeting of the Joint Legislative Commission
13 on Governmental Operations.

14 **"§ 143C-4-5. Non-State match restrictions.**

15 Whenever money is required to match an appropriation made for a specific purpose
16 by the State of North Carolina, the recipient of the appropriation shall actually receive
17 as a gift, grant, earnings in actual money, or a pledge that can be used as collateral in
18 any prudent loan transaction, the matching amount required. The recipient shall retain
19 the matching amount received in its possession until spent for that purpose and shall
20 spend an equal percentage of the appropriation and of the matching amount each time
21 an expenditure is made, unless the individual appropriation requires otherwise.

22 **"§ 143C-4-6. General Fund operating budget size limited.**

23 (a) Size Limitation. – Except as otherwise provided in this section, the General
24 Fund operating budget each fiscal year shall not be greater than seven percent (7%) of
25 the projected total State personal income for that fiscal year.

26 (b) Increase in Size Limitation. – To the extent that any percent increase in
27 appropriations for a fiscal year for (i) Medicaid, (ii) operation of prisons, or (iii) the
28 costs of providing health insurance for teachers and State employees, exceeds the
29 percent increase in State personal income growth for the same period, the limitation on
30 the size of the General Fund operating budget provided in subsection (a) of this section
31 for that fiscal year shall be increased by the dollar amount represented by the excess
32 percentage. For all subsequent fiscal years, the percent limitation contained in
33 subsection (a) shall then be increased to reflect that dollar adjustment.

34 (c) Fiscal Reports. – The Office of State Budget and Management and the Fiscal
35 Research Division of the General Assembly shall each submit a tentative estimate of
36 total State personal income for the upcoming fiscal year to the General Assembly no
37 later than February 1 of each year. The Office and the Fiscal Research Division shall
38 each submit a final projection of total State personal income for the upcoming fiscal
39 year to the General Assembly no later than May 1 of each year. The General Assembly
40 shall use the lower of the two final projections to calculate the limitation on the size of
41 the General Fund operating budget provided in this section.

42 **"§ 143C-4-7. Limit on number of permanent positions budgeted.**

43 The total number of permanent budgeted positions established in State agencies shall
44 not be increased by the end of any State fiscal year by a greater percentage rate of

1 change than the percentage rate of change of the residential population growth for the
2 State of North Carolina. The Office of State Budget and Management shall be
3 responsible for computing the annual percentage rates of change for each measure. The
4 population growth rate shall be computed by averaging the annual residential population
5 growth rate in each of the preceding 10 fiscal years as stated in the annual estimates of
6 residential population in North Carolina made by the United States Census Bureau. The
7 growth rate of the number of budgeted positions shall be computed by averaging the
8 annual rate of growth of State budgeted positions in each of the preceding 10 fiscal
9 years. The total number of permanent budgeted positions established in State agencies
10 shall be computed by adding the total number of budgeted Full-Time Equivalents from
11 all fund types. This section does not apply to State-funded positions supported by the
12 State in a local public school system or local community college institution.

13 "Article 5.

14 "Enactment of the Budget.

15 **"§ 143C-5-1. Rules for the introduction of the Governor's appropriations bills.**

16 The Current Operations Appropriations Act recommended by the Governor and the
17 Capital Improvements Appropriations Act recommended by the Governor shall be
18 introduced by the chairs of the committee on appropriations in each house of the
19 General Assembly. This section shall be considered and treated as a rule of procedure in
20 the Senate and House of Representatives unless provided otherwise by a rule of either
21 branch of the General Assembly.

22 **"§ 143C-5-2. Order of appropriations bills.**

23 Each house of the General Assembly shall first pass its version of the Current
24 Operations Appropriations Act on third reading and order it sent to the other chamber
25 before placing any other appropriations bill on the calendar for second reading. This
26 section does not apply to the following bills:

- 27 (1) An appropriations bill to respond to a disaster as defined by
28 G.S. 166A-4(1).
- 29 (2) An appropriations bill making adjustments to the current year budget.
- 30 (3) An appropriations bill authorizing continued operations at current
31 funding levels.

32 **"§ 143C-5-3. Availability statement required.**

33 The Current Operations Appropriations Act enacted by the General Assembly shall
34 state the General Fund, Highway Fund, and Highway Trust Fund availability used as
35 basis for appropriations from those funds.

36 **"§ 143C-5-4. Enactment deadline.**

37 The General Assembly shall enact the Current Operations Appropriations Act by
38 June 15 of odd-numbered years and by June 30 of even-numbered years in which a
39 Current Operations Appropriations Act is enacted.

40 **"§ 143C-5-5. Committee report used to construe intent of budget acts.**

41 A committee report incorporated by reference in the Current Operations
42 Appropriations Act or the Capital Improvements Appropriations Act and distributed on
43 the floor of the House of Representatives and of the Senate as part of the explanation of
44 the act is to be construed with the appropriate act in interpreting its intent. If a report

1 conflicts with the act, the act prevails. The Director of the Fiscal Research Division of
2 the Legislative Services Commission shall send a copy of the reports to the Director.

3 "Article 6.

4 "Administration of the Budget.

5 "Part 1. Certification and Administration of the Budget.

6 **"§ 143C-6-1. Budget enacted by the General Assembly; certified budgets of State**
7 **agencies.**

8 (a) Governor to Administer the Budget as Enacted by the General Assembly. – In
9 accordance with Section 5(3) of Article III of the North Carolina Constitution, the
10 Governor shall administer the budget as enacted by the General Assembly. All
11 appropriations of State funds now or hereafter made to the State agencies and non-State
12 entities authorize expenditures only for the (i) purposes or programs and (ii) objects or
13 line items enumerated in the Recommended State Budget and the Budget Support
14 Document recommended to the General Assembly by the Governor, as amended and
15 enacted by the General Assembly in the Current Operations Appropriations Act, the
16 Capital Improvements Appropriations Act, or any other act affecting the State budget.
17 The Governor shall ensure that appropriations are expended in strict accordance with
18 the budget enacted by the General Assembly.

19 (b) Departmental Receipts. – Departmental receipts collected to support a
20 program or purpose shall be credited to the fund from which appropriations have been
21 made to support that program or purpose.

22 (c) Certification of the Budget. – The Director of the Budget shall certify to each
23 State agency the amount appropriated to it for each program and each object from all
24 governmental and proprietary funds. The certified budget for each State agency shall
25 reflect the total of all appropriations enacted for each State agency by the General
26 Assembly in the Current Operations Appropriations Act, the Capital Improvements
27 Appropriations Act, and any other act affecting the State budget. The certified budget
28 for each State agency shall follow the format of the Budget Support Document as
29 modified to reflect changes enacted by the General Assembly.

30 **"§ 143C-6-2. Methods to avoid deficit.**

31 (a) Appropriations. – Each appropriation is maximum and conditional. The
32 expenditures authorized by an appropriation from a fund shall be made only if necessary
33 and only if the aggregate revenues to the fund during each fiscal year of the biennium,
34 when added to any unreserved fund balance from the previous fiscal year, are sufficient
35 to support the expenditures.

36 (b) Revenue Collections. – The Director, with the assistance of the Secretary of
37 Revenue and other officials collecting or receiving appropriated State revenue, shall
38 continuously survey the revenue collections. If the Director finds that revenues to any
39 fund, when added to the beginning unreserved fund balance in that fund, will be
40 insufficient to support appropriations from that fund, the Director shall immediately
41 notify the General Assembly that a deficit is anticipated. The Director shall report in a
42 timely manner to the General Assembly a plan containing the expenditure reductions
43 and other lawful measures as the Director is implementing in order to avert the deficit.

1 (c) Local Governments Funds. – In exercising the powers contained in Section
2 5(3) of Article III of the North Carolina Constitution, the Governor shall not withhold
3 from distribution funds that have been collected by the State on behalf of local
4 governments or funds that the General Assembly has appropriated to local governments
5 unless the Governor has exhausted all other sources of revenue of the State including
6 any appropriated surplus remaining in the treasury at the beginning of the fiscal period.

7 In accordance with Section 19 of Article I of the North Carolina Constitution and the
8 Due Process Clause of the United States Constitution, the State is prohibited from
9 taking local tax revenue. This subsection does not authorize the Governor to withhold
10 revenues from taxes levied by units of local governments and collected by the State.

11 **"§ 143C-6-3. Allotments.**

12 To receive the operating funds appropriated to it, a State agency shall submit to the
13 Director, at intervals and in a format prescribed by the Director, a request for an
14 allotment of the amount estimated to be required for the agency's operating costs during
15 the ensuing fiscal period. The Director shall approve or modify the allotment requests,
16 and the State Controller shall implement the allotments as approved or modified by the
17 Director.

18 **"§ 143C-6-4. Budget Adjustments Authorized.**

19 (a) Findings. – The General Assembly recognizes that even the most thorough
20 budget deliberations may be affected by unforeseeable events. Under limited
21 circumstances set forth in this section, the Director may adjust the enacted budget by
22 making transfers among lines of expenditure, purposes, or programs or by increasing
23 expenditures funded by departmental receipts. Under no circumstances, however, shall
24 total General Fund expenditures for a State department exceed the amount appropriated
25 to that department from the General Fund for the fiscal year.

26 (b) Adjustments to the Certified Budget. – Notwithstanding the provisions of
27 G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend
28 more than was authorized in the certified budget for all of the following:

29 (1) An object or line item within a purpose or program so long as the total
30 amount expended for the purpose or program is no more than was
31 authorized in the certified budget for the purpose or program.

32 (2) A purpose or program if the overexpenditure of the purpose or
33 program is:

34 a. Required by a court or Industrial Commission order;

35 b. Authorized under G.S. 166A-5(1)a.9. of the Emergency
36 Management Act; or

37 c. Required to call out the national guard.

38 (3) A purpose or program not subject to the provisions of subdivision
39 (b)(2) of this subsection, but only in accord with the following
40 restrictions: (i) the overexpenditure is required to continue the purpose
41 or programs due to complications or changes in circumstances that
42 could not have been foreseen when the budget for the fiscal period was
43 enacted, (ii) the scope of the purpose or program is not increased, (iii)
44 the overexpenditure is authorized on a nonrecurring basis, and (iv)

1 under no circumstances shall the total requirements for a State
2 department exceed the department's certified budget for the fiscal year
3 by more than three percent (3%) without prior consultation with the
4 Joint Legislative Commission on Governmental Operations.

5 (c) Overexpenditures Reported. – The Director shall report quarterly, beginning
6 October 31, to the Joint Legislative Commission on Governmental Operations on
7 overexpenditures approved by the Director under subdivisions (2) and (3) of subsection
8 (b) of this section.

9 (d) Overexpenditures in Senate Budget. – The President Pro Tempore of the
10 Senate may approve expenditures for more than was authorized in the enacted budget
11 for objects or line items in the budget of the Senate.

12 (e) Overexpenditures in House of Representatives Budget. – The Speaker of the
13 House of Representatives may approve expenditures for more than was authorized in
14 the enacted budget objects or line items in the budget of the House of Representatives.

15 (f) Transfers Between Line Items or Programs in General Assembly Budget
16 Other Than Senate and House of Representatives. – Expenditures exceeding amounts
17 authorized for programs, objects, or line items in the budget of the General Assembly
18 other than those of the Senate and House of Representatives shall be approved jointly by
19 the President Pro Tempore of the Senate and the Speaker of the House of
20 Representatives.

21 (g) Transfers in The University of North Carolina Budget. – Transfers or changes
22 within the budget of The University of North Carolina may be made as provided in
23 Article 1 of Chapter 116 of the General Statutes.

24 **"§ 143C-6-5. No expenditures for purposes for which the General Assembly has**
25 **considered but not enacted an appropriation; no fee increases that the**
26 **General Assembly has rejected.**

27 (a) Notwithstanding any other provision of law, no funds from any source,
28 except for gifts, grants, or funds allocated from the Repair and Renovations Account in
29 accordance with G.S. 143C-4-3, funds allocated from the Contingency and Emergency
30 Fund in accordance with G.S. 143C-4-4, and funds exempted from Chapter 143C in
31 accordance with G.S. 143C-1-3(c) may be expended for any new or expanded purpose,
32 position, or other expenditure for which the General Assembly has considered but not
33 enacted an appropriation of funds for the current fiscal period. For the purpose of this
34 subsection, the General Assembly has considered a purpose, position, or other
35 expenditure when that purpose is included in a bill which fails a reading, or if the
36 purpose is included in the version of a bill that passes one house, but the bill is enacted
37 without the purpose.

38 (b) Notwithstanding any other provision of law, no fee shall be increased if the
39 General Assembly has rejected an increase of that fee for the current fiscal period. For
40 the purpose of this subsection, the General Assembly has rejected a fee increase when
41 that fee increase is included in a bill which fails a reading, or if the fee increase is
42 included in the version of a bill that passes one house, but the bill is enacted without the
43 fee increase.

44 **"§ 143C-6-6. Positions included in the State Payroll.**

1 (a) Before a State agency establishes a new position or changes the funding of an
2 existing position, the agency shall submit the proposed action to the Director for
3 approval. The Director shall review the proposed action to ensure that funds for the
4 action are included in the amount appropriated to the agency. If the Director approves
5 the action, the Director shall notify the agency and the Controller of the approval. The
6 Controller shall not honor a voucher in payment of a payroll that includes a new
7 position or a change in an existing position that has not been approved by the Director.

8 (b) Payments on behalf of employees for hospital-medical insurance, longevity
9 payments, salary increments, and legislative salary increases, required employer
10 salary-related contributions for retirement benefits, death benefits, the Disability Income
11 Plan and social security for employees shall be paid from the General Fund or the
12 Highway Fund, only to the extent of the proportionate part paid from the General Fund
13 or Highway Fund, in support of the salary of the employee, and the remainder of the
14 employer's contribution requirements shall be paid from the same source that supplies
15 the remainder of the employee's salary.

16 (c) This section does not apply to The University of North Carolina.

17 **"§ 143C-6-7. Compliance with Chapter and appropriations acts by State agencies.**

18 (a) Compliance With Chapter and Appropriations Acts. – Except as otherwise
19 provided by law, all expenditures of State funds by a State agency shall be made in
20 compliance with the State budget as enacted by the General Assembly and certified by
21 the Director. If the Director finds that a State agency has spent or encumbered State
22 funds for an unauthorized purpose, the Director shall take appropriate administrative
23 action to ensure that no further irregularities occur and shall report to the Attorney
24 General any facts that pertain to an apparent violation of a penal statute or an apparent
25 instance of malfeasance, misfeasance, or nonfeasance by a person.

26 (b) Repayment of Funds Spent for an Unauthorized Purpose. – In addition to the
27 provisions of subsection (a) of this section, if the Director finds that a State agency
28 violated this section, the Director shall withhold any future allocations for the
29 unauthorized purpose and shall also withhold future allocations to the Department in an
30 amount equal to the funds unlawfully spent.

31 **"§ 143C-6-8. State agencies may incur financial obligations only if authorized by**
32 **the Director of the Budget and subject to the availability of appropriated**
33 **funds.**

34 Unless otherwise authorized by the Director as provided by law, purchase orders,
35 contracts, salary commitments, and any other financial obligations by State agencies
36 shall be subject to the availability of appropriated funds or available funds that are not
37 State funds as defined in this Chapter.

38 **"§ 143C-6-9. Use of lapsed salary savings.**

39 Lapsed salary savings may be expended only for nonrecurring purposes or line
40 items.

41 "Part 2. Highway Appropriations.

42 **"§ 143C-6-11. Highway appropriation.**

1 (a) General Provisions. – Appropriations made for transportation projects are
2 subject to the provisions in this section. If the provisions in this section conflict with the
3 budget acts, the budget acts prevail.

4 (b) Cash Flow Management of Transportation Projects. – Transportation Project
5 funds shall be budgeted, expended, and accounted for on a 'cash flow' basis. Pursuant to
6 this end, transportation project contracts shall be planned and limited so payments due
7 at any time will not exceed the cash available to pay them.

8 (c) Appropriations Are for Payments and Contract Commitments to Be Made in
9 the Appropriation Fiscal Year. – The appropriations for transportation projects are for
10 maximum payments estimated to be made during the appropriation fiscal year and for
11 maximum contracting authority for future years. Transportation project contracts shall
12 be scheduled so that the total contract payments and other expenditures charged to
13 projects in the fiscal year for each transportation project appropriation item will not
14 exceed the current appropriations provided by the General Assembly and unspent prior
15 appropriations made by the General Assembly for the particular appropriation item.

16 (d) Payments Subject to Availability of Funds. – The annual appropriations for
17 transportation projects shall be expended only to the extent that sufficient funds are
18 available in the Highway Fund.

19 (e) Retainage Fully Funded. – The Department of Transportation shall fully fund
20 retainage from transportation project contracts in the year in which the work is
21 performed.

22 (f) Five Percent (5%) of the Cash Balance Required. – The Department of
23 Transportation shall maintain an available cash balance at the end of each month equal
24 to at least five percent (5%) of the unpaid balance of the total transportation project
25 contract obligations. In the event this cash position is not maintained, no further
26 transportation project contract commitments may be entered into until the cash balance
27 has been regained. For the purposes of awarding contracts involving federal aid, any
28 amount due from the federal government and the Highway Bond Fund as a result of
29 unreimbursed expenditures may be considered as cash for the purposes of this
30 provision.

31 (g) Anticipation of Revenues. – In awarding State transportation project contracts
32 requiring payments beyond a biennium, the Director may anticipate revenues as
33 authorized and certified by the General Assembly to continue contract payments for up
34 to seventy-five percent (75%) of the revenues which are estimated for the first fiscal
35 year of the succeeding biennium and which are not required for other budget items. Up
36 to fifty percent (50%) of the revenues not required for other budget items may be
37 anticipated for the second and subsequent fiscal years' contract payments. Up to forty
38 percent (40%) of the revenues not required for other budget items may be anticipated
39 for the first year of the second succeeding biennium and up to twenty percent (20%) of
40 the revenues not required for other budget items may be anticipated for the second year
41 of the second succeeding biennium.

42 (h) Amounts Encumbered. – Transportation project appropriations may be
43 encumbered in the amount of allotments made to the Department of Transportation by
44 the Director for the estimated payments for transportation project contract work to be

1 performed in the appropriation fiscal year. The allotments shall be multiyear allotments
2 and shall be based on estimated revenues and shall be subject to the maximum contract
3 authority contained in subsection (c) above. Payment for transportation project work
4 performed pursuant to contract in any fiscal year other than the current fiscal year is
5 subject to appropriations by the General Assembly. Transportation project contracts
6 shall contain a schedule of estimated completion progress, and any acceleration of this
7 progress shall be subject to the approval of the Department of Transportation provided
8 funds are available. The State reserves the right to terminate or suspend any
9 transportation project contract, and any transportation project contract shall be so
10 terminated or suspended if funds will not be available for payment of the work to be
11 performed during that fiscal year pursuant to the contract. In the event of termination of
12 any contract, the contractor shall be given a written notice of termination at least 60
13 days before completion of scheduled work for which funds are available. In the event of
14 termination, the contractor shall be paid for the work already performed in accordance
15 with the contract specifications.

16 (i) Provision Incorporated in Contracts. – The provisions of subsection (h) of this
17 section shall be incorporated verbatim in all transportation project contracts.

18 (j) Existing Contracts Are Not Affected. – The provisions of this section shall
19 not apply to transportation project contracts awarded by the Department of
20 Transportation prior to July 15, 1980.

21 (k) The Department of Transportation shall do all of the following:

22 (1) Utilize cash flow financing to the extent possible to fund transportation
23 projects with the goal of reducing the combined average daily cash
24 balance of the Highway Fund and the Highway Trust Fund to an
25 amount equal to the twelve percent (12%) of the combined estimate of
26 the yearly receipts of the Funds. The target amount shall include an
27 amount necessary to make all municipal-aid funding requirements of
28 the Department.

29 (2) Establish necessary management controls to facilitate use of cash flow
30 financing, such as establishment of a financial planning committee,
31 development of a monthly financing report, establishment of
32 appropriate fund cash level targets, review of revenue forecasting
33 procedures, and reduction of accrued unbilled costs.

34 (3) Report annually, on October 1 of each year, to the Joint Legislative
35 Transportation Oversight Committee on its cash management policies
36 and results.

37 "Part 3. Non-State Entities Receiving State Funds.

38 **"§ 143C-6-12. Payments to nonprofits.**

39 Except as otherwise provided by law, an annual appropriation of one hundred
40 thousand dollars (\$100,000) or less to or for the use of a nonprofit corporation shall be
41 made in a single annual payment. An annual appropriation of more than one hundred
42 thousand dollars (\$100,000) to or for the use of a nonprofit corporation shall be made in
43 quarterly or monthly payments, in the discretion of the Director of the Budget.

44 **"§ 143C-6-13. Use of State funds by non-State entities.**

1 (a) Disbursement and Use of State Funds. – Every non-State entity that receives,
2 uses, or expends any State funds shall use or expend the funds only for the purposes for
3 which they were appropriated by the General Assembly. State funds include federal
4 funds that flow through the State Treasury.

5 (b) Compliance by Non-State Entities. – If the Director of the Budget finds that a
6 non-State entity has spent or encumbered State funds for an unauthorized purpose, or
7 fails to submit or falsifies the information required by G.S. 143C-6-14 or any other
8 provision of law, the Director shall take appropriate administrative action to ensure that
9 no further irregularities or violations of law occur and shall report to the Attorney
10 General any facts that pertain to an apparent violation of a criminal law or an apparent
11 instance of malfeasance, misfeasance, or nonfeasance in connection with the use of
12 State funds. Appropriate administrative action may include suspending or withholding
13 the disbursement of State funds and recovering State funds previously disbursed.

14 (c) Civil Actions. – Civil actions to recover State funds or to obtain other
15 mandatory orders in the name of the State on relation of the Attorney General, or in the
16 name of the Office of State Budget and Management, shall be filed in the General Court
17 of Justice in Wake County.

18 **"§ 143C-6-14. State grant funds: administration; oversight and reporting**
19 **requirements.**

20 (a) Definitions. – The following definitions apply in this section:

21 (1) "Grant" and "grant funds" means State funds disbursed as a grant by a
22 State agency; however, the terms do not include any payment made by
23 the Medicaid program, the Teachers' and State Employees'
24 Comprehensive Major Medical Plan, or other similar medical
25 programs.

26 (2) "Grantee" means a non-State entity that receives State funds as a grant
27 from a State agency but does not include any non-State entity subject
28 to the audit and other reporting requirements of the Local Government
29 Commission.

30 (3) "Subgrantee" means a non-State entity that receives State funds as a
31 grant from a grantee or from another subgrantee but does not include
32 any non-State entity subject to the audit and other reporting
33 requirements of the Local Government Commission.

34 (b) Conflict of Interest Policy. – Every grantee shall file with the State agency
35 disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of
36 interest that may arise involving the grantee's management employees and the members
37 of its board of directors or other governing body. The policy shall address situations in
38 which any of these individuals may directly or indirectly benefit, except as the grantee's
39 employees or members of its board or other governing body, from the grantee's
40 disbursing of State funds, and shall include actions to be taken by the grantee or the
41 individual, or both, to avoid conflicts of interest and the appearance of impropriety. The
42 policy shall be filed before the disbursing State agency may disburse the grant funds.

43 (c) No Overdue Tax Debts. – Every grantee shall file with the State agency or
44 department disbursing funds to the grantee a written statement completed by that

1 grantee's board of directors or other governing body stating that the grantee does not
2 have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local
3 level. The written statement shall be made under oath and shall be filed before the
4 disbursing State agency or department may disburse the grant funds. A person who
5 makes a false statement in violation of this subsection is guilty of a criminal offense
6 punishable as provided by G.S. 143C-10-1.

7 (d) Office of State Budget Rules Must Require Uniform Administration of State
8 Grants. – The Office of State Budget and Management shall adopt rules to ensure the
9 uniform administration of State grants by all grantor State agencies and grantees or
10 subgrantees. The Office of State Budget and Management shall consult with the Office
11 of the State Auditor and the Attorney General in establishing the rules required by this
12 subsection. The rules shall establish policies and procedures for disbursements of State
13 grants and for State agency oversight, monitoring, and evaluation of grantees and
14 subgrantees. The policies and procedures shall:

- 15 (1) Ensure that the purpose and reporting requirements of each grant are
16 specified to the grantee.
- 17 (2) Ensure that grantees specify the purpose and reporting requirements
18 for grants made to subgrantees.
- 19 (3) Ensure that State funds are spent in accordance with the purposes for
20 which they were granted.
- 21 (4) Hold the grantees and subgrantees accountable for the legal and
22 appropriate expenditure of grant funds.
- 23 (5) Provide for adequate oversight and monitoring to prevent the misuse
24 of grant funds.
- 25 (6) Establish mandatory periodic reporting requirements for grantees and
26 subgrantees, including methods of reporting, to provide financial and
27 program performance information. The mandatory periodic reporting
28 requirements shall require grantees and subgrantees to file with the
29 State Auditor copies of reports and statements that are filed with State
30 agencies pursuant to this subsection. Compliance with the mandatory
31 periodic reporting requirements of this subdivision shall not require
32 grantees and subgrantees to file with the State Auditor the information
33 described in subsections (b) and (c) of this section.
- 34 (7) Require grantees and subgrantees to maintain reports, records, and
35 other information to properly account for the expenditure of all grant
36 funds and to make such reports, records, and other information
37 available to the grantor State agency for oversight, monitoring, and
38 evaluation purposes.
- 39 (8) Require grantees and subgrantees to ensure that work papers in the
40 possession of their auditors are available to the State Auditor for the
41 purposes set out in subsection (i) of this section.
- 42 (9) Require grantees to be responsible for managing and monitoring each
43 project, program, or activity supported by grant funds and each
44 subgrantee project, program, or activity supported by grant funds.

1 (10) Provide procedures for the suspension of further disbursements or use
2 of grant funds for noncompliance with these rules or other
3 inappropriate use of the funds.

4 (11) Provide procedures for use in appropriate circumstances for
5 reinstatement of disbursements that have been suspended for
6 noncompliance with these rules or other inappropriate use of grant
7 funds.

8 (12) Provide procedures for the recovery and return to the grantor State
9 agency of unexpended grant funds from a grantee or subgrantee if the
10 grantee or subgrantee is unable to fulfill the purposes of the grant.

11 (e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding
12 the provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this
13 section are subject to the provisions of Chapter 150B of the General Statutes.

14 (f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. –
15 The Office of State Budget and Management, after consultation with the administering
16 State agency, shall have the power to suspend disbursement of grant funds to grantees
17 or subgrantees, to prevent further use of grant funds already disbursed, and to recover
18 grant funds already disbursed for noncompliance with rules adopted pursuant to
19 subsection (d) of this section. If the grant funds are a pass-through of funds granted by
20 an agency of the United States, then the Office of State Budget and Management must
21 consult with the granting agency of the United States and the State agency that is the
22 recipient of the pass-through funds prior to taking the actions authorized by this
23 subsection.

24 (g) Audit Oversight. – The State Auditor has audit oversight, with respect to
25 grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter
26 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or
27 expends grant funds. A grantee or subgrantee must, upon request, furnish to the State
28 Auditor for audit all books, records, and other information necessary for the State
29 Auditor to account fully for the use and expenditure of grant funds received by the
30 grantee or subgrantee. The grantee or subgrantee must furnish any additional financial
31 or budgetary information requested by the State Auditor, including audit work papers in
32 the possession of any auditor of a grantee or subgrantee directly related to the use and
33 expenditure of grant funds.

34 (h) Report on Grant Recipients That Failed to Comply. – Not later than May 1,
35 2007, and by May 1 of every succeeding year, the Office of State Budget and
36 Management shall report to the Joint Legislative Commission on Governmental
37 Operations and the Fiscal Research Division on all grantees or subgrantees that failed to
38 comply with this section with respect to grant funds received in the prior fiscal year.

39 (i) State Agencies to Submit Grant List to Auditor. – No later than October 1 of
40 each year, each State agency shall submit a list to the State Auditor, in the format
41 prescribed by the State Auditor, of every grantee to which the agency disbursed grant
42 funds in the prior fiscal year. The list shall include the amount disbursed to each grantee
43 and other information as required by the State Auditor to comply with the requirements
44 of this section.

1 judgment, be necessary to the successful administration of the capital improvement
2 planning process.

3 **"§ 143C-8-2. Capital facilities inventory.**

4 The Department of Administration shall develop and maintain an automated
5 inventory of all facilities owned by State agencies pursuant to G.S. 143-341(4). The
6 inventory shall include the location, occupying agency, ownership, size, description,
7 condition assessment, maintenance record, parking and employee facilities, and other
8 information to determine maintenance needs and prepare life-cycle cost evaluations of
9 each facility listed in the inventory. The Department of Administration shall update and
10 publish the inventory at least once every three years. The Department shall also record
11 in the inventory acquisitions of new facilities and significant changes in existing
12 facilities as they occur.

13 **"§ 143C-8-3. Capital improvement needs criteria.**

14 The Office of State Budget and Management shall develop a weighted list of factors
15 that may be used to evaluate the need for capital improvement projects. The list shall
16 include all of the following:

- 17 (1) Preservation, adequacy and use of existing facilities.
- 18 (2) Health and safety considerations.
- 19 (3) Operational efficiencies.
- 20 (4) Projected demand for governmental services.

21 **"§ 143C-8-4. Agency capital improvement needs estimates.**

22 (a) Needs Estimate Required. – On or before September 1 of each
23 even-numbered year, each State agency shall submit to the Office of State Budget and
24 Management and to the Division of Fiscal Research a six-year capital improvement
25 needs estimate. This estimate shall describe the agency's anticipated capital needs for
26 each year of the six-year planning period. Capital improvement needs estimates shall be
27 shown in two parts.

28 (b) Repairs and Renovations Needs Estimate. – The first part of the capital
29 improvement needs estimates shall include only requirements for repairs and
30 renovations necessary to maintain the existing use of existing facilities. Each proposed
31 repair and renovation expenditure shall be justified by reference to the Facilities
32 Condition Assessment Program operated by the Office of State Construction.

33 (c) Real Property and New Construction or Facility Rehabilitation Needs
34 Estimate. – The second part of the capital improvement needs estimates shall include
35 only proposals for real property acquisition and projects involving construction of new
36 facilities or rehabilitation of existing facilities to accommodate uses for which the
37 existing facilities were not originally designed. Each project included in this part shall
38 be justified by reference to the needs evaluation criteria established by the Office of
39 State Budget and Management pursuant to G.S. 143C-8-3.

40 For capital projects of The University of North Carolina and its constituent
41 institutions, the Office of State Budget and Management shall utilize the needs
42 evaluation information approved by the Board of Governors of The University of North
43 Carolina developed pursuant to G.S. 116-11(9).

44 **"§ 143C-8-5. Six-year capital improvements plan.**

1 (a) General. – The State capital improvement plan shall address the long-term
2 capital improvement needs of all State government agencies and shall incorporate all
3 capital projects, however financed, proposed to meet those needs, except that
4 transportation infrastructure projects shall be excluded. On or before December 31 of
5 each even-numbered year, the Director of the Budget shall prepare and transmit to the
6 General Assembly a six-year capital improvement plan. When preparing the plan, the
7 Director of the Budget shall consider the capital improvement needs estimates
8 submitted by State agencies as required in G.S. 143C-8-4. The plan shall be prepared in
9 two parts.

10 (b) Repair and Renovations Requirements. – The first part of the capital
11 improvement plan shall set forth repair and renovations requirements that, in the
12 judgment of the Director of the Budget, should be met within each year of the six-year
13 planning period to protect and preserve existing capital improvement facilities. The plan
14 shall identify individual projects in priority order by State agency and shall specify the
15 means of financing.

16 (c) Real Property Acquisition, New Construction, or Facility Rehabilitations. –
17 The second part of the capital improvement plan shall set forth an integrated schedule
18 for real property acquisition, new construction, or rehabilitation of existing facilities
19 that, in the judgment of the Director of the Budget, should be initiated within each year
20 of the six-year planning period. The plan shall contain for each project (i) estimates of
21 real property acquisition, and construction or rehabilitation costs (ii) a means of
22 financing the project, and (iii) an estimated schedule for the completion of the project.
23 Where the means of financing would involve direct or indirect debt service obligations,
24 a schedule of those obligations shall be presented.

25 **"§ 143C-8-6. Recommendations for capital improvements set forth in the**
26 **Recommended State Budget.**

27 (a) Budget Director's Recommendations. – The Director of the Budget shall
28 recommend expenditures for repairs and renovations of existing facilities, and real
29 property acquisition, new construction, or rehabilitation of existing facilities in the
30 Recommended State Budget in accordance with G.S. 143C-3-5.

31 (b) Repairs and Renovations in the Recommended State Budget. – The
32 Recommended State Budget shall contain for repairs and renovations of existing
33 facilities: (i) the amount recommended for each State agency, (ii) a summary of the
34 recommendations by project type, and (iii) the means of financing.

35 (c) Repairs and Renovations in the Budget Support Document. – The Budget
36 Support Document shall contain for each repair and renovation project recommended in
37 accordance with 143C-8-6(b): (i) a project description and justification, (ii) a detailed
38 cost estimate, (iii) an estimated schedule of cash flow requirements over the life of the
39 project, (iv) an estimated schedule for the completion of the project, and (v) an
40 explanation of the means of financing.

41 (d) Other Capital Projects in the Recommended State Budget. – The
42 Recommended State Budget shall contain for each capital project involving real
43 property acquisition, new construction, building area (sq. ft.) expansions, or the
44 rehabilitation of existing facilities to accommodate new or expanded uses: (i) a project

1 description and statement of need, (ii) an estimate of acquisition and construction or
2 rehabilitation costs, and (iii) a means of financing the project.

3 (e) Other Capital Projects in the Budget Support Document. – The Budget
4 Support Document shall contain for each capital project recommended in accordance
5 with 143C-8-6(c): (i) a detailed project description and justification, (ii) a detailed
6 estimate of acquisition, planning, design, site development, construction, contingency
7 and other related costs, (iii) an estimated schedule of cash flow requirements over the
8 life of the project, (iv) an estimated schedule for the completion of the project, (v) an
9 estimate of maintenance and operating costs, including personnel, for the project,
10 covering the first five years of operation, (vi) an estimate of revenues, if any, likely to
11 be derived from the project, covering the first five years of operation, and (vii) an
12 explanation of the means of financing.

13 **"§ 143C-8-7. When a State agency may begin a capital improvement project.**

14 No State agency may expend funds for the construction or renovation of any capital
15 improvement project except as needed to comply with this Article or otherwise
16 authorized by the General Assembly. Funds that become available by gifts, excess
17 patient receipts above those budgeted at the University of North Carolina Hospitals at
18 Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of
19 the General Assembly, or any other funds available to a State agency or institution may
20 be utilized for advanced planning through the working drawing phase of capital
21 improvement projects, upon approval of the Director of the Budget.

22 **"§ 143C-8-8. When a State agency may increase the cost of a capital improvement
23 project.**

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

33 **"§ 143C-8-9. When a State agency may change the scope of a capital improvement
34 project.**

35 A State agency may increase the scope of a capital improvement project only if the
36 General Assembly authorizes the increase. A State agency may decrease the scope of a
37 capital improvement project if the Director authorizes the decrease. To obtain the
38 Director's authorization for a decrease in the scope of a capital improvement project, a
39 State agency shall submit its request to the Director in writing and shall state the reason
40 for the request.

41 **"§ 143C-8-10. Project Reserve Account.**

42 (a) Project Reserve Account. – The Project Reserve Account is created as a
43 reserve account within the Capital Project Fund. When a construction contract is entered
44 for a capital improvement project for which the General Assembly has enacted an

1 appropriation, the appropriation is encumbered for the project's costs of real property
2 acquisition, planning, design, site development, construction, contingencies, and other
3 related costs. If the amount appropriated for the project exceeds the amount
4 encumbered, the excess shall be credited to the Project Reserve Account, unless
5 otherwise required by law. The Director may authorize funds in the Account to be used
6 for any of the following:

- 7 (1) An emergency repair and renovation project at a State facility.
- 8 (2) The award of a project contract when bids for the contract exceed the
9 amount appropriated for it if the project was designed within the scope
10 intended by the appropriation and if the Director finds that all means to
11 award the contract within the appropriation were reasonably attempted.
- 12 (3) A reversion to the principal fund from which revenue was appropriated
13 for a project when the amount encumbered for the project is less than
14 the amount appropriated.

15 (b) Reporting Requirement. – Whenever the Director authorizes the use of funds
16 from the Project Reserve Account, the Director shall report the action to the Joint
17 Legislative Commission on Governmental Operations at its next meeting.

18 **"§ 143C-8-11. Reversion of appropriation and lapse of project authorization.**

19 (a) Reversion of Appropriation. – A State agency shall begin the planning of or
20 the construction of an authorized capital improvement project during the fiscal year in
21 which the funds are appropriated. If it does not, the Director may credit the
22 appropriation to the Project Reserve Account, unless otherwise required by law. If the
23 Director does not credit the appropriation to the Project Reserve Account, the
24 appropriation shall revert to the principal fund from which it was appropriated. The
25 Director may, for good cause, allow a State agency to take up to an additional 12
26 months to take the actions required by this subsection.

27 (b) Lapse of Project Authorization. – Authorizations for capital improvement
28 projects shall lapse if any of the following occur: (i) the appropriation for a capital
29 improvement project reverts, (ii) the construction of a project does not begin during the
30 first two fiscal years in which funds are appropriated, or (iii) the Director redirects funds
31 appropriated for a capital improvement project in accordance with G.S. 143C-6-2. The
32 Director may, for good cause, allow a State agency to take up to an additional 12
33 months to begin construction of a project; however, if the Director approves an
34 extension of time under this subsection and construction of the project has not begun by
35 the end of the extension, the authorization for the project shall lapse.

36 **"§ 143C-8-12. University system capital improvement projects from sources that**
37 **are not General Fund sources: approval of new project or change in**
38 **scope of existing project.**

39 Notwithstanding any other provision of this Chapter, the Director of the Budget
40 may, upon request of the Board of Governors of The University of North Carolina and
41 after consultation with the Joint Legislative Commission on Governmental Operations,
42 approve: (i) expenditures to plan a capital improvement project of The University of
43 North Carolina the planning for which is to be funded entirely with non-General Fund
44 money, (ii) expenditures for a capital improvement project of The University of North

1 Carolina that is to be funded entirely with non-General Fund money, or (iii) a change in
2 the scope of any previously approved capital improvement project of The University of
3 North Carolina provided that both the project and change in scope are funded entirely
4 with non-General Fund money.

5 "Article 9.

6 "Special Funds and Fee Reports.

7 **"§ 143C-9-1. Medicaid Special Fund; transfers to Department of Health and**
8 **Human Services.**

9 (a) Political subdivisions may appropriate funds directly to the Department of
10 Health and Human Services for Medicaid programs. Other public agencies and private
11 sources may transfer funds to the Department for Medicaid programs. The Department
12 may accept unconditional and unrestricted donations of such funds. Notwithstanding the
13 provisions of this Article which might forbid such transfer or donation, the University of
14 North Carolina Hospitals at Chapel Hill may transfer funds as provided by the previous
15 sentence of this section.

16 (b) Contributed funds shall be subject to the Department of Health and Human
17 Services administrative control and shall be allocated only as specifically provided in
18 the Current Operations Appropriations Act, except such contributions shall not reduce
19 State general revenue funding. At the end of any fiscal year, the unobligated balance of
20 any such funds shall not revert to the General Fund, but shall be reappropriated for these
21 purposes in the next fiscal year.

22 **"§ 143C-9-2. Trust Fund for Mental Health, Developmental Disabilities, and**
23 **Substance Abuse Services and Bridge Funding Needs.**

24 (a) The Trust Fund for Mental Health, Developmental Disabilities, and
25 Substance Abuse Services and Bridge Funding Needs is established as an
26 interest-bearing, nonreverting special trust fund in the Office of State Budget and
27 Management. Moneys in the Trust Fund shall be held in trust and used solely to meet
28 the mental health, developmental disabilities, and substance abuse services needs of the
29 State. The Trust Fund shall be used to supplement and not to supplant or replace
30 existing State and local funding available to meet the mental health, developmental
31 disabilities, and substance abuse services needs of the State.

32 The State Treasurer shall hold the Trust Fund separate and apart from all other
33 moneys, funds, and accounts. The State Treasurer shall be the custodian of the Trust
34 Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3.
35 Investment earnings credited to the assets of the Trust Fund shall become part of the
36 Trust Fund. Any balance remaining in the Trust Fund at the end of any fiscal year shall
37 be carried forward in the Trust Fund for the next succeeding fiscal year.

38 Moneys in the Trust Fund shall be expended only in accordance with subsection (b)
39 of this section and in accordance with limitations and directions enacted by the General
40 Assembly.

41 (b) Moneys in the Trust Fund for Mental Health, Developmental Disabilities, and
42 Substance Abuse Services and Bridge Funding Needs shall be used only to:

- 43 (1) Provide start-up funds and operating support for programs and services
44 that provide more appropriate and cost-effective community treatment

1 alternatives for individuals currently residing in the State's mental
2 health, developmental disabilities, and substance abuse services
3 institutions.

4 (2) Facilitate the State's compliance with the United States Supreme Court
5 decision in Olmstead v. L.C. and E.W.

6 (3) Facilitate reform of the mental health, developmental disabilities, and
7 substance abuse services system and expand and enhance treatment
8 and prevention services in these program areas to remove waiting lists
9 and provide appropriate and safe services for clients.

10 (4) Provide bridge funding to maintain appropriate client services during
11 transitional periods as a result of facility closings, including
12 departmental restructuring of services.

13 (5) Construct, repair, and renovate State mental health, developmental
14 disabilities, and substance abuse services facilities.

15 (c) Notwithstanding G.S. 143C-1-2, any nonrecurring savings in State
16 appropriations realized from the closure of any State psychiatric hospitals that are in
17 excess of the cost of operating and maintaining a new State psychiatric hospital shall not
18 revert to the General Fund but shall be placed in the Trust Fund and shall be used for the
19 purposes authorized in this section. Notwithstanding G.S. 143C-1-2, recurring savings
20 realized from the closure of any State psychiatric hospitals shall not revert to the
21 General Fund but shall be credited to the Department of Health and Human Services to
22 be used only for the purposes of subsections (b)(2) and (b)(3) of this section.

23 **"§ 143C-9-3. Settlement Reserve Fund.**

24 (a) The "Settlement Reserve Fund" is established as a restricted reserve in the
25 General Fund. Except as otherwise provided in this section, funds shall be expended
26 from the Settlement Reserve Fund only by specific appropriation by the General
27 Assembly.

28 (b) A Health Trust Account is established in the Settlement Reserve Fund. The
29 portion of each Master Settlement Agreement payment identified in Section 6(3) of S.L.
30 1999-2 shall be credited to the Health Trust Account. The State Controller shall transfer
31 all funds in the Health Trust Account to the Health and Wellness Trust Fund created in
32 Article 6C of Chapter 147 of the General Statutes.

33 (c) A Tobacco Trust Account is established in the Settlement Reserve Fund. The
34 portion of each Master Settlement Agreement payment identified in Section 6(2) of S.L.
35 1999-2 shall be credited to the Tobacco Trust Account. The State Controller shall
36 transfer all funds in the Tobacco Trust Account to the Tobacco Trust Fund created in
37 Article 75 of Chapter 143 of the General Statutes.

38 (d) Unless prohibited by federal law, federal funds provided to the State by block
39 grant or otherwise as part of federal legislation implementing a settlement between
40 United States tobacco companies and the states shall be credited to the Settlement
41 Reserve Fund. Unless otherwise encumbered or distributed under a settlement
42 agreement or final order or judgment of the court, funds paid to the State or a State
43 agency pursuant to a tobacco litigation settlement agreement, or a final order or

1 judgment of a court in litigation between tobacco companies and the states, shall be
2 credited to the Settlement Reserve Fund.

3 **"§143C-9-4. Annual Fee Report.**

4 The Office of State Budget and Management shall prepare a report annually on the
5 fees charged by each State department, bureau, division, board, commission, institution,
6 and agency during the previous fiscal year. The report shall include the statutory or
7 regulatory authority for each fee, the amount of the fee, when the amount of the fee was
8 last changed, the number of times the fee was collected during the prior fiscal year, and
9 the total receipts from the fee during the prior fiscal year.

10 "Article 10.

11 "Penalties.

12 **"§ 143C-10-1. Offenses for violation of Chapter.**

13 (a) Class 1 misdemeanor. – It is a Class 1 misdemeanor for a person to knowingly
14 and willfully do any one or more of the following:

15 (1) Withdraw funds from the State treasury for any purpose not authorized
16 by an act of appropriation.

17 (2) Approve any fraudulent, erroneous, or otherwise invalid claim or bill
18 to be paid from an appropriation.

19 (3) Make a written statement, give a certificate, issue a report, or utter a
20 document required by this Chapter, any portion of which is false.

21 (4) Fail or refuse to perform a duty imposed by this Chapter.

22 (b) Class A1 misdemeanor. – It is a Class A1 misdemeanor for a person to make
23 a false statement in violation of G.S. 143C-6-14(c).

24 (c) Forfeiture of Office or Employment. – An appointed officer or employee of
25 the State or an officer or employee of a political subdivision of the State, whether
26 elected or appointed, forfeits his office or employment upon conviction of an offense
27 under this section. An elected officer of the State is subject to impeachment for
28 committing any of the offenses specified in this section.

29 **"§ 143C-10-2. Civil liability for violation of Chapter.**

30 A person convicted of an offense under G.S. 143C-10-1 is liable in a civil action for
31 any damages suffered by the State in consequence of the offense.

32 **"§ 143C-10-3. Suspension from office or impeachment for refusal to comply with**
33 **Chapter.**

34 (a) State Officer or Employee. – The Governor may suspend from the
35 performance of his or her duties any State officer or employee, except an officer elected
36 by the people, who persists, after notice and warning, in failing or refusing to comply
37 with the provisions of this Chapter or any lawful administrative directive issued
38 pursuant to this Chapter. Before acting to suspend, the Governor shall give the accused
39 notice and an opportunity to be heard in his or her own defense. The Governor shall
40 report the facts leading to suspension to the Attorney General who may initiate
41 appropriate criminal or civil proceedings. The Governor may apply to the General Court
42 of Justice for a restraining order and injunction if a suspended officer or employee
43 persists in performing official acts.

1 (b) Elected Officers. – A State officer elected by the people who knowingly and
2 willfully fails or refuses to comply with any provision of this Chapter or any lawful
3 administrative directive issued under this Chapter is subject to impeachment."

4 **SECTION 4.** Part 2A of Article 1 of Chapter 116 of the General Statutes is
5 amended by adding a new section to read:

6 "**§ 116-30.3A. Availability of excess receipts.**

7 Notwithstanding the provisions of Chapter 143C of the General Statutes, receipts
8 within The University of North Carolina realized in excess of budgeted levels shall be
9 available, up to a maximum of ten percent (10%) above budgeted levels, for each
10 Budget Code, in addition to appropriations to support the operations generating the
11 receipts as approved by the Director of the Budget. Notwithstanding the provisions of
12 Chapter 143C of the General Statutes, receipts within The University of North Carolina
13 Health Care System realized in excess of budgeted levels shall be available above
14 budgeted levels, for each Budget Code, in addition to appropriations to support the
15 operations generating the receipts as approved by the Director of the Budget."

16 **SECTION 4.1.** G.S. 116-40.22(c) reads as rewritten:

17 "(c) Tuition and Fees. – Notwithstanding any provision in Chapter 116 of the
18 General Statutes to the contrary, in addition to any tuition and fees set by the Board of
19 Governors pursuant to G.S. 116-11(7), the Board of Trustees of the institution may
20 recommend to the Board of Governors tuition and fees for program-specific and
21 institution-specific needs at that institution without regard to whether an emergency
22 situation exists and not inconsistent with the actions of the General Assembly. ~~The~~
23 ~~institution shall retain any~~ Any tuition and fees set pursuant to this subsection are
24 appropriated for use by the institution. Notwithstanding this subsection, neither the
25 Board of Governors of The University of North Carolina nor its Board of Trustees shall
26 impose any tuition or mandatory fee at the North Carolina School of Science and
27 Mathematics without the approval of the General Assembly."

28 **SECTION 5.(a)** G.S. 143-15.3B is recodified as G.S. 113A-253.1.

29 **SECTION 5.(b)** G.S. 113A-253.1 as recodified by this section reads as
30 rewritten:

31 "**§ 113A-253.1. The Clean Water Management Trust Fund, Fund: appropriation.**

32 (a) ~~The Clean Water Management Trust Fund is established in G.S. 113A-253.~~
33 The General Assembly finds that, due to the critical need in this State to clean up
34 pollution in the State's surface waters and to protect and conserve those waters that are
35 not yet polluted, it is imperative that the State provide a minimum of one hundred
36 million dollars (\$100,000,000) each calendar year to the Clean Water Management
37 Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean
38 Water Management Trust Fund the sum of one hundred million dollars (\$100,000,000).

39 (b) The funds in the Clean Water Management Trust Fund shall be used only in
40 accordance with ~~Article 18 of Chapter 113A of the General Statutes.~~ this Article."

41 **SECTION 6.** G.S. 143-27.2 is recodified as G.S. 126-8.5.

42 **SECTION 7.** G.S. 143-31.2 is recodified as G.S. 143B-53.1.

43 **SECTION 8.** G.S. 143B-426.39 reads as rewritten:

44 "**§ 143B-426.39. Powers and duties of the State Controller.**

1 The State Controller shall:

- 2 (1) Prescribe, develop, operate, and maintain in accordance with generally
3 accepted principles of governmental accounting, a uniform state
4 accounting system for all state agencies. The system shall be designed
5 to assure compliance with all legal and constitutional requirements
6 including those associated with the receipt and expenditure of, and the
7 accountability for public funds. The State Controller may elect to
8 review a State agency's compliance with prescribed uniform State
9 accounting system standards, as well as applicable legal and
10 constitutional requirements related to compliance with such standards.
- 11 (2) On the recommendation of the State Auditor, prescribe and supervise
12 the installation of any changes in the accounting systems of an agency
13 that, in the judgment of the State Controller, are necessary to secure
14 and maintain internal control and facilitate the recording of accounting
15 data for the purpose of preparing reliable and meaningful statements
16 and reports. The State Controller shall be responsible for seeing that a
17 new system is designed to accumulate information required for the
18 preparation of budget reports and other financial reports.
- 19 (3) Maintain complete, accurate and current financial records that set out
20 all revenues, charges against funds, fund and appropriation balances,
21 interfund transfers, outstanding vouchers, and encumbrances for all
22 State funds and other public funds including trust funds and
23 institutional funds available to, encumbered, or expended by each State
24 agency, in a manner consistent with the uniform State accounting
25 system.
- 26 (4) Prescribe the uniform classifications of accounts to be used by all State
27 agencies including receipts, expenditures, assets, liabilities, fund types,
28 organization codes, and purposes. The State Controller shall also, after
29 consultation with the Office of State Budget and Management,
30 prescribe a form for the periodic reporting of financial accounts,
31 transactions, and other matters that is compatible with systems and
32 reports required by the State Controller under this section. Additional
33 records, accounts, and accounting systems may be maintained by
34 agencies when required for reporting to funding sources provided prior
35 approval is obtained from the State Controller.
- 36 (4a) Prescribe that, unless exempted by the State Controller, newly created
37 or acquired component units of the State are required to have the same
38 fiscal year as the State.
- 39 (5) Prescribe the manner in which disbursements of the State agencies
40 shall be ~~made, in accordance with G.S. 143-3.~~ made and may require
41 that warrants, vouchers, electronic payments, or checks, except those
42 drawn by the State Auditor, State Treasurer, and Administrative
43 Officer of the Courts, shall bear two signatures of officers as
44 designated by the State Controller.

- 1 (6) Operate a central payroll system, in accordance with ~~G.S. 143-3.2 and~~
2 ~~143-34.1~~G.S. 143B-426.39B and G.S. 143C-6-6.
- 3 (7) Keep a record of the appropriations, allotments, expenditures, and
4 revenues of each State agency, ~~in accordance with~~
5 ~~G.S. 143-20~~agency.
- 6 (8) Make appropriate reconciliations with the balances and accounts kept
7 by the State Treasurer.
- 8 (9) Develop, implement, and amend as necessary a uniform statewide cash
9 management plan for all State agencies in accordance with
10 G.S. 147-86.11.
- 11 (9a) Implement a statewide accounts receivable program in accordance
12 with Article 6B of Chapter 147 of the General Statutes.
- 13 (10) Prepare and submit to the Governor, the State Auditor, the State
14 Treasurer, and the Office of State Budget and Management each
15 month, a report summarizing by State agency and appropriation or
16 other fund source, the results of financial transactions. This report shall
17 be in the form that will most clearly and accurately set out the current
18 fiscal condition of the State. The State Controller shall also furnish
19 each State agency a report of its transactions by appropriation or other
20 fund source in a form that will clearly and accurately present the fiscal
21 activities and condition of the appropriation or fund source.
- 22 (11) Prepare and submit to the Governor, the State Auditor, the State
23 Treasurer, and the Office of State Budget and Management, at the end
24 of each quarter, a report on the financial condition and results of
25 operations of the State entity for the period ended. This report shall
26 clearly and accurately present the condition of all State funds and
27 appropriation balances and shall include comments, recommendations,
28 and concerns regarding the fiscal affairs and condition of the State.
- 29 (12) Prepare on or before October 31 of each year, a Comprehensive
30 Annual Financial Report in accordance with generally accepted
31 accounting principles of the preceding fiscal year, in accordance with
32 ~~G.S. 143-20.1~~G.S. 143B-426.39C. The report shall include State
33 agencies and component units of the State, as defined by generally
34 accepted accounting principles.
- 35 (13) Perform additional functions and duties assigned to the State
36 Controller, within the scope and context of the ~~Executive Budget Act,~~
37 ~~Chapter 143, Article 1 of the General Statutes~~State Budget Act,
38 Chapter 143C of the General Statutes.
- 39 (14) through (16) Recodified as G.S. 143B-472.42 (1), (2), and (3) by
40 Session Laws 1997-148, s. 3."

41 **SECTION 9.** Chapter 143B of the General Statutes is amended by adding
42 the following new parts to read:

43 "Part 28B. Assignment of Claims Against the State.

44 "§ 143B-426.39A. Assignments of claims against State.

1 (a) Definitions. – The following definitions apply in this section:

2 (1) Assignment. An assignment or transfer of a claim, or a power of
3 attorney, an order, or another authority for receiving payment of a
4 claim.

5 (2) Claim. A claim, a part or a share of a claim, or an interest in a claim,
6 whether absolute or conditional.

7 (3) Qualified charitable organization. A charitable organization that is
8 exempt from federal income tax pursuant to section 501(c)(3) of the
9 Internal Revenue Code.

10 (4) State employee credit union. A credit union organized under Chapter
11 54 of the General Statutes whose membership is at least one-half
12 employees of the State.

13 (5) The State. The State of North Carolina and any department, bureau, or
14 institution of the State of North Carolina.

15 (b) Assignments Prohibited. – Except as otherwise provided in this section, any
16 assignment of a claim against the State is void, regardless of the consideration given for
17 the assignment, unless the claim has been duly audited and allowed by the State and the
18 State has issued a warrant for payment of the claim. Except as otherwise provided in
19 this section, the State shall not issue a warrant to an assignee of a claim against the
20 State.

21 (c) Assignments in Favor of Certain Entities Allowed. – This section does not
22 apply to an assignment in favor of:

23 (1) A hospital.

24 (2) A building and loan association.

25 (3) A uniform rental firm in order to allow an employee of the Department
26 of Transportation to rent uniforms that include Day-Glo orange shirts
27 or vests as required by federal and State law.

28 (4) An insurance company for medical, hospital, disability, or life
29 insurance.

30 (d) Assignments to Meet Child Support Obligations Allowed. – This section does
31 not apply to assignments made to meet child support obligations pursuant to
32 G.S. 110-136.1.

33 (e) Assignments for Prepaid Legal Services Allowed. – This section does not
34 apply to an assignment for payment for prepaid legal services.

35 (f) Payroll Deduction for State Employees' Credit Union Accounts Allowed. –
36 An employee of the State who is a member of a State employee credit union may
37 authorize, in writing, the periodic deduction from the employee's salary or wages paid
38 for employment by the State of a designated lump sum for deposit to any credit union
39 accounts, purchase of any credit union shares, or payment of any credit union
40 obligations agreed to by the employee and the State Employees' Credit Union.

41 (f1) Payroll Deduction for Contributions to the Parental Savings Fund Allowed. –
42 An employee of the State may authorize, in writing, the periodic deduction from the
43 employee's salary or wages paid for employment by the State of a designated lump sum

1 for deposit in the Parental Savings Trust Fund administered by the State Education
2 Assistance Authority.

3 (g) Payroll Deduction for Payments to Certain Employees' Associations Allowed.
4 – An employee of the State or any of its institutions, departments, bureaus, agencies, or
5 commissions, or any of its local boards of education or community colleges, who is a
6 member of a domiciled employees' association that has at least 2,000 members, the
7 majority of whom are employees of the State or public school employees, may
8 authorize, in writing, the periodic deduction each payroll period from the employee's
9 salary or wages a designated lump sum to be paid to the employees' association.

10 An employee of any local board of education who is a member of a domiciled
11 employees' association that has at least 40,000 members, the majority of whom are
12 public school teachers, may authorize in writing the periodic deduction each payroll
13 period from the employee's salary or wages a designated lump sum or sums to be paid
14 for dues and voluntary contributions for the employees' association.

15 An authorization under this subsection shall remain in effect until revoked by the
16 employee. A plan of payroll deductions pursuant to this subsection for employees of the
17 State and other association members shall become void if the employees' association
18 engages in collective bargaining with the State, any political subdivision of the State, or
19 any local school administrative unit. This subsection does not apply to county or
20 municipal governments or any local governmental unit, except for local boards of
21 education.

22 (h) Payroll Deduction for State Employees Combined Campaign Allowed. –
23 Subject to rules adopted by the State Controller, an employee of the State may
24 authorize, in writing, the periodic deduction from the employee's salary or wages paid
25 for employment by the State of a designated lump sum to be paid to satisfy the
26 employee's pledge to the State Employees Combined Campaign.

27 (i) Payroll Deduction for Public School and Community College Employees'
28 Contributions to Charitable Organizations Allowed. – Subject to rules adopted by the
29 State Controller, an employee of a local board of education or community college may
30 authorize, in writing, the periodic deduction from the employee's salary or wages paid
31 for employment by the board of education or community college of a designated lump
32 sum to be contributed to a qualified charitable organization that has first been approved
33 by the employee's board of education or community college board.

34 (j) Payroll Deduction for University of North Carolina System Employees'
35 Contributions to Certain Charitable Organizations Allowed. – Subject to rules adopted
36 by the State Controller, if a constituent institution of The University of North Carolina
37 approves a payroll deduction plan under this subsection, an employee of the constituent
38 institution may authorize, in writing, the periodic deduction from the employee's salary
39 or wages paid for employment by the constituent institution of a designated lump sum to
40 be contributed to a qualified charitable organization that exists to support athletic or
41 charitable programs of the constituent institution and that has first been approved by the
42 President of The University of North Carolina as existing to support athletic or
43 charitable programs. If a payroll deduction plan under this subsection results in

1 additional costs to a constituent institution, these costs shall be paid by the qualified
2 charitable organizations receiving contributions under the plan.

3 (k) Payroll Deduction for University of North Carolina System Employees to Pay
4 for Discretionary Privileges of University Service. – Subject to rules adopted by the
5 State Controller, if a constituent institution of The University of North Carolina
6 approves a payroll deduction plan under this subsection, an employee of the constituent
7 institution may authorize, in writing, the periodic deduction from the employee's salary
8 or wages paid for employment by the constituent institution, of one or more designated
9 lump sums to be applied to the cost of corresponding discretionary privileges available
10 at employee expense from the employing institution. Discretionary privileges from the
11 employing institution that may be paid for through this subsection include parking
12 privileges, athletic passes, use of recreational facilities, admission to campus concert
13 series, and access to other institutionally hosted or provided entertainments, events, and
14 facilities.

15 (l) Assignment of Payments From the Underground Storage Tank Cleanup
16 Funds. – This section does not apply to an assignment of any claim for payment or
17 reimbursement from the Commercial Leaking Petroleum Underground Storage Tank
18 Cleanup Fund established by G.S. 143-215.94B or the Noncommercial Leaking
19 Petroleum Underground Storage Tank Cleanup Fund established by G.S. 143-215.94D.

20 "Part 28C. Accounting Systems.

21 **§ 143B-426.39B. Issuance of warrants upon State Treasurer; delivery of warrants**
22 **and disbursements for non-State entities.**

23 (a) The State Controller shall have the exclusive responsibility for the issuance of
24 all warrants for the payment of money upon the State Treasurer. All warrants upon the
25 State Treasurer shall be signed by the State Controller, who before issuing them shall
26 determine the legality of payment and the correctness of the accounts. All warrants
27 issued for non-State entities shall be delivered by the appropriate agency to the entity's
28 legally designated recipient by United States mail or its equivalent, including electronic
29 funds transfer.

30 When the State Controller finds it expedient to do so because of a State agency's size
31 and location, the State Controller may authorize a State agency to make expenditures
32 through a disbursing account with the State Treasurer. The State Controller shall
33 authorize the Judicial Department and the General Assembly to make expenditures
34 through such disbursing accounts. All disbursements made to non-State entities shall be
35 delivered by the appropriate agency to the entity's legally designated recipient by United
36 States mail or its equivalent, including electronic funds transfer. All deposits in these
37 disbursing accounts shall be by the State Controller's warrant. A copy of each voucher
38 making withdrawals from these disbursing accounts and any supporting data required
39 by the State Controller shall be forwarded to the Office of the State Controller monthly
40 or as otherwise required by the State Controller. Supporting data for a voucher making a
41 withdrawal from one of these disbursing accounts to meet a payroll shall include the
42 amount of the payroll and the employees whose compensation is part of the payroll.

43 A central payroll unit operating under the Office of the State Controller may make
44 deposits and withdrawals directly to and from a disbursing account. The disbursing

1 account shall constitute a revolving fund for servicing payrolls passed through the
2 central payroll unit.

3 The State Controller may use a facsimile signature machine in affixing his signature
4 to warrants.

5 (b) The State Treasurer may impose on an agency a fee of fifteen dollars (\$15.00)
6 for each check drawn against the agency's disbursing account that causes the balance in
7 the account to be in overdraft or while the account is in overdraft. The financial officer
8 shall pay the fee from non-State or personal funds to the General Fund to the credit of
9 the miscellaneous nontax revenue account by the agency.

10 **"§ 143B-426.39C. Annual financial information.**

11 Every fiscal year, all State agencies and component units of the State, as defined by
12 generally accepted accounting principles, shall prepare annual financial information on
13 all funds administered by them no later than 60 days after the end of the State's fiscal
14 year then ended in accordance with generally accepted accounting principles as
15 described in authoritative pronouncements and interpreted or prescribed by the State
16 Controller, and in the form and time frame required by the State Controller. The State
17 Controller shall publish guidelines specifying the procedures to implement the
18 necessary records, procedures, and accounting systems to reflect these statements on the
19 proper basis of accounting.

20 Accordingly, the State Controller shall combine the financial information for the
21 various agencies into a Comprehensive Annual Financial Report for the State of North
22 Carolina in accordance with generally accepted accounting principles. These statements,
23 along with the opinion of the State Auditor, shall be published as the official financial
24 statements of the State and shall be distributed to the Governor, the Office of State
25 Budget and Management, members of the General Assembly, heads of departments,
26 agencies, and institutions of the State, and other interested parties. The State Controller
27 shall notify the Director of the Budget of any State agencies and component units of the
28 State, as defined by generally accepted accounting principles, that have not complied
29 fully with the requirements of this section within the specified time, and the Director of
30 the Budget shall employ whatever means necessary, including the withholding of
31 allotments, to ensure immediate corrective actions."

32 **SECTION 10.** G.S. 7A-38.6(i) reads as rewritten:

33 "(i) The provisions of ~~G.S. 143-31.4~~ G.S. 143C-4-5 do not apply to community
34 mediation centers receiving State funds."

35 **SECTION 11.** G.S. 7A-775(a) reads as rewritten:

36 "(a) Each sentencing services program shall establish a sentencing services board
37 to provide direction and assistance to the sentencing services program in the
38 implementation and evaluation of the plan. Sentencing services boards may be
39 organized as nonprofit corporations under Chapter 55A of the General Statutes. The
40 sentencing services board shall consist of not less than 12 members, and shall include,
41 insofar as possible, judges, district attorneys, attorneys, social workers, law-enforcement
42 officers, probation officers, and other interested persons. The sentencing services board
43 shall meet on a regular basis, and its duties include, but are not limited to, the following:

- 1 (1) Preparation and submission of the sentencing services program plan to
- 2 the senior resident superior court judge and the Director annually, as
- 3 provided in G.S. 7A-772(a);
- 4 (1a) Development of an annual budget for the program;
- 5 (2) Hiring, firing, and evaluation of program personnel;
- 6 (3) Selection of board members;
- 7 (4) Arranging for an annual financial audit, ~~audit, in accordance with~~
- 8 ~~G.S. 143-6.1;~~
- 9 (5) Development of procedures for contracting for services."

10 **SECTION 12.** G.S. 17D-4(l) reads as rewritten:

11 "(l) All moneys received pursuant to this section shall be State funds as defined in

12 ~~G.S. 143-1~~, G.S. 143C-1-1."

13 **SECTION 13.** G.S. 18B-208 reads as rewritten:

14 **"§ 18B-208. ABC Commission bonds and funds.**

15 (a) Issuance of Bonds. – As a means of raising the funds needed from time to

16 time in the design, acquisition, construction, equipping, maintenance and operation of a

17 warehouse under G.S. 18B-204(a)(3), the Commission may, with the approval of the

18 ~~Governor after receiving the advice of the Advisory Budget Commission, Governor,~~ at

19 one time or from time to time issue negotiable revenue bonds of the Commission. The

20 issuance of revenue bonds shall not directly or indirectly or contingently obligate the

21 State to levy or to pledge any form of taxation or to make any appropriation for their

22 payment. Revenue bonds issued pursuant to this subsection shall be repaid from the

23 bailment surcharge as provided in subsection (b). These bonds and the income from

24 them are exempt from all taxation within the State.

25 (b) Special Fund. – A special fund in the office of the State Treasurer, the ABC

26 Commission Fund, is created. On and after November 1, 1982, all moneys derived from

27 the collection of bailment charges and bailment surcharges shall be deposited in the

28 ABC Commission Fund for the purpose of carrying out the provisions of this Chapter.

29 The ABC Commission Fund shall be subject to the provisions of the ~~Executive Budget~~

30 ~~Act~~ State Budget Act except that no unexpended surplus of this fund shall revert to the

31 General Fund. The Commission shall fix the level of the bailment surcharges at an

32 amount calculated to cover operating expenses of the Commission and the retirement of

33 bonds issued for construction of a Commission warehouse and offices. Upon payment

34 of the bonds issued pursuant to this section, the Commission shall reduce the bailment

35 surcharge to an amount no greater than necessary to pay operating expenses of the

36 Commission as authorized by the General Assembly.

37 All moneys credited to the ABC Commission Fund shall be used to carry out the

38 intent and purposes of the ABC law in accordance with plans approved by the North

39 Carolina ABC Commission and the Director of the Budget, and all these funds are

40 appropriated, reserved, set aside, and made available until expended for the

41 administration of the ABC law."

42 **SECTION 14.** G.S. 20-79.5 reads as rewritten:

43 **"§ 20-79.5. Special registration plates for elected and appointed State government**

44 **officials.**

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

	Position	Number on Plate
5	Governor	1
6	Lieutenant Governor	2
7	Speaker of the House of Representatives	3
8	President Pro Tempore of the Senate	4
9	Secretary of State	5
10	State Auditor	6
11	State Treasurer	7
12	Superintendent of Public Instruction	8
13	Attorney General	9
14	Commissioner of Agriculture	10
15	Commissioner of Labor	11
16	Commissioner of Insurance	12
17	Speaker Pro Tempore of the House	13
18	Legislative Services Officer	14
19	Secretary of Administration	15
20	Secretary of Environment and Natural Resources	16
21	Secretary of Revenue	17
22	Secretary of Health and Human Services	18
23	Secretary of Commerce	19
24	Secretary of Correction	20
25	Secretary of Cultural Resources	21
26	Secretary of Crime Control and Public Safety	22
27	Secretary of Juvenile Justice and Delinquency Prevention	23
28	Governor's Staff	24-29
29	State Budget Officer	30
30	State Personnel Director	31
31	Advisory Budget Commission Nonlegislative Member	32-41
32	Chair of the State Board of Education	42
33	President of the U.N.C. System	43
34	Alcoholic Beverage Control Commission	44-46
35	Assistant Commissioners of Agriculture	47-48
36	Deputy Secretary of State	49
37	Deputy State Treasurer	50
38	Assistant State Treasurer	51
39	Deputy Commissioner for the Department of Labor	52
40	Chief Deputy for the Department of Insurance	53
41	Assistant Commissioner of Insurance	54
42	Deputies and Assistant to the Attorney General	55-65
43	Board of Economic Development Nonlegislative Member	66-88

1	State Ports Authority Nonlegislative Member	89-96
2	Utilities Commission Member	97-104
3	Post-Release Supervision and Parole Commission Member	105-109
4	State Board Member, Commission Member, or State	
5	Employee Not Named in List	110-200

6 (b) Designation. – When the table in subsection (a) designates a range of
7 numbers for certain officials, the number given an official in that group shall be
8 assigned. The Governor shall assign a number for members of the Governor's staff,
9 ~~nonlegislative members of the Advisory Budget Commission~~, nonlegislative members
10 of the Board of Economic Development, nonlegislative members of the State Ports
11 Authority, members of State boards and commissions, and for State employees. The
12 Attorney General shall assign a number for the Attorney General's deputies and
13 assistants.

14 The first number assigned to the Alcoholic Beverage Control Commission is
15 reserved for the Chair of that Commission. The remaining numbers shall be assigned to
16 the Alcoholic Beverage Control Commission members on the basis of seniority. The
17 first number assigned to the Utilities Commission is reserved for the Chair of that
18 Commission. The remaining numbers shall be assigned to the Utilities Commission
19 members on the basis of seniority. The first number assigned to the Parole Commission
20 is reserved for the Chair of that Commission. The remaining numbers shall be assigned
21 to the Parole Commission members on the basis of seniority."

22 **SECTION 15.** G.S. 20-189 reads as rewritten:

23 **"§ 20-189. Patrolmen assigned to Governor's office.**

24 The Secretary of Crime Control and Public Safety, at the request of the Governor,
25 shall assign and attach two members of the State Highway Patrol to the office of the
26 Governor, there to be assigned such duties and perform such services as the Governor
27 may direct. The salary of the State highway patrolmen so assigned to the office of the
28 Governor shall be paid from appropriations made to the office of the Governor and shall
29 be fixed in an amount to be determined by the Governor. ~~Prior to taking any action~~
30 ~~under the previous sentence, the Governor may consult with the Advisory Budget~~
31 ~~Commission."~~

32 **SECTION 16.** G.S. 53-92(b) reads as rewritten:

33 "(b) The State Banking Commission, which has heretofore been created, shall
34 consist of the State Treasurer, who shall serve as an ex officio member thereof, 19
35 members appointed by the Governor, and two members appointed by the General
36 Assembly under G.S. 120-121, one of whom shall be appointed upon the
37 recommendation of the President Pro Tempore of the Senate and one of whom shall be
38 appointed upon the recommendation of the Speaker of the House of Representatives.
39 The Governor shall appoint five practical bankers, 11 persons selected primarily as
40 representatives of the borrowing public, and two chief executive officers of State
41 savings institutions. The person appointed by the General Assembly upon the
42 recommendation of the President Pro Tempore of the Senate shall be a practical banker.
43 The person appointed by the General Assembly upon the recommendation of the
44 Speaker of the House shall be a person selected primarily as a representative of the

1 borrowing public. The persons selected primarily as representatives of the borrowing
2 public shall not be employees or directors of any financial institution nor shall they have
3 any interest in any regulated financial institution other than as a result of being a
4 depositor or borrower. Under this section, no person shall be considered to have an
5 interest in a financial institution whose interest in any financial institution does not
6 exceed one-half of one percent (1/2 of 1%) of the capital stock of that financial
7 institution. These members of the Commission shall be selected so as to fully represent
8 the consumer, industrial, manufacturing, professional, business and farming interests of
9 the State. No person shall serve on the Commission for more than two complete
10 consecutive terms. As the terms of office of the appointive members of the Commission
11 expire, their successors shall be appointed by the person appointing them, for terms of
12 four years each. Any vacancy occurring in the membership of the Commission shall be
13 filled by the appropriate appointing officer for the unexpired term, except that vacancies
14 among members appointed by the General Assembly shall be filled in accordance with
15 G.S. 120-122. The appointed members of the Commission shall receive as
16 ~~compensation for their services the same per diem and expenses as is paid to the~~
17 ~~members of the Advisory Budget Commission.~~ subsistence and travel expenses at the
18 rates set forth in G.S. 120-3.1. ~~This compensation.~~ The subsistence and travel expenses
19 shall be paid from the fees collected from the examination of banks as provided by
20 law."

21 **SECTION 17.** G.S. 53-245(b) reads as rewritten:

22 "(b) Scope. No person may individually or in conjunction or cooperation with
23 another person process, receive, or accept for delivery an application for a refund
24 anticipation loan or a check in payment of refund anticipation loan proceeds or in any
25 other manner facilitate the making of a refund anticipation loan unless the person has
26 complied with the provisions of this Article. In addition, ~~G.S. 143-3.3~~
27 G.S. 143B-426.39A prohibits refund anticipation loans repaid from refunds of North
28 Carolina tax."

29 **SECTION 18.** G.S. 62-302 reads as rewritten:

30 "**§ 62-302. Regulatory fee.**

31 (a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair
32 regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The
33 cost of regulating public utilities is a burden incident to the privilege of operating as a
34 public utility. Therefore, for the purpose of defraying the cost of regulating public
35 utilities, every public utility subject to the jurisdiction of the Commission shall pay a
36 quarterly regulatory fee, in addition to all other fees and taxes, as provided in this
37 section. The fees collected shall be used only to pay the expenses of the Commission
38 and the Public Staff in regulating public utilities in the interest of the public.

39 It is also the policy of the State to provide limited oversight of certain electric
40 membership corporations as provided in G.S. 62-53. Therefore, for the purpose of
41 defraying the cost of providing the oversight authorized by G.S. 62-53 and
42 G.S. 117-18.1, each fiscal year each electric membership corporation whose principal
43 purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as
44 provided in G.S. 117-16 shall pay an annual fee as provided in this section.

1 (b) Public Utility Rate. –

2 (1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

3 (2) The public utility regulatory fee for each fiscal year shall be the greater
4 of (i) a percentage rate, established by the General Assembly, of each
5 public utility's North Carolina jurisdictional revenues for each quarter
6 or (ii) six dollars and twenty-five cents (\$6.25) each quarter.

7 When the Commission prepares its budget request for the
8 upcoming fiscal year, the Commission shall propose a percentage rate
9 of the public utility regulatory fee. For fiscal years beginning in an
10 odd-numbered year, that proposed rate shall be included in the budget
11 message the Governor submits to the General Assembly pursuant to
12 ~~G.S. 143-11.~~ G.S. 143C-3-5. For fiscal years beginning in an
13 even-numbered year, that proposed rate shall be included in a special
14 budget message the Governor shall submit to the General Assembly.
15 The General Assembly shall set the percentage rate of the public utility
16 regulatory fee by law.

17 The percentage rate may not exceed the amount necessary to
18 generate funds sufficient to defray the estimated cost of the operations
19 of the Commission and the Public Staff for the upcoming fiscal year,
20 including a reasonable margin for a reserve fund. The amount of the
21 reserve may not exceed the estimated cost of operating the
22 Commission and the Public Staff for the upcoming fiscal year. In
23 calculating the amount of the reserve, the General Assembly shall
24 consider all relevant factors that may affect the cost of operating the
25 Commission or the Public Staff or a possible unanticipated increase or
26 decrease in North Carolina jurisdictional revenues.

27 (3) If the Commission, the Public Staff, or both experience a revenue
28 shortfall, the Commission shall implement a temporary public utility
29 regulatory fee surcharge to avert the deficiency that would otherwise
30 occur. In no event may the total percentage rate of the public utility
31 regulatory fee plus any surcharge established by the Commission
32 exceed twenty-five hundredths percent (0.25%).

33 (4) As used in this section, the term "North Carolina jurisdictional
34 revenues" means all revenues derived or realized from intrastate
35 tariffs, rates, and charges approved or allowed by the Commission or
36 collected pursuant to Commission order or rule, but not including
37 tap-on fees or any other form of contributions in aid of construction.

38 (b1) Electric Membership Corporation Rate. – The electric membership
39 corporation regulatory fee for each fiscal year shall be a dollar amount as established by
40 the General Assembly by law.

41 When the Commission prepares its budget request for the upcoming fiscal year, the
42 Commission shall propose the amount of the electric membership corporation
43 regulatory fee. For fiscal years beginning in an odd-numbered year, the proposed
44 amount shall be included in the budget message the Governor submits to the General

1 Assembly pursuant to ~~G.S. 143-11.~~ G.S. 143C-3-5. For fiscal years beginning in an
2 even-numbered year, the proposed amount shall be included in a special budget
3 message the Governor shall submit to the General Assembly.

4 The amount of the electric membership corporation regulatory fee proposed by the
5 Commission may not exceed the amount necessary to defray the estimated cost of the
6 operations of the Commission and the Public Staff for the regulation of the electric
7 membership corporations in the upcoming fiscal year, including a reasonable margin for
8 a reserve fund. The amount of the reserve may not exceed the estimated cost of the
9 Commission and the Public Staff for the regulation of the electric membership
10 corporations for the upcoming fiscal year.

11 (c) When Due. – The electric membership corporation regulatory fee imposed
12 under this section shall be paid in quarterly installments. The fee is due and payable to
13 the Commission on or before the 15th day of the second month following the end of
14 each quarter.

15 The public utility regulatory fee imposed under this section is due and payable to the
16 Commission on or before the 15th day of the second month following the end of each
17 quarter. Every public utility subject to the public utility regulatory fee shall, on or before
18 the date the fee is due for each quarter, prepare and render a report on a form prescribed
19 by the Commission. The report shall state the public utility's total North Carolina
20 jurisdictional revenues for the preceding quarter and shall be accompanied by any
21 supporting documentation that the Commission may by rule require. Receipts shall be
22 reported on an accrual basis.

23 If a public utility's report for the first quarter of any fiscal year shows that
24 application of the percentage rate would yield a quarterly fee of twenty-five dollars
25 (\$25.00) or less, the public utility shall pay an estimated fee for the entire fiscal year in
26 the amount of twenty-five dollars (\$25.00). If, after payment of the estimated fee, the
27 public utility's subsequent returns show that application of the percentage rate would
28 yield quarterly fees that total more than twenty-five dollars (\$25.00) for the entire fiscal
29 year, the public utility shall pay the cumulative amount of the fee resulting from
30 application of the percentage rate, to the extent it exceeds the amount of fees, other than
31 any surcharge, previously paid.

32 (d) Use of Proceeds. – A special fund in the office of State Treasurer, the Utilities
33 Commission and Public Staff Fund, is created. The fees collected pursuant to this
34 section and all other funds received by the Commission or the Public Staff, except for
35 the clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear
36 proceeds of funds forfeited pursuant to G.S. 62-310(a), shall be deposited in the Utilities
37 Commission and Public Staff Fund. The Fund shall be placed in an interest bearing
38 account and any interest or other income derived from the Fund shall be credited to the
39 Fund. Moneys in the Fund shall only be spent pursuant to appropriation by the General
40 Assembly.

41 The Utilities Commission and Public Staff Fund shall be subject to the provisions of
42 the ~~Executive Budget Act~~ State Budget Act except that no unexpended surplus of the
43 Fund shall revert to the General Fund. All funds credited to the Utilities Commission
44 and Public Staff Fund shall be used only to pay the expenses of the Commission and the

1 Public Staff in regulating public utilities in the interest of the public as provided by this
2 Chapter and in regulating electric membership corporations as provided in
3 G.S. 117-18.1.

4 The clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the
5 clear proceeds of funds forfeited pursuant to G.S. 62-310(a) shall be remitted to the
6 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

7 **SECTION 19.** G.S. 62A-22(d) reads as rewritten:

8 "(d) Consistent with the provisions of ~~G.S. 143-3.2~~, G.S. 143B-426.39B, the
9 Board shall disburse the revenues remitted to the Wireless Fund in the manner set forth
10 in G.S. 62A-25. The Board shall establish procedures for disbursement of these
11 revenues and advise the CMRS providers and eligible counties of such procedures
12 within 60 days after all members are appointed pursuant to G.S. 62A-22(a)."

13 **SECTION 20.** G.S. 74-24.6 reads as rewritten:

14 **"§ 74-24.6. Advisory Council.**

15 (a) The Commissioner shall appoint an Advisory Council consisting of 11
16 members to assist him in the development of safety and health standards for mines
17 which are subject to this Article and to advise him on matters relating to safety and
18 health in such mines. Said Advisory Council shall include three members expressly
19 qualified by experience and affiliation to present the viewpoint of operators of such
20 mines, three persons similarly qualified to present the viewpoint of workers in such
21 mines, and five members of the public sector with knowledge of mining operations or
22 associated health and safety aspects thereof. The Commissioner of Labor shall annually
23 designate one member to act as chairman. The members of the Advisory Council shall
24 serve at the pleasure of the Commissioner and shall have no specific term of office.

25 (b) The Advisory Council shall hold not fewer than two meetings during each
26 calendar year, and said meetings shall be open to the public. The Commissioner shall
27 furnish to the Advisory Council such secretarial, clerical, and other services as he deems
28 necessary to conduct its business.

29 (c) The members of the Advisory Council shall be compensated for travel
30 expenses and per diem as authorized by the ~~Advisory Budget Commission~~
31 Commissioner in accordance with those amounts paid to State boards under Chapter
32 138 of the General Statutes.

33 (d) The Commissioner may from time to time select representatives of
34 professional organizations of technicians, professional persons specializing in
35 occupational safety and health, and representatives of State agencies who by experience
36 and affiliation are qualified to present the viewpoint of operators of mines and workers
37 in mines to assist the Advisory Council in performing its duties. Such persons, except
38 State employees, selected for temporary purposes may be paid such per diem and travel
39 expenses for attending meetings as may be fixed by the ~~Advisory Budget Commission~~
40 and recommended by the Commissioner."

41 **SECTION 21.** G.S. 95-135(c) reads as rewritten:

42 "(c) The Commission shall meet at least once each calendar quarter but it may
43 hold call meetings or hearings upon at least three days' notice to each member by the
44 chairman and at such time and place as the chairman may fix. The chairman shall be

1 responsible on behalf of the Commission for the administrative operations of the
2 Commission and shall appoint such hearing examiners and other employees as he deems
3 necessary to assist in the performance of the Commission's functions and fix the
4 compensation of such employees with the approval of the Governor. The assignment
5 and removal of hearing examiners shall be made by the Commission, and any hearing
6 examiner may be removed for misfeasance, malfeasance, misconduct, immoral conduct,
7 incompetency, the commission of any crime, or for any other good and adequate reason
8 as found by the Commission. The Commission shall give notice to such hearing
9 examiner, along with written allegations as to the charges against him, and the same
10 shall be heard by the Commission, and its decision shall be final. The compensation of
11 the members of the Commission shall be on a per diem basis and shall be fixed by the
12 Governor. The chairman of the Commission may be paid a higher rate of compensation
13 than the other two members of the Commission. For the purpose of carrying out its
14 duties and functions under this Article, two members of the Commission shall constitute
15 a quorum and official action can be taken only on the affirmative vote of at least two
16 members of the Commission. On matters properly before the Commission the chairman
17 may issue temporary orders, subpoenas, and other temporary types of orders subject to
18 the subsequent review of the Commission. The issuance of subpoenas, orders to take
19 depositions, orders requiring interrogatories and other procedural matters of evidence
20 issued by the chairman shall not be subject to review. ~~Prior to taking any action under
21 this subsection to set compensation, the Governor may consult with the Advisory
22 Budget Commission."~~

23 **SECTION 22.** G.S. 96-5 reads as rewritten:

24 "**§ 96-5. Employment Security Administration Fund.**

25 (a) Special Fund. – There is hereby created in the State treasury a special fund to
26 be known as the Employment Security Administration Fund. All moneys which are
27 deposited or paid into this fund shall be continuously available to the Commission for
28 expenditure in accordance with the provisions of this Chapter, and shall not lapse at any
29 time or be transferred to any other fund. The Employment Security Administration
30 Fund, except as otherwise provided in this Chapter, shall be subject to the provisions of
31 the ~~Executive Budget Act (G.S. 143-1 et seq.)~~ State Budget Act (Chapter 143C of the
32 General Statutes) and the Personnel Act (G.S. 126-1 et seq.). All moneys in this fund
33 which are received from the federal government or any agency thereof or which are
34 appropriated by this State for the purpose described in G.S. 96-20 shall be expended
35 solely for the purposes and in the amounts found necessary by the Secretary of Labor
36 for the proper and efficient administration of this Chapter. The fund shall consist of all
37 moneys appropriated by this State, all moneys received from the United States of
38 America, or any agency thereof, including the Secretary of Labor, and all moneys
39 received from any other source for such purpose, and shall also include any moneys
40 received from any agency of the United States or any other state as compensation for
41 services or facilities supplied to such agency, any amounts received pursuant to any
42 surety bond or insurance policy or from other sources for losses sustained by the
43 Employment Security Administration Fund or by reason of damage to equipment or
44 supplies purchased from moneys in such fund, and any proceeds realized from the sale

1 or disposition of any such equipment or supplies which may no longer be necessary for
2 the proper administration of this Chapter: Provided, any interest collected on
3 contributions and/or penalties collected pursuant to this Chapter shall be paid into the
4 Special Employment Security Administration Fund created by subsection (c) of this
5 section. All moneys in this fund shall be deposited, administered, and disbursed in the
6 same manner and under the same conditions and requirements as is provided by law for
7 other special funds in the State treasury, and shall be maintained in a separate account
8 on the books of the State treasury. The State Treasurer shall be liable on his official
9 bond for the faithful performance of his duties in connection with the Employment
10 Security Administration Fund provided for under this Chapter. Such liability on the
11 official bond shall be effective immediately upon the enactment of this provision, and
12 such liability shall exist in addition to any liability upon any separate bond existent on
13 the effective date of this provision, or which may be given in the future. All sums
14 recovered on any surety bond for losses sustained by the Employment Security
15 Administration Fund shall be deposited in said fund.

16 (b) Replacement of Funds Lost or Improperly Expended. – If any moneys
17 received from the Secretary of Labor under Title III of the Social Security Act, or any
18 unencumbered balances in the Employment Security Administration Fund or any
19 moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, or
20 any moneys made available by this State or its political subdivisions and matched by
21 such moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act,
22 are found by the Secretary of Labor, because of any action or contingency, to have been
23 lost or expended for purposes other than, or in amounts in excess of those found
24 necessary by the Secretary of Labor for the proper administration of this Chapter, it is
25 the policy of this State that such moneys, not available from the Special Employment
26 Security Administration Fund established by subsection (c) of this section, shall be
27 replaced by moneys appropriated for such purpose from the general funds of this State
28 to the Employment Security Administration Fund for expenditure as provided in
29 subsection (a) of this section. Upon receipt of notice of such a finding by the Secretary
30 of Labor, the Commission shall promptly pay from the Special Employment Security
31 Administration Fund such sum if available in such fund; if not available, it shall
32 promptly report the amount required for such replacement to the Governor and the
33 Governor shall, at the earliest opportunity, submit to the legislature a request for the
34 appropriation of such amount.

35 (c) There is hereby created in the State treasury a special fund to be known as the
36 Special Employment Security Administration Fund. All interest and penalties,
37 regardless of when the same became payable, collected from employers under the
38 provisions of this Chapter subsequent to June 30, 1947 as well as any appropriations of
39 funds by the General Assembly, shall be paid into this fund. No part of said fund shall
40 be expended or available for expenditure in lieu of federal funds made available to the
41 Commission for the administration of this Chapter. Said fund shall be used by the
42 Commission for the payment of costs and charges of administration which are found by
43 the Secretary of Labor not to be proper and valid charges payable out of any funds in
44 the Employment Security Administration Fund received from any source and shall also

1 be used by the Commission for: (i) extensions, repairs, enlargements and improvements
2 to buildings, and the enhancement of the work environment in buildings used for
3 Commission business; (ii) the acquisition of real estate, buildings and equipment
4 required for the expeditious handling of Commission business; and (iii) the temporary
5 stabilization of federal funds cash flow. The Employment Security Commission may
6 use funds either from the Special Employment Security Commission Administration
7 Fund created by this subsection or from federal funds, or from a combination of the two,
8 to offset the costs of compliance with Article 7A [of Chapter 163] of the General
9 Statutes of North Carolina or compliance with P.L. 103-31. Refunds of interest
10 allowable under G.S. 96-10, subsection (e) shall be made from this special fund:
11 Provided, such interest was deposited in said fund: Provided further, that in those cases
12 where an employer takes credit for a previous overpayment of interest on contributions
13 due by such employer pursuant to G.S. 96-10, subsection (e), that the amount of such
14 credit taken for such overpayment of interest shall be reimbursed to the Unemployment
15 Insurance Fund from the Special Employment Security Administration Fund. The
16 Special Employment Security Administration Fund, except as otherwise provided in this
17 Chapter, shall be subject to the provisions of the ~~Executive Budget Act (G.S. 143-1 et~~
18 ~~seq.)~~ State Budget Act (Chapter 143C of the General Statutes) and the Personnel Act
19 (G.S. 126-1 et seq.). All moneys in this fund shall be deposited, administered, and
20 disbursed in the same manner and under the same conditions and requirements as is
21 provided by law for other special funds in the State treasury, and shall be maintained in
22 a separate account on the books of the State treasury. The State Treasurer shall be liable
23 on his official bond for the faithful performance of his duties in connection with the
24 Special Employment Security Administration Fund provided for under this Chapter.
25 Such liability on the official bond shall be effective immediately upon the enactment of
26 this provision, and such liability shall exist in addition to any liability upon any separate
27 bond existent on the effective date of this provision, or which may be given in the
28 future. All sums recovered on any surety bond for losses sustained by the Special
29 Employment Security Administration Fund shall be deposited in said fund. The moneys
30 in the Special Employment Security Administration Fund shall be continuously
31 available to the Commission for expenditure in accordance with the provisions of this
32 section.

33 (c1) The Employment Security Commission shall report to the Joint Legislative
34 Commission on Governmental Operations and to the Fiscal Research Division no later
35 than April 1 of every year as to how the funds authorized to be used by Session Laws
36 1995, (Regular Session, 1996), c. 608 were expended.

37 (d) The other provisions of this section and G.S. 96-6, to the contrary
38 notwithstanding, the Commission is authorized to requisition and receive from its
39 account in the unemployment trust fund in the treasury of the United States of America,
40 in the manner permitted by federal law, such moneys standing to its credit in such fund,
41 as are permitted by federal law to be used for expense of administering this Chapter and
42 to expend such moneys for such purpose, without regard to a determination of necessity
43 by a federal agency. The State Treasurer shall be treasurer and custodian of the amounts
44 of money so requisitioned. Such moneys shall be deposited, administered, and disbursed

1 in the same manner and under the same conditions and requirements as are provided by
2 law for other special funds in the State treasury.

3 (e) Reed Bill Fund Authorization. – Subject to a specific appropriation by the
4 General Assembly of North Carolina to the Employment Security Commission out of
5 funds credited to and held in this State's account in the Unemployment Trust Fund by
6 the Secretary of the Treasury of the United States pursuant to and in accordance with
7 section 903 of the Social Security Act, the Commission is authorized to utilize such
8 funds for the administration of the Employment Security Law, including personal
9 services, operating and other expenses incurred in the administration of said law, as well
10 as for the purchase or rental, either or both, of offices, lands, buildings or parts of
11 buildings, fixtures, furnishings, equipment, supplies and the construction of buildings or
12 parts of buildings, suitable for use in this State by the Employment Security
13 Commission, and for the payment of expenses incurred for the construction,
14 maintenance, improvements or repair of, or alterations to, such real or personal
15 property. Provided, that any such funds appropriated by the General Assembly shall not
16 exceed the amount in the Unemployment Trust Fund which may be obligated for
17 expenditure for such purposes; and provided that said funds shall not be obligated for
18 expenditure, as herein provided, after the close of the two-year period which begins on
19 the effective date of the appropriation.

20 (f) Employment Security Commission Reserve Fund. – There is created in the
21 State treasury a special trust fund, separate and apart from all other public moneys or
22 funds of this State, to be known as the Employment Security Commission Reserve
23 Fund, hereinafter "Reserve Fund". Part of the proceeds from the tax on contributions
24 imposed in G.S. 96-9(b)(3)j shall be credited to the Reserve Fund, as specified in that
25 statute. The moneys in the Reserve Fund may be used by the Commission for loans to
26 the Unemployment Insurance Fund, as security for loans from the federal
27 Unemployment Insurance Trust Fund, and to pay any interest required on advances
28 under Title XII of the Social Security Act, and shall be continuously available to the
29 Commission for expenditure in accordance with the provisions of this section. The State
30 Treasurer shall be ex officio the treasurer and custodian and shall invest said moneys in
31 accordance with existing law as well as rules and regulations promulgated pursuant
32 thereto. Furthermore, the State Treasurer shall disburse the moneys in accordance with
33 the directions of the Commission and in accordance with such regulations as the
34 Commission may prescribe.

35 Administrative costs for the collection of the tax and interest payable to the Reserve
36 Fund shall be borne by the Special Employment Security Administration Fund.

37 The interest earned from investment of the Reserve Fund moneys shall be deposited
38 in a fund hereby established in the State Treasurer's Office, to be known as the "Worker
39 Training Trust Fund". These moneys shall be used to:

- 40 (1) Fund programs, specifically for the benefit of unemployed workers or
41 workers who have received notice of long-term layoff or permanent
42 unemployment, which will enhance the employability of workers,
43 including, but not limited to, adult basic education, adult high school

1 or equivalency programs, occupational skills training programs,
2 assessment, job counseling and placement programs;

3 (2) Continue operation of local Employment Security Commission offices
4 throughout the State; or

5 (3) Provide refunds to employers.

6 The use of funds from the Worker Training Trust Fund, for the purposes set out in
7 the above paragraph, shall be pursuant to appropriations in the Current Operations
8 Appropriations Act. Funds appropriated from the Worker Training Trust Fund that are
9 unexpended and unencumbered at the end of the fiscal year for which they are
10 appropriated shall revert to the State treasury to the credit of the Worker Training Trust
11 Fund in accordance with ~~G.S. 143-18~~G.S. 143C-1-2.

12 (g) Notwithstanding subsection (f) of this section, the State Treasurer may invest
13 not more than a total of twenty-five million dollars (\$25,000,000) of funds in the
14 Employment Security Commission Reserve Fund established under subsection (f) of
15 this section in securities issued by the North Carolina Technological Development
16 Authority, Inc., the proceeds for which are directed to support investment in venture
17 capital funds. The State Treasurer shall report to the Joint Legislative Commission on
18 Governmental Operations and the Fiscal Research Division on October 1 and March 1
19 of each fiscal year on investments made pursuant to this subsection."

20 **SECTION 23.** G.S. 96-6 reads as rewritten:

21 **"§ 96-6. Unemployment Insurance Fund.**

22 (a) Establishment and Control. – There is hereby established as a special fund,
23 separate and apart from all public moneys or funds of this State, an Unemployment
24 Insurance Fund, which shall be administered by the Commission exclusively for the
25 purposes of this Chapter. This fund shall consist of:

- 26 (1) All contributions collected under this Chapter, together with any
27 interest earned upon any moneys in the fund;
- 28 (2) Any property or securities acquired through the use of moneys
29 belonging to the fund;
- 30 (3) All earnings of such property or securities;
- 31 (4) Any moneys received from the federal unemployment account in the
32 unemployment trust fund in accordance with Title XII of the Social
33 Security Act as amended;
- 34 (5) All moneys credited to this State's account in the Unemployment Trust
35 Fund pursuant to section 903 of Title IX of the Social Security Act, as
36 amended, (U.S.C.A. Title 42, sec. 1103 (a));
- 37 (6) All moneys paid to this State pursuant to section 204 of the
38 Federal-State Extended Unemployment Compensation Act of 1970;
- 39 (7) Reimbursement payments in lieu of contributions.

40 All moneys in the fund shall be commingled and undivided.

41 (b) Accounts and Deposit. – The State Treasurer shall be ex officio the treasurer
42 and custodian of the fund who shall disburse such fund in accordance with the
43 directions of the Commission and in accordance with such regulations as the
44 Commission shall prescribe. He shall maintain within the fund three separate accounts:

- 1 (1) A clearing account,
- 2 (2) An unemployment trust fund account, and
- 3 (3) A benefit account.

4 All moneys payable to the fund, upon receipt thereof by the Commission, shall be
5 forwarded immediately to the treasurer who shall immediately deposit them in the
6 clearing account. Refunds payable pursuant to G.S. 96-10 may be paid from the clearing
7 account upon warrants issued upon the treasurer as provided in ~~G.S. 143-3.2~~
8 G.S. 143B-426.39B under the requisition of the Commission. After clearance thereof,
9 all other moneys in the clearing account shall be immediately deposited with the
10 secretary of the treasury of the United States of America to the credit of the account of
11 this State in the unemployment trust fund, established and maintained pursuant to
12 section 904 of the Social Security Act, as amended, any provision of law in this State
13 relating to the deposit, administration, release, or disbursement of moneys in the
14 possession or custody of this State to the contrary notwithstanding. The benefit account
15 shall consist of all moneys requisitioned from this State's account in the unemployment
16 trust fund. Moneys in the clearing and benefit accounts may be deposited by the
17 treasurer, under the direction of the Commission, in any bank or public depository in
18 which general funds of the State may be deposited, but no public deposit insurance
19 charge or premium shall be paid out of the fund. The State Treasurer shall be liable on
20 his official bond for the faithful performance of his duties in connection with the
21 unemployment insurance fund provided for under this Chapter. Such liability on the
22 official bond shall be effective immediately upon the enactment of this provision, and
23 such liability shall exist in addition to any liability upon any separate bond existent on
24 the effective date of this provision, or which may be given in the future. All sums
25 recovered on any surety bond for losses sustained by the unemployment insurance fund
26 shall be deposited in said fund.

27 (c) Withdrawals. – Moneys shall be requisitioned from this State's account in the
28 unemployment trust fund solely for the payment of benefits (including extended
29 benefits) and in accordance with regulations prescribed by the Commission. The
30 Commission shall, from time to time, requisition from the unemployment trust fund
31 such amounts, not exceeding the accounts standing to its account therein, as it deems
32 necessary for the payment of benefits for a reasonable future period. Upon receipt
33 thereof the treasurer shall deposit such moneys in the benefit account and shall pay all
34 warrants drawn thereon as provided in ~~G.S. 143-3.2~~ G.S. 143B-426.39B and
35 requisitioned by the Commission for the payment of benefits solely from such benefit
36 account. Expenditures of such moneys in the benefit account and refunds from the
37 clearing account shall not be subject to approval of the Budget Bureau or any provisions
38 of law requiring specific appropriations or other formal release by State officers of
39 money in their custody. All warrants issued upon the treasurer for the payment of
40 benefits and refunds shall be issued as provided in ~~G.S. 143-3.2~~ G.S. 143B-426.39B as
41 requisitioned by the chairman of the Commission or a duly authorized agent of the
42 Commission for that purpose. Any balance of moneys requisitioned from the
43 unemployment trust fund which remains unclaimed or unpaid in the benefit account
44 after the expiration of the period for which such sums were requisitioned shall either be

1 deducted from estimates for, and may be utilized for the payment of, benefits during
2 succeeding periods, or, in the discretion of the Commission, shall be redeposited with
3 the Secretary of the Treasury of the United States of America, to the credit of this State's
4 account in the unemployment trust fund, as provided in subsection (b) of this section.

5 (d) Management of Funds upon Discontinuance of Unemployment Trust Fund. –
6 The provisions of subsections (a), (b), and (c), to the extent that they relate to the
7 unemployment trust fund, shall be operative only so long as such unemployment trust
8 fund continues to exist, and so long as the Secretary of the Treasury of the United States
9 of America continues to maintain for this State a separate book account of all funds
10 deposited therein by this State for benefit purposes, together with this State's
11 proportionate share of the earnings of such unemployment trust fund, from which no
12 other state is permitted to make withdrawals. If and when such unemployment trust fund
13 ceases to exist, or such separate book account is no longer maintained, all moneys,
14 properties, or securities therein belonging to the Unemployment Insurance Fund of this
15 State shall be transferred to the treasurer of the Unemployment Insurance Fund, who
16 shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or
17 securities in a manner approved by the Commission, in accordance with the provisions
18 of this Chapter: Provided, that such moneys shall be invested in the following readily
19 marketable classes of securities: Bonds or other interest-bearing obligations of the
20 United States of America or such investments as are now permitted by law for sinking
21 funds of the State of North Carolina; and provided further, that such investment shall at
22 all times be so made that all the assets of the fund shall always be readily convertible
23 into cash when needed for the payment of benefits. The treasurer shall dispose of
24 securities or other properties belonging to the Unemployment Insurance Fund only
25 under the direction of the Commission.

26 (e) Benefits shall be deemed to be due and payable under this Chapter only to the
27 extent provided in this Chapter and to the extent that moneys are available therefor to
28 the credit of the Unemployment Insurance Fund, and neither the State nor the
29 Commission shall be liable for any amount in excess of such sums.

30 (f) Any interest required to be paid on advances under Title XII of the Social
31 Security Act shall be paid in a timely manner and shall not be paid, directly or
32 indirectly, from amounts in the Unemployment Insurance Fund."

33 **SECTION 24.** G.S. 96-6.1(b) reads as rewritten:

34 "(b) Training and Employment Account. – There is created in the State treasury a
35 special account separate and apart from all other public moneys or funds of this State, to
36 be known as the Employment Security Commission Training and Employment
37 Account. The State Treasurer is ex officio the treasurer and custodian of the Account
38 and shall invest its funds in accordance with law. Any interest or other income derived
39 from the Account shall be credited to the Account. Funds in the Account may be spent
40 only pursuant to appropriation by the General Assembly and in accordance with the line
41 item budget enacted by the General Assembly. The Account is subject to the provisions
42 of the ~~Executive Budget Act~~, State Budget Act, except that no unexpended surplus of the
43 Account shall revert to the General Fund. Funds appropriated from the Account that are
44 unexpended and unencumbered at the end of the fiscal year for which they were

1 appropriated shall revert to the credit of the Account in the State treasury in accordance
2 with ~~G.S. 143-18~~G.S. 143C-1-2.

3 It is the intent of the General Assembly that eighty percent (80%) of the funds in the
4 Account shall be appropriated annually to the Department of Community Colleges to be
5 used for nonrecurring expenditures to provide worker training through improved
6 continuing education, acquisition of modern training equipment, operation of
7 specialized training centers, enhancement of small business center training, expansion
8 of training for new and expanding industries, incentive grants for incumbent worker
9 training, programs funded by the Worker Training Trust Fund, and other programs of
10 the Department of Community Colleges. It is the intent of the General Assembly that
11 twenty percent (20%) of the funds in the Account shall be appropriated annually to the
12 Employment Security Commission for administration and collection of the training and
13 reemployment contribution and for nonrecurring expenditures for reemployment
14 services."

15 **SECTION 25.** G.S. 106-65.88(g) reads as rewritten:

16 "(g) For the purposes of the ~~Executive Budget Act, G.S. 143-1 et seq., State~~
17 ~~Budget Act, Chapter 143C of the General Statutes,~~ the assessments collected by the
18 Department under this Article shall not be 'State funds'."

19 **SECTION 26.** G.S. 108A-88 reads as rewritten:

20 "**§ 108A-88. Determination of State and county financial participation.**

21 Before February 15 of each year, the Secretary shall notify the county board of
22 commissioners, the county manager, the director of social services, and the director of
23 public health of each county of the amount of State and federal moneys estimated to be
24 available, as best can be determined, to that county for programs of public assistance,
25 social services, public health, and related administrative costs, as well as the percentage
26 of county participation expected to be required for the budget for the succeeding fiscal
27 year. In odd-numbered years, in making such notification, the Secretary shall notify the
28 counties of any changes in funding levels, formulas, or programs relating to public
29 assistance and public health proposed by the Governor to the General Assembly in the
30 proposed budget and budget report submitted under the ~~Executive Budget Act~~State
31 Budget Act. Counties shall be notified of additional changes in the proposed budget of
32 the Governor ~~and the Advisory Budget Commission~~ that are made by the General
33 Assembly or the United States Congress subsequent to the February 15 estimates."

34 **SECTION 27.** G.S. 113-258 reads as rewritten:

35 "**§ 113-258. Commission subject to provisions of ~~Executive Budget Act~~State**
36 **Budget Act.**

37 The Atlantic States Marine Fisheries Commission of the State of North Carolina
38 shall be subject to all the terms and provisions of the ~~Executive Budget Act, Article 1 of~~
39 ~~Chapter 143~~State Budget Act, Chapter 143C of the General Statutes of North
40 Carolina."

41 **SECTION 28.** G.S. 113-315.31(a) reads as rewritten:

42 "(a) As a means of raising the funds needed from time to time in the acquisition,
43 construction, equipment, maintenance and operation of any facility, building, structure,
44 or any other matter or thing which the Authority is herein authorized to acquire,

1 construct, equip, maintain, or operate, all or any of them, the said Authority is hereby
2 authorized at one time or from time to time to issue with the approval of the Governor
3 negotiable revenue bonds of the Authority. The principal and interest of revenue bonds
4 shall be payable solely from the revenue to be derived from the operation of all or any
5 part of its properties and facilities. ~~Prior to taking any action under this subsection, the~~
6 ~~Governor may consult with the Advisory Budget Commission."~~

7 **SECTION 29.** G.S. 113A-193(b) reads as rewritten:

8 "(b) The Secretary of Environment and Natural Resources shall:

- 9 (1) Provide to the Secretary, Department of Revenue, lists of processors
10 subject to the assessment;
- 11 (2) Advise the Secretary, Department of Revenue, of the appropriate
12 methods to convert measurements of primary forest products by other
13 systems to those authorized in this Article;
- 14 (3) Establish in November prior to those sessions in which the General
15 Assembly considers the State budget, the estimated total assessment
16 that will be collectible in the next budget period and so inform the
17 ~~Advisory Budget Commission and the~~ General Assembly;
- 18 (4) Within 30 days of certification of the State budget, notify the
19 Secretary, Department of Revenue, of the need to collect the
20 assessment for those years covered by the approved budget.
- 21 (5) By January 15 of each odd-numbered year, report to the General
22 Assembly on the number of acres reforested, type of owners assisted,
23 geographic distribution of funds, the amount of funds encumbered and
24 other matters. The report shall include the information by forestry
25 district and statewide and shall be for the two fiscal years prior to the
26 date of the report."

27 **SECTION 30.** G.S. 115C-12(1a) reads as rewritten:

28 "**§ 115C-12. Powers and duties of the Board generally.**

29 The general supervision and administration of the free public school system shall be
30 vested in the State Board of Education. The State Board of Education shall establish
31 policy for the system of free public schools, subject to laws enacted by the General
32 Assembly. The powers and duties of the State Board of Education are defined as
33 follows:

34 ...

- 35 (1a) To Submit a Budget Request to the Director of the Budget. – The
36 Board shall submit a budget request to the Director of the Budget in
37 accordance with ~~G.S. 143-6.~~ G.S. 143C-3-3. In addition to the
38 information requested by the Director of the Budget, the Board shall
39 provide an analysis relating each of its requests for expansion funds to
40 anticipated improvements in student performance."

41 **SECTION 31.** G.S. 115C-106(a) reads as rewritten:

42 "(a) The General Assembly of North Carolina hereby declares that the policy of
43 the State is to ensure every child a fair and full opportunity to reach his full potential
44 and that no child as defined in this section and in G.S. 115C-122 shall be excluded from

1 service or education for any reason whatsoever. This policy shall be the practice of the
2 State for children from birth through age 21 and the State requires compliance by all
3 local education agencies and local school administrative units, all local human services
4 agencies including, but not limited to, local health departments, local social service
5 departments, community mental health centers and all State departments, agencies,
6 institutions except institutions of higher education, and private providers which are
7 recipients of general funds as these funds are defined in ~~G.S. 143-1~~, G.S. 143C-1-1."

8 **SECTION 32.** G.S. 115C-243(f) reads as rewritten:

9 "(f) Before any agreement under this section may be signed, the State Board of
10 Education shall adopt a uniform schedule of charges for the use of buses under this
11 section. Such schedule shall include a charge by the hour and by the mile which shall
12 cover all costs both fixed and variable, including depreciation, gasoline, fuel, labor,
13 maintenance, and insurance. The schedule may be amended by the State Board of
14 Education. The schedule of charges adopted by the local board of education under
15 subsection (c) may vary from the State schedule only to cover changes in wages. ~~Prior~~
16 ~~to taking any action under this subsection, the State Board of Education may consult~~
17 ~~with the Advisory Budget Commission."~~

18 **SECTION 33.** G.S. 115C-290.5 reads as rewritten:

19 "**§ 115C-290.5. Powers and duties of the Board; development of the North**
20 **Carolina Public School Administrator Exam.**

21 (a) The State Board of Education shall administer this Article. In fulfilling this
22 duty, the Board shall:

23 (1) In accordance with subsection (c) of this section, develop and
24 implement a North Carolina Public School Administrator Exam.

25 (2) Establish and collect an application fee not to exceed fifty dollars
26 (\$50.00). Fees collected under this Article shall be credited to the
27 General Fund as nontax revenue.

28 (3) Review the educational achievements of an applicant to take the exam
29 to determine whether the achievements meet the requirements set by
30 G.S. 115C-290.7.

31 (4) Repealed by Session Laws 2001-424, s. 28.25(d).

32 (5) Maintain accounts and records in accordance with the ~~Executive~~
33 ~~Budget Act, Article 1 of Chapter 143 of the General Statutes.~~ State
34 Budget Act, Chapter 143C of the General Statutes.

35 (6) Adopt rules in accordance with Chapter 150B of the General Statutes
36 to implement this Article.

37 (7) Repealed by Session Laws 2001-424, s. 28.25(d).

38 (b), (c) Repealed by Session Laws 2001-424, s. 28.25(d)."

39 **SECTION 34.** G.S. 115C-423 reads as rewritten:

40 "**§ 115C-423. Definitions.**

41 The words and phrases defined in this section have the meanings indicated when
42 used in this Article, unless the context clearly requires another meaning:

- 1 (1) "Budget" is a plan proposed by a board of education for raising and
2 spending money for specified school programs, functions, activities, or
3 objectives during a fiscal year.
- 4 (2) "Budget resolution" is a resolution adopted by a board of education
5 that appropriates revenues for specified school programs, functions,
6 activities, or objectives during a fiscal year.
- 7 (3) "Budget year" is the fiscal year for which a budget is proposed and a
8 budget resolution is adopted.
- 9 (4) "Fiscal year" is the annual period for the compilation of fiscal
10 operations. The fiscal year begins on July 1 and ends on June 30.
- 11 (5) "Fund" is an independent fiscal and accounting entity consisting of
12 cash and other resources together with all related liabilities,
13 obligations, reserves, and equities which are segregated by appropriate
14 accounting techniques for the purpose of carrying on specific activities
15 or attaining certain objectives in accordance with established legal
16 regulations, restrictions or limitations.
- 17 (6) "Vending facilities" has the same meaning as it does in ~~G.S. 143-12.1.~~
18 G.S. 111-42(d), but also means any mechanical or electronic device
19 dispensing items or something of value or entertainment or services for
20 a fee, regardless of the method of activation, and regardless of the
21 means of payment, whether by coin, currency, tokens, or other means."

22 **SECTION 35.** G.S. 115D-2 reads as rewritten:

23 **"§ 115D-2. Definitions.**

24 As used in this Chapter:

- 25 (1) The "administrative area" of an institution comprises the county or
26 counties directly responsible for the local financial support and local
27 administration of such institution as provided in this Chapter.
- 28 (2) The term "community college" is defined as an educational institution
29 operating under the provisions of this Chapter and dedicated primarily
30 to the educational needs of the service area which it serves, and may
31 offer
- 32 a. The freshmen and sophomore courses of a college of arts and
33 sciences, authorized by G.S. 115D-4.1;
- 34 b. Organized credit curricula for the training of technicians;
35 curricular courses may carry transfer credit to a senior college
36 or university where the course is comparable in content and
37 quality and is appropriate to a chosen course of study;
- 38 c. Vocational, trade, and technical specialty courses and programs,
39 and
- 40 d. Courses in general adult education.
- 41 (3) The term "institution" refers to any institution established pursuant to
42 this Chapter except for the North Carolina Center for Applied Textile
43 Technology.

- 1 (4) The term "regional institution" means an institution whose service area
2 as assigned by the State Board of Community Colleges includes three
3 or more counties; provided, however, any institution receiving funds as
4 a regional institution on May 1, 1987, shall continue to receive funds
5 on that basis.
- 6 (5) The term "State Board" refers to the State Board of Community
7 Colleges.
- 8 (6) The "tax-levying authority" of an institution is the board of
9 commissioners of the county or all of the boards of commissioners of
10 the counties, jointly, which constitute the administrative area of the
11 institution.
- 12 (7) Repealed by Session Laws 1987, c. 564, s. 1.
- 13 (8) "Vending facilities" has the same meaning as it does in ~~G.S. 143-12.1.~~
14 G.S. 111-42(d), but also means any mechanical or electronic device
15 dispensing items or something of value or entertainment or services for
16 a fee, regardless of the method of activation, and regardless of the
17 means of payment, whether by coin, currency, tokens, or other means."

18 **SECTION 36.** G.S. 115D-4 reads as rewritten:

19 **"§ 115D-4. Establishment of institutions; capital improvements.**

20 The establishment of all community colleges shall be subject to the approval of the
21 General Assembly upon recommendation of the State Board of Community Colleges. In
22 no case, however, shall favorable recommendation be made by the State Board for the
23 establishment of an institution until it has been demonstrated to the satisfaction of the
24 State Board that a genuine educational need exists within a proposed administrative
25 area, that existing public and private post-high school institutions in the area will not
26 meet the need, that adequate local financial support for the institution will be provided,
27 that public schools in the area will not be affected adversely by the local financial
28 support required for the institution, and that funds sufficient to provide State financial
29 support of the institution are available.

30 The expenditures of any State funds for any capital improvements of existing
31 institutions shall be subject to the prior approval of the State Board of Community
32 Colleges and the Governor, ~~provided that the Governor may consult with the Advisory~~
33 ~~Budget Commission before giving approval.~~Governor. The expenditure of State funds at
34 any institution herein authorized to be approved by the State Board shall be subject to
35 the terms of the ~~Executive Budget Act~~State Budget Act unless specifically otherwise
36 provided in this Chapter."

37 **SECTION 37.** G.S. 115D-5(f) reads as rewritten:

38 "(f) (**See editor's note**) A community college may not offer a new program
39 without the approval of the State Board of Community Colleges except that approval
40 shall not be required if the tuition for the program will fully cover the cost of the
41 program. If at any time tuition fails to fully cover the cost of a program that falls under
42 the exception, the program shall be discontinued unless approved by the State Board of
43 Community Colleges. If a proposed new program would serve more than one

1 community college, the State Board of Community Colleges shall perform a feasibility
2 study prior to acting on the proposal.

3 The State Board of Community Colleges shall report on an annual basis to the
4 Governor, Lieutenant Governor, the Speaker of the House of Representatives, and the
5 Joint Legislative Commission on Governmental ~~Operations, and the Advisory Budget~~
6 ~~Commission~~ Operations, on all new programs it approved during the year. The report
7 shall include the specific reasons for which each program was approved."

8 **SECTION 38.** G.S. 115D-31(a) reads as rewritten:

9 "(a) The State Board of Community Colleges shall be responsible for providing,
10 from sources available to the State Board, funds to meet the financial needs of
11 institutions, as determined by policies and regulations of the State Board, for the
12 following budget items:

13 (1) Plant Fund. – Furniture and equipment for administrative and
14 instructional purposes, library books, and other items of capital outlay
15 approved by the State Board. Provided, the State Board may, on an
16 equal matching-fund basis from appropriations made by the State for
17 the purpose, grant funds to individual institutions for the purchase of
18 land, construction and remodeling of institutional buildings determined
19 by the State Board to be necessary for the instructional programs or
20 administration of such institutions. For the purpose of determining
21 amount of matching State funds, local funds shall include expenditures
22 made prior to the enactment of this Chapter or prior to an institution
23 becoming a community college pursuant to the provisions of this
24 Chapter, when such expenditures were made for the purchase of land,
25 construction, and remodeling of institutional buildings subsequently
26 determined by the State Board to be necessary as herein specified, and
27 provided such local expenditures have not previously been used as the
28 basis for obtaining matching State funds under the provisions of this
29 Chapter or any other laws of the State. Notwithstanding the provisions
30 of this subdivision, G.S. 116-53(b), or ~~G.S. 143-31.4, G.S. 143C-4-5,~~
31 appropriations by the State of North Carolina for capital or permanent
32 improvements for community colleges may be matched with any prior
33 expenditure of non-State funds for capital construction or land
34 acquisition not already used for matching purposes.

35 (2) Current Operating Expenses:

- 36 a. General administration. – Salaries and other costs as determined
37 by the State Board necessary to carry out the functions of
38 general administration.
- 39 b. Instructional services. – Salaries and other costs as determined
40 by the State Board necessary to carry out the functions of
41 instructional services.
- 42 c. Support services. – Salaries and other costs as determined by
43 the State Board necessary to carry out the functions of support
44 services.

1 (3) Additional Support for Regional Institutions as Defined in
2 G.S. 115D-2(4). – Matching funds to be used with local funds to meet
3 the financial needs of the regional institutions for the items set out in
4 G.S. 115D-32(a)(2)a. Amount of matching funds to be provided by the
5 State under this section shall be determined as follows: The population
6 of the administrative area in which the regional institution is located
7 shall be called the "local factor," the combined populations of all other
8 counties served by the institution shall be called the "State factor."
9 When the budget for the items listed in G.S. 115D-32(a)(2)a has been
10 approved under the procedures set out in G.S. 115D-45, the
11 administrative area in which the regional institution is located shall
12 provide a percentage to be determined by dividing the local factor by
13 the sum of the local factor and the State factor. The State shall provide
14 a percentage of the necessary funds to meet this budget, the percentage
15 to be determined by dividing the State factor by the sum of the local
16 factor and the State factor. If the local administrative area provides less
17 than its proportionate share, the amount of State funds provided shall
18 be reduced by the same proportion as were the administrative area
19 funds.

20 Wherever the word "population" is used in this subdivision, it shall
21 mean the population of the particular area in accordance with the latest
22 United States census."

23 **SECTION 39.** G.S. 116-2 reads as rewritten:

24 **"§ 116-2. Definitions.**

25 As used in this Article, unless the context clearly indicates a contrary intent:

- 26 (1) "Board" means the Board of Governors of the University of North
27 Carolina.
28 (2) "Board of trustees" means the board of trustees of a constituent
29 institution.
30 (3) "Chancellor" means the chancellor of a constituent institution.
31 (4) "Constituent institution" or "institution" means one of the 16 public
32 institutions of higher education, to wit, the University of North
33 Carolina at Chapel Hill, North Carolina State University at Raleigh,
34 the University of North Carolina at Greensboro, the University of
35 North Carolina at Charlotte, the University of North Carolina at
36 Asheville, the University of North Carolina at Wilmington,
37 Appalachian State University, East Carolina University, Elizabeth City
38 State University, Fayetteville State University, North Carolina
39 Agricultural and Technical State University, North Carolina Central
40 University, North Carolina School of the Arts, Pembroke State
41 University, redesignated effective July 1, 1996, as the "University of
42 North Carolina at Pembroke", Western Carolina University, and
43 Winston-Salem State University, and the constituent high school, the
44 North Carolina School of Science and Mathematics.

- 1 (5) "President" means the President of the University of North Carolina.
2 (6) "Vending facilities" has the same meaning as it does in
3 ~~G.S. 143-12.1~~ G.S. 111-42(d), but also means any mechanical or
4 electronic device dispensing items or something of value or
5 entertainment or services for a fee, regardless of the method of
6 activation, and regardless of the means of payment, whether by coin,
7 currency, tokens, or other means."

8 **SECTION 40.** G.S. 116-11 reads as rewritten:

9 **"§ 116-11. Powers and duties generally.**

10 The powers and duties of the Board of Governors shall include the following:

- 11 (1) The Board of Governors shall plan and develop a coordinated system
12 of higher education in North Carolina. To this end it shall govern the
13 16 constituent institutions, subject to the powers and responsibilities
14 given in this Article to the boards of trustees of the institutions, and to
15 this end it shall maintain close liaison with the State Board of
16 Community Colleges, the Community Colleges System Office and the
17 private colleges and universities of the State. The Board, in
18 consultation with representatives of the State Board of Community
19 Colleges and of the private colleges and universities, shall prepare and
20 from time to time revise a long-range plan for a coordinated system of
21 higher education, supplying copies thereof to the Governor, the
22 members of the General Assembly, ~~the Advisory Budget Commission~~
23 and the institutions. Statewide federal or State programs that provide
24 aid to institutions or students of post-secondary education through a
25 State agency, except those related exclusively to the community
26 college system, shall be administered by the Board pursuant to any
27 requirements of State or federal statute in order to insure that all
28 activities are consonant with the State's long-range plan for higher
29 education.
- 30 (2) The Board of Governors shall be responsible for the general
31 determination, control, supervision, management and governance of all
32 affairs of the constituent institutions. For this purpose the Board may
33 adopt such policies and regulations as it may deem wise. Subject to
34 applicable State law and to the terms and conditions of the instruments
35 under which property is acquired, the Board of Governors may
36 acquire, hold, convey or otherwise dispose of, invest and reinvest any
37 and all real and personal property, with the exception of any property
38 that may be held by trustees of institutional endowment funds under
39 the provisions of G.S. 116-36 or that may be held, under authority
40 delegated by the Board of Governors, either by a board of trustees or
41 by trustees of any other endowment or trust fund.
- 42 (3) The Board shall determine the functions, educational activities and
43 academic programs of the constituent institutions. The Board shall also
44 determine the types of degrees to be awarded. The powers herein given

1 to the Board shall not be restricted by any provision of law assigning
2 specific functions or responsibilities to designated institutions, the
3 powers herein given superseding any such provisions of law. The
4 Board, after adequate notice and after affording the institutional board
5 of trustees an opportunity to be heard, shall have authority to withdraw
6 approval of any existing program if it appears that the program is
7 unproductive, excessively costly or unnecessarily duplicative. The
8 Board shall review the productivity of academic degree programs
9 every two years, using criteria specifically developed to determine
10 program productivity.

11 (4) The Board of Governors shall elect officers as provided in
12 G.S. 116-14. Subject to the provisions of section 18 of this act
13 [Session Laws 1971, Chapter 1244, section 18], the Board shall also
14 elect, on nomination of the President, the chancellor of each of the
15 constituent institutions and fix his compensation. The President shall
16 make his nomination from a list of not fewer than two names
17 recommended by the institutional board of trustees.

18 (5) The Board of Governors shall, on recommendation of the President
19 and of the appropriate institutional chancellor, appoint and fix the
20 compensation of all vice-chancellors, senior academic and
21 administrative officers and persons having permanent tenure.

22 (5a) [Expired.]

23 (5b) The Board of Governors may by resolution provide that, until July 1,
24 1998, every president, vice-president, and other administrative officer
25 of the University whom it elects and who is not subject to Chapter 126
26 of the General Statutes, and every chancellor, vice-chancellor, senior
27 academic officer, senior administrative officer, and faculty member
28 who serves a constituent institution or agency of the University and
29 who is not subject to Chapter 126 of the General Statutes, shall retire
30 on July 1 coincident with or next following his seventieth birthday,
31 unless continued in service on a year-to-year basis in accordance with
32 regulations adopted by the Board of Governors.

33 (6) The Board shall approve the establishment of any new publicly
34 supported institution above the community college level.

35 (7) The Board shall set tuition and required fees at the institutions, not
36 inconsistent with actions of the General Assembly.

37 (8) The Board shall set enrollment levels of the constituent institutions.

38 (8a) The Board of Governors, after consultation with representatives from
39 nonpublic schools, including representatives of nonpublic schools
40 operated under Parts 1 and 3 of Article 39 of Chapter 115C of the
41 General Statutes, and after taking into consideration comments
42 received from the Joint Legislative Education Oversight Committee,
43 shall adopt a policy regarding uniform admissions requirements for
44 applicants from nonpublic schools lawfully operated under Article 39

1 of Chapter 115C of the General Statutes. The policy shall not
2 arbitrarily differentiate between applicants based upon whether the
3 applicant attended a public or a lawfully operated nonpublic school.

- 4 (9) a. The Board of Governors shall develop, prepare and present to
5 the ~~Governor, the Advisory Budget Commission~~ Governor and
6 the General Assembly a single, unified recommended budget
7 for all of ~~public senior higher education.~~ the constituent
8 institutions of The University of North Carolina. The
9 recommendations shall consist of requests in three general
10 categories: (i) funds for the continuing operation of each
11 constituent institution, (ii) funds for salary increases for
12 employees exempt from the State Personnel Act and (iii) funds
13 requested without reference to constituent institutions, itemized
14 as to priority and covering such areas as new programs and
15 activities, expansions of programs and activities, increases in
16 enrollments, increases to accommodate internal shifts and
17 categories of persons served, capital improvements,
18 improvements in levels of operation and increases to remedy
19 deficiencies, as well as other areas. ~~The function of the~~
20 ~~Advisory Budget Commission under this section applies only if~~
21 ~~the Director of the Budget consults with the Commission in~~
22 ~~preparation of the budget.~~ The president may present to the
23 General Assembly an updated estimate of tuition, fees, and
24 other receipts by June 15 of each year to be included in the
25 budget for the following fiscal year.

- 26 b. Funds for the continuing operation of each constituent
27 institution shall be appropriated directly to the institution. Funds
28 for salary increases for employees exempt from the State
29 Personnel Act shall be appropriated to the Board in a lump sum
30 for allocation to the institutions. Funds for the third category in
31 paragraph a of this subdivision shall be appropriated to the
32 Board in a lump sum for allocation to the institutions. The
33 Board shall make allocations among the institutions in
34 accordance with the Board's schedule of priorities and any
35 specifications in the Current Operations Appropriations Act.
36 When both the Board and the Director of the Budget deem it to
37 be in the best interest of the State, funds in the third category
38 may be allocated, in whole or in part, for other items within the
39 list of priorities or for items not included in the list. Provided,
40 nothing herein shall be construed to allow the General
41 Assembly, except as to capital improvements, to refer to
42 particular constituent institutions in any specifications as to
43 priorities in the third category. ~~Prior to taking any action under~~

~~this paragraph, the Director of the Budget may consult with the Advisory Budget Commission.~~

c. The Director of the Budget may, on recommendation of the Board, authorize transfer of appropriated funds from one institution to another to provide adjustments for over or under enrollment or may make any other adjustments among institutions that would provide for the orderly and efficient operation of the institutions. ~~Prior to taking any action under this paragraph, the Director of the Budget may consult with the Advisory Budget Commission.~~

d. Repealed by Session Laws 1987, c. 795, s. 27.

(10) The Board shall collect and disseminate data concerning higher education in the State. To this end it shall work cooperatively with the Community Colleges System Office and shall seek the assistance of the private colleges and universities. It may prescribe for the constituent institutions such uniform reporting practices and policies as it may deem desirable.

(10a) The Board of Governors, the State Board of Community Colleges, and the State Board of Education, in consultation with private higher education institutions defined in G.S. 116-22(1), shall plan a system to provide an exchange of information among the public schools and institutions of higher education to be implemented no later than June 30, 1995. As used in this section, "institutions of higher education" shall mean public higher education institutions defined in G.S. 116-143.1(a)(3), and those private higher education institutions defined in G.S. 116-22(1) that choose to participate in the information exchange. The information shall include:

a. The number of high school graduates who apply to, are admitted to, and enroll in institutions of higher education;

b. College performance of high school graduates for the year immediately following high school graduation including each student's: need for remedial coursework at the institution of higher education that the student attends; performance in standard freshmen courses; and continued enrollment in a subsequent year in the same or another institution of higher education in the State;

c. The progress of students from one institution of higher education to another; and

d. Consistent and uniform public school course information including course code, name, and description.

The Department of Public Instruction shall generate and the local school administrative units shall use standardized transcripts in an automated format for applicants to higher education institutions. The standardized transcript shall include grade point average, class rank,

1 end-of-course test scores, and uniform course information including
2 course code, name, units earned toward graduation, and credits earned
3 for admission from an institution of higher education. The grade point
4 average and class rank shall be calculated by a standard method to be
5 devised by the institutions of higher education.

6 The Board of Governors shall coordinate a joint progress report on the
7 implementation of the system to provide an exchange of information
8 among the public and independent colleges and universities, the
9 community colleges, and the public schools. The report shall be made
10 to the Joint Legislative Education Oversight Committee no later than
11 February 15, 1993, and annually thereafter.

12 (10b) The Board of Governors of The University of North Carolina shall
13 report to each community college and to the State Board of
14 Community Colleges on the academic performance of that community
15 college's transfer students.

16 (11) The Board shall assess the contributions and needs of the private
17 colleges and universities of the State and shall give advice and
18 recommendations to the General Assembly to the end that the
19 resources of these institutions may be utilized in the best interest of the
20 State.

21 (12) The Board shall give advice and recommendations concerning higher
22 education to the Governor, the General Assembly, ~~the Advisory~~
23 ~~Budget Commission~~ and the boards of trustees of the institutions.

24 (12a) Notwithstanding any other law, the Board of Governors of The
25 University of North Carolina shall implement, administer, and revise
26 programs for meaningful professional development for professional
27 public school employees in accordance with the evaluations and
28 recommendations made by the State Board of Education under
29 G.S. 115C-12(26). The programs shall be aligned with State education
30 goals and directed toward improving student academic achievement.
31 The Board of Governors shall submit to the State Board of Education
32 an annual written report that uses data to assess and evaluate the
33 effectiveness of the programs for professional development offered by
34 the Center for School Leadership Development. The report shall
35 clearly document how the programs address the State needs identified
36 by the State Board of Education and whether the programs are utilizing
37 the strategies recommended by the State Board. The Board of
38 Governors also shall submit this report to the Joint Legislative
39 Education Oversight Committee, the President Pro Tempore of the
40 Senate, and the Speaker of the House of Representatives prior to
41 September 15th of each year.

42 (12b) The Board of Governors of The University of North Carolina shall
43 designate the UNC programs that will comprise the UNC Center for
44 School Leadership Development. The Board of Governors shall submit

1 to the Governor and the General Assembly a single, unified
2 recommended budget for the continued operation and expansion of the
3 programs in the Center for School Leadership Development.

4 (13) The Board may delegate any part of its authority over the affairs of any
5 institution to the board of trustees or, through the President, to the
6 chancellor of the institution in any case where such delegation appears
7 necessary or prudent to enable the institution to function in a proper
8 and expeditious manner. The Board may delegate any part of its
9 authority over the affairs of The University of North Carolina to the
10 President in any case where such delegation appears necessary or
11 prudent to enable The University of North Carolina to function in a
12 proper and expeditious manner. Any delegation of authority may be
13 rescinded by the Board at any time in whole or in part.

14 (14) The Board shall possess all powers not specifically given to
15 institutional boards of trustees."

16 **SECTION 41.** G.S. 116-14(b1) reads as rewritten:

17 "(b1) The President shall receive General Fund appropriations made by the General
18 Assembly for continuing operations of The University of North Carolina that are
19 administered by the President and the President's staff complement established pursuant
20 to G.S. 116-14(b) in the form of a single sum to ~~Budget Code 16010~~ Budget Code
21 16011 of The University of North Carolina in the manner and under the conditions
22 prescribed by G.S. 116-30.2. The President, with respect to the foregoing
23 appropriations, shall have the same duties and responsibilities that are prescribed by
24 G.S. 116-30.2 for the Chancellor of a special responsibility constituent institution. The
25 President may establish procedures for transferring funds from ~~Budget Code 16010~~
26 Budget Code 16011 to the constituent institutions for nonrecurring expenditures. The
27 President may identify funds for capital improvement projects from ~~Budget Code~~
28 ~~16010~~, Budget Code 16011, and the capital improvement projects may be established
29 following the procedures set out in ~~G.S. 143-18.1~~ G.S. 143C-8-8 and G.S. 143C-8-9."

30 **SECTION 42.** G.S. 116-30.2 reads as rewritten:

31 "**§ 116-30.2. Appropriations to special responsibility constituent institutions.**"

32 (a) All General Fund appropriations made by the General Assembly for
33 continuing operations of a special responsibility constituent institution of The
34 University of North Carolina shall be made in the form of a single sum to each budget
35 code of the institution for each year of the fiscal period for which the appropriations are
36 being made. Notwithstanding ~~G.S. 143-23(a1)~~, ~~G.S. 143-23(a2)~~, G.S. 143C-6-4 and
37 G.S. 120-76(8), each special responsibility constituent institution may expend monies
38 from the overhead receipts special fund budget code and the General Fund monies so
39 appropriated to it in the manner deemed by the Chancellor to be calculated to maintain
40 and advance the programs and services of the institutions, consistent with the directives
41 and policies of the Board of Governors. Special responsibility constituent institutions
42 may transfer appropriations between budget codes. These transfers shall be considered
43 certified even if as a result of agreements between special responsibility constituent
44 institutions. The preparation, presentation, and review of General Fund budget requests

1 of special responsibility constituent institutions shall be conducted in the same manner
2 as are requests of other constituent institutions. The quarterly allotment procedure
3 established pursuant to ~~G.S. 143-17~~ G.S. 143C-6-3 shall apply to the General Fund
4 appropriations made for the current operations of each special responsibility constituent
5 institution. All General Fund monies so appropriated to each special responsibility
6 constituent institution shall be recorded, reported, and audited in the same manner as are
7 General Fund appropriations to other constituent institutions."

8 **SECTION 43.** G.S. 116-30.3 reads as rewritten:

9 **"§ 116-30.3. Reversions.**

10 (a) Of the General Fund current operations appropriations credit balance
11 remaining at the end of each fiscal year in each budget code of a special responsibility
12 constituent institution, except for the budget code of the Area Health Education Centers
13 of the University of North Carolina at Chapel Hill, any amount of the General Fund
14 appropriation for that fiscal year may be carried forward by the institution to the next
15 fiscal year and ~~may be used~~ is appropriated for one-time expenditures that will not
16 impose additional financial obligations on the State. Of the General Fund current
17 operations appropriations credit balance remaining in the budget code of the Area
18 Health Education Centers of the University of North Carolina at Chapel Hill, any
19 amount of the General Fund appropriation for that fiscal year may be carried forward in
20 that budget code to the next fiscal year and ~~may be used~~ is appropriated for one-time
21 expenditures that will not impose additional financial obligations on the State. However,
22 the amount carried forward under this section shall not exceed two and one-half percent
23 (2 1/2%) of the General Fund appropriation. The Director of the Budget, under the
24 authority set forth in ~~G.S. 143-25~~, G.S. 143C-6-2 shall establish the General Fund
25 current operations credit balance remaining in each budget code of each institution.

26 (b) Repealed by Session Laws 1998-212, s. 11(b).

27 (c) Repealed by Session Laws 1998-212, s. 11(a).

28 (d) Repealed by Session Laws 1998-212, s. 11(b).

29 (e) Notwithstanding ~~G.S. 143-18~~, G.S. 143C-1-2 of the General Fund current
30 operations appropriations credit balance remaining in Budget Code 16010 of the Office
31 of General Administration of The University of North Carolina, any amount of the
32 General Fund appropriation for that fiscal year may be carried forward in that budget
33 code to the next fiscal year and ~~may be used~~ is appropriated for one-time expenditures
34 that will not impose additional financial obligations on the State. However, the amount
35 carried forward under this subsection shall not exceed two and one-half percent (2
36 1/2%) of the General Fund appropriation. The Director of the Budget, under the
37 authority set forth in ~~G.S. 143-25~~, G.S. 143C-6-2, shall establish the General Fund
38 current operations credit balance remaining in Budget Code 16010 of the Office of
39 General Administration of The University of North Carolina. The funds shall not be
40 used to support positions."

41 **SECTION 43.1.** G.S. 116-35 reads as rewritten:

42 **"§ 116-35. Electric power plants, campus school, etc.**

43 Institutions operating electric power plants and distribution systems as of October
44 30, 1971, are authorized to continue such operation and, after furnishing power to the

1 institution, to sell any excess current to the people of the community at a rate or rates
2 approved by the Utilities Commission. Any net profits derived from the operation, or
3 any proceeds derived from the lease or sale, of such power plants and distribution
4 systems are appropriated and shall be paid into the permanent endowment fund held for
5 the institution as provided for in G.S. 116-36. Institutions operating or authorized to
6 operate, as of October 30, 1971, water or sewer distribution systems, may continue to do
7 so. Each of the institutions now operating a campus laboratory or demonstration school
8 may continue to do so under the presently existing plan of operation, consistent with the
9 appropriations made therefor. The provisions of this section shall not apply to the
10 University Enterprises of the University of North Carolina at Chapel Hill, which shall
11 continue to be governed in all respects as provided in Chapters 634 and 723 of the
12 Session Laws of 1971, G.S. 116-41.1 through 116-41.12, and other applicable
13 legislation.

14 **SECTION 44.** G.S. 116-36(g) reads as rewritten:

15 "(g) The trustees of the endowment fund shall have the power to buy, sell, lend,
16 exchange, lease, transfer, or otherwise dispose of or to acquire (except by pledging their
17 credit or violating a lawful condition of receipt of the corpus into the endowment fund)
18 any property, real or personal, with respect to the fund, in either public or private
19 transaction, and in doing so they shall not be subject to the provisions of Chapters ~~143~~
20 143, 143C, and 146 of the General Statutes; provided that, any expense or financial
21 obligation of the State of North Carolina created by any acquisition or disposition, by
22 whatever means, of any real or personal property of the endowment fund shall be borne
23 by the endowment fund unless authorization to satisfy the expense or financial
24 obligation from some other source shall first have been obtained from the Director of
25 the Budget. ~~Prior to taking any action under this subsection, the Director of the Budget~~
26 ~~may consult with the Advisory Budget Commission."~~

27 **SECTION 44.1.** G.S. 116-36 is amended by adding a new subsection to
28 read:

29 "(l) The proceeds and funds described by this section are appropriated and may be
30 used only as provided by this section."

31 **SECTION 45.** G.S. 116-36.1 reads as rewritten:

32 "**§ 116-36.1. Regulation of institutional trust funds.**

33 (a) The Board is responsible for the custody and management of the trust funds
34 of the University of North Carolina and of each institution. The Board shall adopt
35 uniform policies and procedures applicable to the administration of these funds which
36 shall assure that the receipt and expenditure of such funds is properly authorized and
37 that the funds are appropriately accounted for. The Board may delegate authority,
38 through the president, to the respective chancellors of the institutions when such
39 delegation is necessary or prudent to enable the institution to function in a proper and
40 expeditious manner.

41 (b) Trust funds shall be deposited with the State Treasurer who shall hold them in
42 trust in separate accounts in the name of the University of North Carolina and of each
43 institution. The cash balances of these accounts may be pooled for investment purposes,
44 but investment earnings shall be credited pro rata to each participating account. For

1 purposes of distribution of investment earnings, all trust funds of an institution shall be
2 deemed a single account.

3 (c) Moneys deposited with the State Treasurer in trust fund accounts pursuant to
4 this section, and investment earnings thereon, are available for expenditure by each
5 institution without further authorization from the General Assembly.

6 (d) Trust funds are subject to the oversight of the State Auditor pursuant to
7 Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions
8 of the ~~Executive Budget Act~~ State Budget Act except for capital improvements projects
9 which shall be authorized and executed in accordance with ~~G.S. 143-18.1~~ G.S.
10 143C-8-8 and G.S. 143C-8-9.

11 (e) Each institution shall submit such reports or other information concerning its
12 trust fund accounts as may be required by the Director of the Budget.

13 (f) Trust funds or the investment income therefrom shall not take the place of
14 State appropriations or any part thereof, but any portion of these funds available for
15 general institutional purposes is appropriated and shall be used to supplement State
16 appropriations to the end that the institution may improve and increase its functions,
17 may enlarge its areas of service, and may become more useful to a greater number of
18 people.

19 (g) As used in this section, "trust funds" means:

- 20 (1) Moneys, or the proceeds of other forms of property, received by an
21 institution as gifts, devises, or bequests that are neither presumed nor
22 designated to be gifts, devises, or bequests to the endowment fund of
23 the institution;
- 24 (2) Moneys received by an institution pursuant to grants from, or contracts
25 with, the United States government or any agency or instrumentality
26 thereof;
- 27 (3) Moneys received by an institution pursuant to grants from, or contracts
28 with, any State agencies, any political subdivisions of the State, any
29 other states or nations or political subdivisions thereof, or any private
30 entities whereby the institution undertakes, subject to terms and
31 conditions specified by the entity providing the moneys, to conduct
32 research, training or public service programs, or to provide financial
33 aid to students;
- 34 (4) Moneys collected by an institution to support extracurricular activities
35 of students of the institution;
- 36 (5) Moneys received from or for the operation by an institution of
37 activities established for the benefit of scholarship funds or student
38 activity programs;
- 39 (6) Moneys received from or for the operation by an institution of any of
40 its self-supporting auxiliary enterprises, including institutional student
41 auxiliary enterprise funds for the operation of housing, food, health,
42 and laundry services;
- 43 (7) Moneys received by an institution in respect to fees and other
44 payments for services rendered by medical, dental or other health care

1 professionals under an organized practice plan approved by the
2 institution or under a contractual agreement between the institution and
3 a hospital or other health care provider;

4 (8) The net proceeds from the disposition effected pursuant to Chapter
5 146, Article 7, of any interest in real property owned by or under the
6 supervision and control of an institution if the interest in real property
7 had first been acquired by gift, devise, or bequest or through
8 expenditure of moneys defined in this subsection (g) as "trust funds,"
9 except the net proceeds from the disposition of an interest in real
10 property first acquired by the institution through expenditure of
11 moneys received as a grant from a State agency;

12 (9) Moneys received from the operation and maintenance of institutional
13 forests and forest farmlands, provided, that such moneys shall be used,
14 when used, by the institution for support of forest-related research,
15 teaching, and public service programs.

16 (10) Moneys deposited to the State Education Assistance Authority Fund
17 pursuant to G.S. 116-209.3.

18 (h) Notwithstanding the provisions of subsection (b) of this section, the Board
19 may designate as the official depository of the funds identified in subsection (g) (7) of
20 this section one or more banks or trust companies in this State. The amount of funds on
21 deposit in an official depository shall be fully secured by deposit insurance, surety
22 bonds, or investment securities of such nature, in such amounts, and in such manner as
23 is prescribed by the State Treasurer for the security of public deposits generally. The
24 available cash balance of funds deposited pursuant to this subsection shall be invested in
25 interest-bearing deposits and investments so that the rate of return equals that realized
26 from the investment of State funds generally.

27 (i) The cash balances on hand as of June 30, 1978, and all future receipts
28 accruing thereafter, of funds identified in this section are hereby appropriated to the use
29 of the University of North Carolina and its constituent institutions."

30 **SECTION 46.** G.S. 116-36.2(a) reads as rewritten:

31 "(a) Notwithstanding Chapter 143C or any provisions of law other than Article 5A
32 of Chapter 147 of the General Statutes, the chancellor of each institution is responsible
33 for the custody and management of the special funds of that institution. The Board shall
34 adopt uniform policies and procedures applicable to the administration of these funds
35 which shall assure that the receipt and expenditure of such funds is properly authorized
36 and that the funds are appropriately accounted for. The special funds of individual
37 institutions regulated by this section are appropriated and may be used only as
38 authorized by this section."

39 **SECTION 46.1.** G.S. 116-36.4 reads as rewritten:

40 "**§ 116-36.4. Vending facilities.**

41 Each institution shall provide to the director of the Budget and the State Auditor
42 such information as they may from time to time require concerning the use of net
43 proceeds from operations of vending facilities for the previous fiscal year under
44 G.S. 116-36.1. Net proceeds are appropriated and may be used only as authorized by the

1 Board of Governors, but this section does not authorize expenditures for purposes not
2 otherwise authorized by law."

3 **SECTION 47.** G.S. 116-36.5 reads as rewritten:

4 "**§ 116-36.5. Centennial Campus trust fund; Horace Williams Campus trust fund;**
5 **Millennial Campuses' trust funds.**

6 (a) All moneys received through development of the Centennial Campus of
7 North Carolina State University at Raleigh, from whatever source, including the net
8 proceeds from the lease or rental of Centennial Campus real property, shall be placed in
9 a special, continuing, and nonreverting trust fund having the sole and exclusive use for
10 further development of the Centennial Campus, including its operational development.
11 This fund shall be treated in the manner of institutional trust funds as provided in
12 ~~G.S. 116-36.1.~~ G.S. 116-36.1, and, like the institutional trust funds, is exempt from
13 Chapter 143C, except for Article 8 of Chapter 143C of the General Statutes. This fund
14 shall be deemed an additional and alternative method of funding the Centennial Campus
15 and not an exclusive one. For purposes of this section the term "Centennial Campus" is
16 defined by G.S. 116-198.33(4). To the extent that any general, special, or local law is
17 inconsistent with this section, it is declared inapplicable to this section.

18 (b) All moneys received through development of the Horace Williams Campus of
19 the University of North Carolina at Chapel Hill, from whatever source, including the net
20 proceeds from the lease or rental of Horace Williams Campus real property, shall be
21 placed in a special, continuing, and nonreverting trust fund having the sole and
22 exclusive use for further development of the Horace Williams Campus, including its
23 operational development. This fund shall be treated in the manner of institutional trust
24 funds as provided in ~~G.S. 116-36.1.~~ G.S. 116-36.1, and, like the institutional trust funds,
25 is exempt from Chapter 143C, except for Article 8 of Chapter 143C of the General
26 Statutes. This fund shall be deemed an additional and alternative method of funding the
27 Horace Williams Campus and not an exclusive one. For purposes of this section the
28 term "Horace Williams Campus" is defined by G.S. 116-198.33(4a). To the extent that
29 any general, special, or local law is inconsistent with this section, it is declared
30 inapplicable to this section.

31 (c) All moneys received through development of a Millennial Campus of a
32 constituent institution of The University of North Carolina as defined by
33 G.S. 116-198.33(4b), from whatever source, including the net proceeds from the lease
34 or rental of real property on a Millennial Campus, shall be placed in a special,
35 continuing, and nonreverting trust fund having the sole and exclusive use for further
36 development of that Millennial Campus, including its operational development. This
37 fund shall be treated in the manner of institutional trust funds as provided in
38 ~~G.S. 116-36.1.~~ G.S. 116-36.1, and, like the institutional trust funds, is exempt from
39 Chapter 143C, except for Article 8 of Chapter 143C of the General Statutes. This fund
40 shall be deemed an additional and alternative method of funding the Millennial Campus
41 and not an exclusive one. To the extent that any general, special, or local law is
42 inconsistent with this section, it is declared inapplicable to this section.

43 (d) The moneys described by this section are appropriated and may be used only
44 as provided by this section."

1 **SECTION 47.1.** G.S. 116-36.6 reads as rewritten:

2 "**§ 116-36.6. East Carolina University School of Medicine; Medicare receipts.**

3 The East Carolina University School of Medicine shall request, on a regular basis
4 consistent with the State's cash management plan, funds earned by the School from
5 Medicare reimbursements for education costs. Upon receipt, these funds are
6 appropriated and shall be allocated as follows:

7 (1) The portion of the Medicare reimbursement generated through the
8 effort and expense of the School of Medicine's Medical Faculty
9 Practice Plan shall be transferred to the appropriate Medical Faculty
10 Practice Plan account within the School of Medicine. The Medical
11 Faculty Practice Plan shall assume responsibility for any of these funds
12 that subsequently must be refunded due to final audit settlements.

13 (2) The funds from this source budgeted by the General Assembly as part
14 of the School of Medicine's General Fund budget code shall be
15 credited to that code as a receipt.

16 (3) The remainder of the funds shall be transferred to a special fund
17 account on deposit with the State Treasurer. This special fund account
18 shall be used for any necessary repayment of Medicare funds due to
19 final audit settlements for funds allocated under subdivision (2) of this
20 subsection. When the amount of these reimbursement funds has been
21 finalized by audit for each year, those funds remaining in the special
22 fund shall be available for specific capital improvement projects for
23 the East Carolina University School of Medicine. Requests by East
24 Carolina University for use of these funds shall be made to the Board
25 of Governors of The University of North Carolina. Approval of
26 projects by the Board of Governors shall be reported to the Joint
27 Legislative Commission on Governmental Operations, and the reports
28 shall include projected costs and sources of funds for operation of the
29 approved projects."

30 **SECTION 47.2.** G.S. 116-37(e) reads as rewritten:

31 "(e) Finances. – The University of North Carolina Health Care System shall be
32 subject to the provisions of the ~~Executive Budget Act~~, State Budget Act, except for trust
33 funds as provided in G.S. 116-36.1 and G.S. 116-37.2. The Chief Executive Officer,
34 subject to the board of directors, shall be responsible for all aspects of budget
35 preparation, budget execution, and expenditure reporting. All operating funds of the
36 University of North Carolina Health Care System may be budgeted and disbursed
37 through special fund codes, maintaining separate auditable accounts for the University
38 of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the
39 School of Medicine of the University of North Carolina at Chapel Hill. All receipts of
40 the University of North Carolina Health Care System may be deposited directly to the
41 special fund codes, and except for General Fund appropriations, all receipts of the
42 University of North Carolina Hospitals at Chapel Hill may be invested pursuant to
43 G.S. 147-69.2(b3). General Fund appropriations for support of the University of North
44 Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a

1 single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill
2 Operations" and be transferable to a special fund operating code as receipts."

3 **SECTION 48.** G.S. 116-41.4 reads as rewritten:

4 **"§ 116-41.4. Bonds authorized; amount limited; form, execution and sale; terms**
5 **and conditions; use of proceeds; additional bonds; interim receipts or**
6 **temporary bonds; replacement of lost, etc., bonds; approval or consent**
7 **for issuance; bonds not debt of State; bond anticipation notes.**

8 The Board is hereby authorized to issue, subject to the approval of the Director of
9 the Budget, at one time or from time to time, revenue bonds of the University for the
10 purpose of undertaking and carrying out any project or projects hereunder; provided,
11 however, that the aggregate principal amount of revenue bonds which the Board is
12 authorized to issue under this section during the biennium ending June 30, 1969, shall
13 not exceed three million five hundred thousand dollars (\$3,500,000); provided, further,
14 the Board shall have authority to issue revenue bonds under this section in an additional
15 aggregate principal amount not to exceed three million five hundred thousand dollars
16 (\$3,500,000) during the biennium ending June 30, 1971; provided, however, that the
17 aggregate principal amount of revenue bonds which the Board is authorized to issue
18 under this section during the biennium ending June 30, 1973, shall not exceed thirteen
19 million dollars (\$13,000,000); provided, further, that the aggregate principal amount of
20 revenue bonds which the Board is authorized to issue under this section during the
21 biennium ending June 30, 1975, shall not exceed thirteen million dollars (\$13,000,000).
22 The bonds shall be dated, shall mature at such time or times not exceeding 30 years
23 from their date or dates, and shall bear interest at such rate or rates as may be
24 determined by the Board, and may be made redeemable before maturity at the option of
25 the Board at such price or prices and under such terms and conditions as may be fixed
26 by the Board prior to the issuance of the bonds. The Board shall determine the form and
27 manner of execution of the bonds, and any interest coupons to be attached thereto, and
28 shall fix the denomination or denominations of the bonds and the place or places of
29 payment of principal and interest, which may be at any bank or trust company within or
30 without the State. In case any officer whose signature or a facsimile of whose signature
31 appears on any bonds or coupons shall cease to be such officer before the delivery of
32 such bonds, such signature or such facsimile shall nevertheless be valid and sufficient
33 for all purposes the same as if he had remained in office until such delivery.
34 Notwithstanding any of the other provisions of this Part or any recitals in any bonds
35 issued under the provisions of this Part, all such bonds shall be deemed to be negotiable
36 instruments under the laws of this State. The bonds may be issued in coupon or
37 registered form or both, as the Board may determine, and provision may be made for the
38 registration of any coupon bonds as to principal alone and also as to both principal and
39 interest, and for the reconversion into coupon bonds of any bonds registered as to both
40 principal and interest. The Board may sell such bonds in such manner, at public or
41 private sale, and for such price, as it may determine to be for the best interests of the
42 University.

43 The proceeds of the bonds of each issue shall be used solely for the purpose for
44 which such bonds shall have been authorized and shall be disbursed in such manner and

1 under such restrictions, if any, as the Board may provide in the resolution authorizing
2 the issuance of such bonds. Unless otherwise provided in the authorizing resolution, if
3 the proceeds of such bonds, by error of estimates or otherwise, shall be less than such
4 costs, additional bonds may in like manner be issued to provide the amount of such
5 deficit and shall be deemed to be of the same issue and shall be entitled to payment
6 from the same fund without preference or priority of the bonds first issued for the same
7 purpose.

8 The resolution providing for the issuance of revenue bonds may also contain such
9 limitations upon the issuance of additional revenue bonds as the Board may deem
10 proper, and such additional bonds shall be issued under such restrictions and limitations
11 as may be prescribed by such resolution.

12 Prior to the preparation of definitive bonds, the Board may, under like restrictions,
13 issue interim receipts or temporary bonds, with or without coupons, exchangeable for
14 definitive bonds when such bonds shall have been executed and are available for
15 delivery. The Board may also provide for the replacement of any bonds which shall
16 become mutilated or be destroyed or lost.

17 Bonds may be issued by the Board under the provisions of this Part, subject to the
18 approval of the Director of the Budget, but without obtaining the consent of any other
19 commission, board, bureau or agency of the State, and without any other proceedings or
20 the happening of any other conditions or things than those consents, proceedings,
21 conditions or things which are specifically required by this Part.

22 Revenue bonds issued under the provisions of this Part shall not be deemed to
23 constitute a debt of the State of North Carolina or a pledge of the faith and credit of the
24 State, but such bonds shall be payable solely from the funds herein provided therefor
25 and a statement to that effect shall be recited on the face of the bonds.

26 The Board is hereby authorized to issue, subject to the approval of the Director of
27 the Budget, at one time or from time to time, revenue bond anticipation notes of the
28 Board in anticipation of the issuance of bonds authorized pursuant to the provisions of
29 this Part. The principal of and the interest on such notes shall be payable solely from the
30 proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are
31 not available, any available revenues of the project or projects for which such bonds
32 shall have been authorized. The notes of each issue shall be dated, shall mature at such
33 time or times not exceeding two years from their date or dates, shall bear interest at such
34 rate or rates as may be determined by the Board, and may be made redeemable before
35 maturity, at the option of the Board, at such price or prices and under such terms and
36 conditions as may be fixed by the Board, and may be made redeemable before maturity,
37 at the option of the Board, at such price or prices and under such terms and conditions
38 as may be fixed by the Board prior to the issuance of the notes. The Board shall
39 determine the form and manner of execution of the notes, including any interest
40 coupons to be attached thereto, and shall fix the denomination or denominations of the
41 notes and the place or places of payment of principal and interest, which may be at any
42 bank or trust company within or without the State. In case any officer, whose signature
43 or a facsimile of whose signature shall appear on any notes or coupons, shall cease to be
44 such officer before the delivery of such notes, such signature or such facsimile shall

1 nevertheless be valid and sufficient for all purposes the same as if he had remained in
2 office until such delivery. Notwithstanding any of the other provisions of this Part or
3 any recitals in any notes issued under the provisions of this Part, all such notes shall be
4 deemed to be negotiable instruments under the laws of this State. The notes may be
5 issued in coupon or registered form or both, as the Board may determine, and provision
6 may be made for the registration of any coupon notes as to principal alone and also as to
7 both principal and interest, and for the reconversion into coupon notes of any notes
8 registered as to both principal and interest. The Board may sell such notes in such
9 manner, at public or private sale, and for such price, as it may determine to be for the
10 best interests of the University.

11 The proceeds of the notes of each issue shall be used solely for the purpose for
12 which the bonds in anticipation of which such notes are being issued shall have been
13 authorized, and such note proceeds shall be disbursed in such manner and under such
14 restrictions, if any, as the Board may provide in the resolution authorizing the issuance
15 of such notes or bonds.

16 The resolution providing for the issuance of notes or bonds may also contain such
17 limitations upon the issuance of additional notes as the Board may deem proper, and
18 such additional notes shall be issued under such restrictions and limitations as may be
19 prescribed by such resolution.

20 Notes may be issued by the Board under the provisions of this Part, subject to the
21 approval of the Director of the Budget, but without obtaining the consent of any other
22 commission, board, bureau or agency of the State, and without any other proceedings or
23 the happening of any other conditions or things than those consents, proceedings,
24 conditions or things which are specifically required by this Part.

25 Revenue bond anticipation notes issued under the provisions of this Part shall not be
26 deemed to constitute a debt of the State of North Carolina or a pledge of the faith and
27 credit of the State, but such notes shall be payable solely from the funds herein provided
28 therefor and a statement to that effect shall be recited on the face of the notes.

29 Unless the context shall otherwise indicate, the word "bonds," wherever used in this
30 Part, shall be deemed and construed to include the words "bond anticipation notes."

31 ~~Prior to taking any action under this section, the Director of the Budget may consult~~
32 ~~with the Advisory Budget Commission."~~

33 **SECTION 49.** G.S. 116-41.9 reads as rewritten:

34 **"§ 116-41.9. Refunding revenue bonds.**

35 The University is hereby authorized, subject to the approval of the Director of the
36 Budget, to issue from time to time refunding revenue bonds for the purpose of refunding
37 any revenue bonds issued by the University under this Part in connection with any
38 project or projects, including the payment of any redemption premium thereon and any
39 interest accrued or to accrue to the date of redemption of such bonds. The University is
40 further authorized, subject to the approval of the Director of the Budget, to issue from
41 time to time refunding revenue bonds for the combined purpose of

42 (1) Refunding any revenue bonds or refunding revenue bonds issued by
43 the University in connection with any project or projects including the

1 payment of any redemption premium thereon and any interest accrued
2 or to accrue to the date of redemption of such bonds, and

3 (2) Paying all or any part of the cost of any project or projects.

4 The issuance of such refunding revenue bonds, the maturities and other details
5 thereof, the rights and remedies of the holders thereof, and the rights, powers,
6 privileges, duties and obligations of the University with respect to the same, shall be
7 governed by the foregoing provisions of this Part insofar as the same may be applicable.

8 ~~Prior to taking any action under this section, the Director of the Budget may consult~~
9 ~~with the Advisory Budget Commission."~~

10 **SECTION 50.** G.S. 116-41.16 reads as rewritten:

11 "**§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution**
12 **commitments.**

13 (a) For constituent institutions other than focused growth institutions and special
14 needs institutions, contributions may also be eligible for matching if there is:

15 (1) A commitment to make a donation of at least six hundred sixty-six
16 thousand dollars (\$666,000), as prescribed by ~~G.S. 143-31.4,~~
17 G.S. 143C-4-5, and an initial payment of one hundred eleven thousand
18 dollars (\$111,000) to receive a grant described in
19 G.S. 116-41.15(a)(1); or

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

34 (b) For focused growth institutions and special needs institutions, contributions
35 may also be eligible for matching if there is:

36 (1) A commitment to make a donation of at least five hundred thousand
37 dollars (\$500,000), as prescribed by ~~G.S. 143-31.4,~~ G.S. 143C-4-5,
38 and an initial payment of eighty-three thousand three hundred dollars
39 (\$83,300) to receive a grant described in G.S. 116-41.5(b)(1); or

40 (2) A commitment to make a donation of at least two hundred fifty
41 thousand dollars (\$250,000), as prescribed by ~~G.S. 143-31.4,~~
42 G.S. 143C-4-5, and an initial payment of forty-one thousand six
43 hundred dollars (\$41,600) to receive a grant described in
44 G.S. 116-41.15(b)(2); and if the initial payment is accompanied by a

1 written pledge to provide the balance within five years after the date of
2 the initial payment. Each payment on the balance shall be no less than
3 the amount of the initial payment. Pledged contributions may not be
4 matched prior to the actual collection of the total funds. Once the
5 income from the institution's Distinguished Professors Endowment
6 Trust Fund can be effectively used pursuant to G.S. 116-41.17, the
7 institution shall proceed to implement plans for establishing an
8 endowed chair."

9 **SECTION 51.** G.S. 116-44.4(m) reads as rewritten:

10 "(m) All moneys received pursuant to this Part shall be placed in a trust account in
11 each constituent ~~institution~~-institution, are appropriated, and may be used for any of the
12 following purposes:

- 13 (1) To defray the cost of administering and enforcing ordinances adopted
14 under this Part;
- 15 (2) To develop, maintain, and supervise parking areas and facilities;
- 16 (3) To provide bus service or other transportation systems and facilities,
17 including payments to any public or private transportation system
18 serving University students, faculty, or employees;
- 19 (4) As a pledge to secure revenue bonds for parking facilities issued under
20 Article 21 of this Chapter;
- 21 (5) Other purposes related to parking, traffic, and transportation on the
22 campus."

23 **SECTION 51.1.** G.S. 116-68 reads as rewritten:

24 **"§ 116-68. Endowment fund.**

25 The Board of Trustees is authorized to establish a permanent endowment fund, and
26 shall perform such duties in relation thereto as are prescribed by the provisions of
27 Article 1, Chapter 116, of the General Statutes. The proceeds in this fund are
28 appropriated as provided by G.S. 116-36."

29 **SECTION 51.2.** G.S. 116-74.41 is amended by adding a new subsection to
30 read:

31 "(a1) All funds appropriated to, or otherwise received by, the Principal Fellows
32 Program for scholarships, all funds received as repayment of scholarship loans, and all
33 interest earned on these funds shall be placed in an institutional trust fund pursuant to
34 G.S. 116-36.1."

35 **SECTION 52.** G.S. 116-175.1 is repealed.

36 **SECTION 53.** G.S. 116-187.1 is repealed.

37 **SECTION 54.** G.S. 116-209.19 reads as rewritten:

38 **"§ 116-209.19. Grants to students.**

39 The Authority is authorized to make grants to eligible students enrolled or to be
40 enrolled in eligible institutions in North Carolina out of such money as from time to
41 time may be appropriated by the State or as may otherwise be available to the Authority
42 for such grants. The Authority, subject to the provisions of this Article and any
43 applicable appropriation act, shall adopt rules, regulations and procedures for
44 determining the needs of the respective students for grants and for the purpose of

1 making such grants. The amount of any grant made by the Authority to any student,
2 whether enrolled or to be enrolled in any private institution or any tax-supported public
3 institution, shall be determined by the Authority upon the basis of substantially similar
4 standards and guides that shall be set forth in the Authority's rules, regulations and
5 procedures; provided, however, that grants made in any fiscal year to students enrolled
6 or to be enrolled in private institutions may be increased to compensate, in whole or in
7 part, for the average annual State appropriated tuition subsidy for such fiscal year,
8 determined as provided herein. The average annual State appropriated subsidy for each
9 fiscal year shall be determined by the Secretary of Administration, after consultation
10 with the Board of Governors of the University of North Carolina and the Authority, for
11 each of the two categories of tax-supported institutions, being (i) institutions, presently
12 16, that provide education of the collegiate grade and grant baccalaureate degrees and
13 (ii) institutions, such as community colleges and technical institutes created and existing
14 under Chapter 115A of the General Statutes and community colleges created and
15 existing under Chapter 115D of the General Statutes. The average annual State
16 appropriated subsidy for each of such two categories of institutions shall mean the
17 amount of the total appropriations of the State for the respective fiscal years under the
18 current operations budgets, pursuant to the ~~Executive Budget Act~~ State Budget Act
19 reasonably allocable to undergraduate students enrolled in such institutions exclusive of
20 the Division of Health Affairs of the University of North Carolina and the North
21 Carolina School of the Arts for all institutions in such category, all as shall be
22 determined by the Secretary of Administration after consultation as above provided,
23 divided by the budgeted number of North Carolina undergraduate students to be
24 enrolled in such fiscal year.

25 The Authority, in determining the needs of students for grants, may among other
26 factors, give consideration to the amount of other financial assistance that may be
27 available to the students, such as nonrepayable awards under the Pell Grant Program,
28 the Health Professions Education Assistance Act or other student assistance programs
29 created by federal law.

30 ~~Prior to taking any action under this subsection, the Secretary of Administration~~
31 ~~may consult with the Advisory Budget Commission."~~

32 **SECTION 54.1.** Article 26 of Chapter 116 is amended by adding a new
33 section to read:

34 **"§ 116-224. Appropriation.**

35 The funds described by this Article are appropriated and shall be used only as
36 provided by this Article."

37 **SECTION 55.** G.S. 116-238(g) reads as rewritten:

38 "(g) The trustees of the endowment fund shall have the power to buy, sell, lend,
39 exchange, lease, transfer, or otherwise dispose of or to acquire (except by pledging their
40 credit or violating a lawful condition of receipt of the corpus into the endowment fund)
41 any property, real or personal, with respect to the fund, in either public or private
42 transaction, and in doing so they shall not be subject to the provisions of Chapters ~~143~~
43 143, 143C, and 146 of the General Statutes; provided that, any expense or financial
44 obligation of the State of North Carolina created by any acquisition or disposition, by

1 whatever means, of any real or personal property of the endowment fund shall be borne
2 by the endowment fund unless authorization to satisfy the expense or financial
3 obligation from some other source shall first have been obtained from the Director of
4 the ~~Budget after the Director of the Budget consults with the Advisory Budget~~
5 ~~Commission.~~Budget."

6 **SECTION 55.1.** Article 29 of Chapter 116 of the General Statutes is
7 amended by adding a new section to read:

8 **"§ 116-238.5. Appropriation.**

9 The funds described in G.S. 116-235 and G.S. 116-238 are appropriated and shall be
10 used only as provided by this Article."

11 **SECTION 56.** G.S. 116D-11(g) reads as rewritten:

12 "(g) University Improvement Bonds Fund. – The proceeds of university
13 improvement general obligation bonds and notes, including premium thereon, if any,
14 except the proceeds of bonds the issuance of which has been anticipated by bond
15 anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the
16 State Treasurer in a special fund to be designated "University Improvement Bonds
17 Fund". Moneys in the University Improvement Bonds Fund shall be used for the
18 purposes set forth in this Article.

19 Any additional moneys that may be received by means of a grant or grants from the
20 United States of America or any agency or department thereof or from any other source
21 to aid in financing the cost of any university improvements authorized by this Article
22 may be placed by the State Treasurer in the University Improvement Bonds Fund or in a
23 separate account or fund and shall be disbursed, to the extent permitted by the terms of
24 the grant or grants, without regard to any limitations imposed by this Article.

25 The proceeds of university improvement general obligation bonds and notes may be
26 used with any other moneys made available by the General Assembly for the making of
27 university improvements, including the proceeds of any other State bond issues,
28 whether previously made available or which may be made available after the effective
29 date of this Article. The proceeds of university improvement bonds and notes shall be
30 expended and disbursed under the direction and supervision of the Director of the
31 Budget. The funds provided by this Article for university improvements shall be
32 disbursed for the purposes provided in this Article upon warrants drawn on the State
33 Treasurer by the State Controller, which warrants shall not be drawn until requisition
34 has been approved by the Director of the Budget and which requisition shall be
35 approved only after full compliance with the ~~Executive Budget Act, Article 1 of Chapter~~
36 ~~143-State Budget Act, Chapter 143C~~ of the General Statutes."

37 **SECTION 57.** G.S. 116D-46(g) reads as rewritten:

38 "(g) Community College Bonds Fund. – The proceeds of community college
39 general obligation bonds and notes, including premium thereon, if any, except the
40 proceeds of bonds the issuance of which has been anticipated by bond anticipation notes
41 or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a
42 special fund to be designated "Community College Bonds Fund". Moneys in the
43 Community College Bonds Fund shall be used for the purposes set forth in this Article.

1 Any additional moneys that may be received by means of a grant or grants from the
2 United States of America or any agency or department thereof or from any other source
3 to aid in financing the cost of any community college capital facilities authorized by this
4 Article may be placed by the State Treasurer in the Community College Bonds Fund or
5 in a separate account or fund and shall be disbursed, to the extent permitted by the terms
6 of the grant or grants, without regard to any limitations imposed by this Article.

7 The proceeds of community college general obligation bonds and notes may be used
8 with any other moneys made available by the General Assembly for the making of
9 grants to community colleges for capital facilities, including the proceeds of any other
10 State bond issues, whether previously made available or which may be made available
11 after the effective date of this Article. The proceeds of community college bonds and
12 notes shall be expended and disbursed under the direction and supervision of the
13 Director of the Budget. The funds provided by this Article for grants to community
14 colleges shall be disbursed for the purposes provided in this Article upon warrants
15 drawn on the State Treasurer by the State Controller, which warrants shall not be drawn
16 until requisition has been approved by the Director of the Budget and which requisition
17 shall be approved only after full compliance with the ~~Executive Budget Act, Article 1 of~~
18 ~~Chapter 143~~ State Budget Act, Chapter 143C of the General Statutes."

19 **SECTION 58.** G.S. 117-3.1 reads as rewritten:

20 "**§ 117-3.1. Regulatory fee.**

21 (a) Fee imposed. – It is the policy of the State of North Carolina to provide fair
22 regulation of electric and telephone membership corporations in the interest of the
23 public. The cost of regulating electric and telephone membership corporations is a
24 burden incident to the privilege of operating as an electric or telephone membership
25 corporation. Therefore, for the purpose of defraying the cost of regulating electric and
26 telephone membership corporations, every electric and telephone membership
27 corporation subject to the jurisdiction of the Authority shall pay a quarterly regulatory
28 fee, in addition to all other fees and taxes, as provided in this section. The fees collected
29 shall be used only to pay the expenses of the Authority in regulating electric and
30 telephone membership corporations in the interest of the public.

31 (b) Rate. – For each fiscal year, the regulatory fee shall be the greater of the
32 following:

33 (1) The rate established by the General Assembly for that year for each
34 electric membership corporation's North Carolina meter connected for
35 service and each telephone membership corporation's North Carolina
36 access line connected for service for each quarter of the year.

37 (2) Four cents (4¢) for each electric membership corporation's North
38 Carolina meter connected for service and for each telephone
39 membership corporation's North Carolina access line connected for
40 service for each quarter of the year.

41 When the Authority prepares its budget request for the upcoming fiscal year, the
42 Authority shall propose a rate for the regulatory fee. For fiscal years beginning in an
43 odd-numbered year, that proposed rate shall be included in the budget message the
44 Governor submits to the General Assembly pursuant to ~~G.S. 143-11.~~ G.S. 143C-3-5. For

1 fiscal years beginning in an even-numbered year, that proposed rate shall be included in
2 a special budget message the Governor shall submit to the General Assembly. If the
3 General Assembly decides to set the regulatory fee at a rate higher than the rate in
4 subdivision (2) of this subsection, it shall set the regulatory fee by law.

5 The regulatory fee may not exceed the amount necessary to generate funds sufficient
6 to defray the estimated cost of the operations of the Authority for the upcoming fiscal
7 year, including a reasonable margin for a reserve fund. The amount of the reserve may
8 not exceed the estimated cost of operating the Authority for the upcoming fiscal year. In
9 calculating the amount of the reserve, the General Assembly shall consider all relevant
10 factors that may affect the cost of operating the Authority or a possible unanticipated
11 increase or decrease in North Carolina electric meters and North Carolina telephone
12 access lines.

13 (c) When Due. – The regulatory fee imposed under this section is due and
14 payable to the Authority on or before the 15th day of the second month following the
15 end of each quarter. Every electric and telephone membership corporation subject to the
16 regulatory fee shall, on or before the date the fee is due for each quarter, prepare and
17 render a report on a form prescribed by the Authority. The report shall state the electric
18 or telephone membership corporation's total North Carolina electric meters or North
19 Carolina telephone access lines connected for service for the preceding quarter and shall
20 be accompanied by any supporting documentation that the Authority may by rule
21 require.

22 (d) Use of Proceeds. – A special fund in the office of the State Treasurer, the
23 North Carolina Rural Electrification Authority Fund (NCREA Fund), is created. The
24 fees collected pursuant to this section and all other funds received by the Authority shall
25 be deposited in the NCREA Fund. The NCREA Fund shall be placed in an interest
26 bearing account and any interest or other income derived from the NCREA Fund shall
27 be credited to the NCREA Fund. Moneys in the NCREA Fund shall only be spent
28 pursuant to an appropriation by the General Assembly.

29 The NCREA Fund shall be subject to the provisions of the ~~Executive Budget Act~~
30 State Budget Act except that no unexpended surplus of the NCREA Fund shall revert to
31 the General Fund. All funds credited to the NCREA Fund shall be used only to pay the
32 expenses of the Authority in regulating electric and telephone membership corporations
33 in the interest of the public as provided by this Chapter."

34 **SECTION 59.** G.S. 120-32(11) reads as rewritten:

35 **"§ 120-32. Commission duties.**

36 The Legislative Services Commission is hereby authorized to:

37 ...

38 (11) To specify the uses within the General Assembly budget of funds
39 appropriated to the General Assembly which remain available for
40 expenditure after the end of the biennial fiscal period, and to revert
41 funds under ~~G.S. 143-18~~ G.S. 143C-1-2."

42 **SECTION 60.** G.S. 120-36.6 reads as rewritten:

43 **"§ 120-36.6. Legislative Fiscal Research staff participation.**

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

17 **SECTION 61.** G.S. 120-37(c) reads as rewritten:

18 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
19 entitled to other benefits available to permanent legislative employees and shall be paid
20 an annual salary of ninety-seven thousand four hundred two dollars (\$97,402) payable
21 monthly. Each principal clerk shall also receive such additional compensation as
22 approved by the Speaker of the House of Representatives or the President Pro Tempore
23 of the Senate, respectively, for additional employment duties beyond those provided by
24 the rules of their House. The Legislative Services Commission shall review the salary of
25 the principal clerks prior to submission of the proposed operating budget of the General
26 Assembly to the Governor ~~and Advisory Budget Commission~~ and shall make
27 appropriate recommendations for changes in those salaries. Any changes enacted by the
28 General Assembly shall be by amendment to this paragraph."

29 **SECTION 62.** G.S. 120-76(8) reads as rewritten:

30 "**§ 120-76. Powers and duties of the Commission.**

31 The Commission shall have the following powers:

32 ...

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

- 36 a. Makes allocations from the Contingency and Emergency Fund.
- 37 b. Authorizes expenditures in excess of the total requirements of a
38 purpose or program as enacted by the General Assembly and as
39 provided by ~~G.S. 143-23(a1)(3), except for trust funds as~~
40 ~~defined in G.S. 116-36.1(g).~~ G.S. 143C-6-4.
- 41 c. Proceeds to reduce programs subsequent to a reduction of ten
42 percent (10%) or more in the federal fund level certified to a
43 department and any subsequent changes in distribution
44 formulas.

- 1 d. Takes extraordinary measures under Article III, Section 5(3) of
2 the Constitution to effect necessary economies in State
3 expenditures required for balancing the budget due to a revenue
4 shortfall, including, but not limited to, the following: loans
5 among funds, personnel freezes or layoffs, capital project
6 reversions, program eliminations, and use of reserves. However,
7 if the Committee fails to meet within 10 calendar days of a
8 request by the Governor for its consultation, the Governor may
9 proceed to take the actions he feels are appropriate and
10 necessary and shall then report those actions at the next meeting
11 of the Commission.
- 12 e. Approves a new capital improvement project funded from gifts,
13 grants, receipts, special funds, self-liquidating indebtedness,
14 and other funds or any combination of funds for the project not
15 specifically authorized by the General Assembly. The budget
16 for each capital project must include projected revenues in an
17 amount not less than projected expenditures.

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

30 **SECTION 63.** G.S. 120-259(b) reads as rewritten:

31 "(b) The Committee shall have oversight over implementation of the ~~Capital~~
32 ~~Improvements Planning Act established under Article 1B of Chapter 143 of the General~~
33 ~~Statutes and shall consider the State six year capital improvement plan developed~~
34 ~~pursuant to G.S. 143-34.45:six-year capital improvements plan developed pursuant to~~
35 G.S. 143C-8-5."

36 **SECTION 64.** G.S. 121-9(f) reads as rewritten:

37 "(f) Emergency Acquisition Where Funds Not Immediately Available. – If funds
38 or contributions for the acquisition of needed historic property are not available, the
39 Governor and Council of State may, upon the recommendation of the Secretary of
40 Cultural Resources and approval of the North Carolina Historical Commission, allocate
41 from the Contingency and Emergency Fund an amount sufficient to acquire an option
42 on the property or properties, which option shall continue until 90 days after the
43 adjournment sine die of the next General Assembly. Upon recommendation of the
44 Secretary and approval of the Historical Commission, the Governor and Council of

1 State may allocate funds from the Contingency and Emergency Fund for the immediate
2 acquisition, preservation, restoration, or operation of historically, archaeologically,
3 architecturally, or culturally important properties. All funds hereinafter appropriated to
4 purchase, restore, maintain, develop, or operate historic or archaeological or other
5 important property shall be administered subject to the provisions of ~~Article 1 of~~
6 ~~Chapter 143~~ Chapter 143C and G.S. 143B-53.1 of the General Statutes unless the statute
7 making the appropriation shall in specific and express terms provide otherwise."

8 **SECTION 65.** G.S. 121-12.1 reads as rewritten:

9 **"§ 121-12.1. Grants-in-aid.**

10 Under the concepts of reorganization of State government, responsibility for
11 administering appropriations to the Department of Cultural Resources for grants-in-aid
12 to private nonprofit organizations in the areas of history, art, and culture is hereby
13 assigned to the Department of Cultural Resources. It shall be the responsibility of the
14 Department of Cultural Resources to receive, analyze, and recommend to the ~~Governor,~~
15 ~~the Advisory Budget Commission,~~ Governor and the General Assembly the disposition
16 of any request for funding received by it from or for any of these organizations, and to
17 disburse under provisions of law any appropriations made to the Department for them.
18 Appropriations to the Department of Cultural Resources for grants-in-aid to assist in the
19 restoration of historic sites owned by private nonprofit organizations shall in addition be
20 expended only in accordance with G.S. 121-11, 121-12 and ~~143-31.2.~~ ~~The function of~~
21 ~~the Advisory Budget Commission under this section applies only if the Director of the~~
22 ~~Budget consults with the Commission in preparation of the budget.~~ 143B-53.1."

23 **SECTION 66.** G.S. 122A-8.1 reads as rewritten:

24 **"§ 122A-8.1. Powers of the State Treasurer.**

25 Notwithstanding any other provisions of this act, the State Treasurer shall have the
26 exclusive power to issue bonds and notes authorized under the act upon request of the
27 Agency and with the approval of the Local Government Commission.

28 The State Treasurer in his sole discretion shall determine the interest rates,
29 maturities, and other terms and conditions of the bonds and notes authorized by this act.

30 The North Carolina Housing Finance Agency shall determine when a bond issue is
31 indicated. The Agency shall cooperate with the State Treasurer in structuring any bond
32 issue in general, and also in soliciting proposals from financial consultants,
33 underwriters, and bond attorneys.

34 The State Treasurer shall have the exclusive power to employ and designate the
35 financial consultants, underwriters, and bond attorneys to be associated with the bond
36 issue; provided, at least annually, the Treasurer shall seek the written recommendations
37 of the Housing Finance Agency; and, subsequent to each bond issue, the Treasurer shall
38 conduct a formal performance evaluation of the financial consultants, underwriters and
39 bond attorneys which shall be open to public inspection.

40 The Director of the Budget shall provide to the State Treasurer the funds necessary
41 to defray the costs incurred in performing the fiscal functions reserved to the Treasurer
42 under this act from the funds allocated to the Agency pursuant to the 1975 Session
43 Laws. ~~Prior to taking any action under this paragraph, the Director of the Budget may~~
44 ~~consult with the Advisory Budget Commission.~~

1 Nothing in this act is intended to abrogate or diminish the inherent power of the
2 State Treasurer to negotiate the terms and conditions of the bonds and notes, and to
3 issue the bonds and notes authorized by General Statutes Chapter 122A."

4 **SECTION 67.** G.S. 122A-16 reads as rewritten:

5 **"§ 122A-16. Oversight by committees of General Assembly; annual reports.**

6 The Finance Committee of the House of Representatives and the Finance Committee
7 of the Senate shall exercise continuing oversight of the Agency in order to assure that
8 the Agency is effectively fulfilling its statutory purpose; provided, however, that
9 nothing in this Chapter shall be construed as required by the Agency to receive
10 legislative approval for the exercise of any of the powers granted by this Chapter. The
11 Agency shall, promptly following the close of each fiscal year, submit an annual report
12 of its activities for the preceding year to the Governor, the Office of State Budget and
13 Management, State Auditor, the aforementioned committees of the General Assembly,
14 ~~the Advisory Budget Commission~~ Assembly and the Local Government Commission.
15 Each such report shall set forth a complete operating and financial statement of the
16 Agency during such year. The Agency shall cause an audit of its books and accounts to
17 be made at least once in each year by an independent certified public accountant and the
18 cost thereof may be paid from any available moneys of the Agency. The Agency shall
19 on January 1 and July 1 of each year submit a written report of its activities to the Joint
20 Legislative Commission on Governmental Operations. The Agency shall also at the end
21 of each fiscal year submit a written report of its budget expenditures by line item to the
22 Joint Legislative Commission on Governmental Operations."

23 **SECTION 68.** G.S. 122C-185 reads as rewritten:

24 **"§ 122C-185. Application of funds belonging to State facilities.**

25 (a) All moneys and proceeds of property donated to any State facility shall be
26 deposited into the State treasury and accounted for in the appropriate fund as
27 determined by the Secretary and approved by the Office of State Budget and
28 Management. All moneys and proceeds of property donated in which there are special
29 directions for their application and the interest earned on these funds shall be spent as
30 the donor has directed and except as required for deposit with the State treasury, shall
31 not be subject to the provisions of the ~~Executive Budget Act~~ State Budget Act except for
32 capital improvements projects which shall be authorized and executed in accordance
33 with ~~G.S. 143-18.1~~ G.S. 143C-8-8 and G.S. 143C-8-9.

34 (b) Proceeds from the transfer or sale of surplus, obsolete, or unused equipment
35 of State facilities shall be deposited and accounted for in accordance with
36 G.S. 143-49(4).

37 (c) The net proceeds from the sale, lease, rental, or other disposition of real estate
38 owned by a State facility shall be deposited and accounted for in accordance with
39 G.S. 146-30.

40 (d) All proceeds from the operation of vending facilities as defined in
41 G.S. 111-42(d) and operated by State facilities shall be deposited and accounted for in
42 accordance with ~~G.S. 143-12.1~~ the State Budget Act, Chapter 143C of the General
43 Statutes.

1 (e) All other revenues and other receipts collected by a State facility shall be
2 deposited to the credit of the State treasury in accordance with G.S. 147-77."

3 **SECTION 69.** G.S. 126-8.1(c) reads as rewritten:

4 "(c) The Department of Administration may adopt such rules and regulations as
5 are reasonable and necessary to carry out the provisions of this section, with the
6 approval of the Governor. ~~Prior to taking any action under this section, the Governor~~
7 ~~may consult with the Advisory Budget Commission."~~

8 **SECTION 70.** G.S. 130A-470(c) reads as rewritten:

9 "(c) All fees, funds, and gifts received pursuant to this section shall be subject to
10 audit by the State Auditor and shall be expended in conformity with ~~Article 1 of~~
11 ~~Chapter 143~~Chapter 143C of the General Statutes."

12 **SECTION 71.** G.S. 131A-19 reads as rewritten:

13 "§ **131A-19. Annual report.**

14 The Commission shall, promptly following the close of each fiscal year, submit an
15 annual report of its activities under this Chapter for the preceding year to the Governor,
16 the State Auditor, the Secretary of Health and Human Services, the General Assembly,
17 ~~the Advisory Budget Commission~~ and the Local Government Commission. The
18 Commission shall cause an audit of its books and accounts relating to its activities under
19 this Chapter to be made at least once in each year by an independent certified public
20 accountant and the cost thereof may be paid from any available moneys of the
21 Commission."

22 **SECTION 72.** G.S. 135-1.1(b) reads as rewritten:

23 "(b) Notwithstanding any other provision of this Chapter, any State board or
24 agency charged with the duty of administering any law relating to the examination and
25 licensing of persons to practice a profession, trade, or occupation, and who is subject to
26 the provisions of the ~~Executive Budget Act, Article 1 of Chapter 143~~State Budget Act,
27 Chapter 143C of the General Statutes, may make an irrevocable election by appropriate
28 resolution of the board, on or before October 1, 2000, to become an employer in the
29 Teachers' and State Employees' Retirement System. Retirement System coverage shall
30 be conditioned on the board's payment of all of the employer's contributions or
31 matching funds from funds of the board and on the board's collecting from its
32 employees the employees' contributions, at such rates as may be fixed by law and by the
33 rules of the Board of Trustees of the Retirement System, all of such funds to be paid to
34 the Retirement System and placed in the appropriate funds. Any person who is an
35 employee of the board on the date the board makes an irrevocable election to participate
36 in the Retirement System may purchase creditable service for periods of employment
37 with the board prior to the election by making a lump-sum payment equal to the full
38 cost of the service credits calculated on the basis of the assumptions used for the
39 purposes of the actuarial valuation of the system's liabilities, and shall take into account
40 the additional retirement allowance arising on account of such additional service credit
41 commencing at the earliest age at which a member could retire on an unreduced
42 retirement allowance, as determined by the Board of Trustees upon the advice of the
43 consulting actuary, plus an administrative fee to be set by the Board of Trustees.
44 Notwithstanding the foregoing provisions of this subdivision that provide for the

1 purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost"
2 include assumed annual postretirement allowance increases, as determined by the Board
3 of Trustees, from the earliest age at which a member could retire on an unreduced
4 service allowance."

5 **SECTION 73.** G.S. 135-8(f) reads as rewritten:

6 "(f) Collection of Contributions. –

7 (1) The collection of members' contributions shall be as follows:

8 a. Each employer shall cause to be deducted on each and every
9 payroll of a member for each and every payroll subsequent to
10 the date of establishment of the Retirement System the
11 contributions payable by such member as provided in this
12 Chapter, and the employer shall draw his warrant for the
13 amount so deducted, payable to the Teachers' and State
14 Employees' Retirement System of North Carolina, and shall
15 transmit the same, together with schedule of the contributions,
16 on such forms as prescribed.

17 (2) The collection of employers' contributions shall be made as follows:

18 a. Upon the basis of each actuarial valuation provided herein there
19 shall be prepared biennially and certified to the Department of
20 Administration a statement of the total amount necessary for the
21 ensuing biennium to the pension accumulation and expense
22 funds, as provided under subsections (d) and (f) of this section,
23 and these funds shall be handled and disbursed in accordance
24 with ~~Chapter 100, Public Laws of 1929, and amendments~~
25 ~~thereto (G.S. 143-1 et seq.), known as the Executive Budget~~
26 ~~Act.~~ the State Budget Act, Chapter 143C of the General Statutes.

27 b. Until the first valuation has been made and the rates computed
28 as provided in subsection (d) of this section, the amount payable
29 by employers on account of the normal and accrued liability
30 contributions shall be five and fifty-one one-hundredths percent
31 (5.51%) of the payroll of all teachers and three and sixteen
32 one-hundredths percent (3.16%) for other State employees.

33 c. Repealed by Session Laws 1993, c. 257, s. 13.

34 d. Each board of education in each county and each board of
35 education in each city in which teachers or other employees of
36 the schools receive compensation for services in the public
37 schools from sources other than the appropriation of the State of
38 North Carolina shall pay the Board of Trustees of the State
39 Retirement System such rate of their respective salaries as are
40 paid those of other employees.

41 e. Each employer shall transmit monthly to the State Retirement
42 System on account of each employee, who is a member of this
43 System, an amount sufficient to cover the normal contribution

1 and the accrued liability contribution of each member employed
2 by such employer for the preceding month.

- 3 (3) In the event the employee or employer contributions required under
4 this section are not received by the date set by the Board of Trustees,
5 the Board shall assess the employer with a penalty of 1% per month
6 with a minimum penalty of twenty-five dollars (\$25.00). If within 90
7 days after request therefor by the Board any employer shall not have
8 provided the System with the records and other information required
9 hereunder or if the full accrued amount of the contributions provided
10 for under this section due from members employed by an employer or
11 from an employer other than the State shall not have been received by
12 the System from the chief fiscal officer of such employer within 30
13 days after the last due date as herein provided, then, notwithstanding
14 anything herein or in the provisions of any other law to the contrary,
15 upon notification by the Board to the State Treasurer as to the default
16 of such employer as herein provided, any distributions which might
17 otherwise be made to such employer from any funds of the State shall
18 be withheld from such employer until notice from the Board to the
19 State Treasurer that such employer is no longer in default."

20 **SECTION 74.** G.S. 136-12(a1) reads as rewritten:

21 "(a1) The Department of Transportation shall report quarterly beginning on
22 October 15, 1996, and then on the fifteenth of the month following the end of the fiscal
23 quarter, to the Joint Legislative Transportation Oversight Committee on all projects to
24 be built with funds obligated using the cash flow provisions of ~~G.S. 143-28.1.~~
25 G.S. 143C-6-11. The report shall contain a list of the projects and the amount obligated
26 in anticipation of revenues for each year of the project."

27 **SECTION 75.** G.S. 136-28.1 reads as rewritten:

28 "**§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

29 "(a) All contracts over one million two hundred thousand dollars (\$1,200,000) that
30 the Department of Transportation may let for construction or repair necessary to carry
31 out the provisions of this Chapter shall be let to a responsible bidder after public
32 advertising under rules and regulations to be made and published by the Department of
33 Transportation. The right to reject any and all bids shall be reserved to the Board of
34 Transportation. Contracts for construction or repair for federal aid projects entered into
35 pursuant to this section shall not contain the standardized contract clauses prescribed by
36 23 U.S.C. § 112(e) and 23 C.F.R. § 635.109 for differing site conditions, suspensions
37 of work ordered by the engineer or significant changes in the character of the work. For
38 those federal aid projects, the Department of Transportation shall use only the contract
39 provisions for differing site conditions, suspensions of work ordered by the engineer, or
40 significant changes in the character of the work developed by the North Carolina
41 Department of Transportation and approved by the Board of Transportation.

42 (b) In those cases in which the amount of work to be let to contract for highway
43 construction, maintenance, or repair is one million two hundred thousand dollars
44 (\$1,200,000) or less, at least three informal bids shall be solicited. The term "informal

1 bids" is defined as bids in writing, received pursuant to a written request, without public
2 advertising. All such contracts shall be awarded to the lowest responsible bidder. The
3 Secretary of Transportation shall keep a record of all bids submitted, which record shall
4 be subject to public inspection at any time after the bids are opened.

5 (c) The construction, maintenance, and repair of ferryboats and all other marine
6 floating equipment and the construction and repair of all types of docks by the
7 Department of Transportation shall be deemed highway construction, maintenance, or
8 repair for the purpose of G.S. 136-28.1 and Chapter 44A and ~~Article 1 of Chapter 143,~~
9 ~~"The Executive Budget Act."~~ Chapter 143C of the General Statutes, the State Budget
10 Act. In cases of a written determination by the Secretary of Transportation that the
11 requirement for compatibility does not make public advertising feasible for the repair of
12 ferryboats, the public advertising as well as the soliciting of informal bids may be
13 waived.

14 (d) The construction, maintenance, and repair of the highway rest area buildings
15 and facilities, weight stations and the Department of Transportation's participation in the
16 construction of welcome center buildings shall be deemed highway construction,
17 maintenance, or repair for the purpose of G.S. 136-28.1 and 136-28.3 and ~~Article 1 of~~
18 ~~Chapter 143 of the General Statutes, "The Executive Budget Act."~~ Chapter 143C of the
19 General Statutes, the State Budget Act.

20 (e) The Department of Transportation may enter into contracts for construction,
21 maintenance, or repair without complying with the bidding requirements of this section
22 upon a determination of the Secretary of Transportation or the State Highway
23 Administrator that an emergency exists and that it is not feasible or not in the public
24 interest for the Department of Transportation to comply with the bidding requirements.

25 (f) Notwithstanding any other provision of law, the Department of
26 Transportation may solicit proposals under rules and regulations adopted by the
27 Department of Transportation for all contracts for professional engineering services and
28 other kinds of professional or specialized services necessary in connection with
29 highway construction, maintenance, or repair. In order to promote engineering and
30 design quality and ensure maximum competition by professional firms of all sizes, the
31 Department may establish fiscal guidelines and limitations necessary to promote
32 cost-efficiencies in overhead, salary, and expense reimbursement rates. The right to
33 reject any and all proposals is reserved to the Board of Transportation.

34 (g) The Department of Transportation may enter into contracts for research and
35 development with educational institutions and nonprofit organizations without soliciting
36 bids or proposals.

37 (h) The Department of Transportation may enter into contracts for applied
38 research and experimental work without soliciting bids or proposals; provided, however,
39 that if the research or work is for the purpose of testing equipment, materials, or
40 supplies, the provisions of Article 3 of Chapter 143 of the General Statutes shall apply.
41 The Department of Transportation is encouraged to solicit proposals when contracts are
42 entered into with private firms when it is in the public interest to do so.

1 (i) The Department of Transportation may negotiate and enter into contracts with
2 public utility companies for the lease, purchase, installation, and maintenance of
3 generators for electricity for its ferry repair facilities.

4 (j) Repealed by Session Laws 2002-151, s. 1, effective October 9, 2002.

5 (k) The Department of Transportation may accept bids under this section by
6 electronic means and may issue rules governing the acceptance of these bids. For
7 purposes of this subsection "electronic means" is defined as means relating to
8 technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or
9 similar capabilities."

10 **SECTION 76.** G.S. 136-44.37 reads as rewritten:

11 **"§ 136-44.37. Department to provide nonfederal matching share.**

12 The Department of Transportation upon approval by the Board of Transportation
13 and the Director of the Budget may provide for the matching share of federal rail
14 revitalization assistance programs through private resources, county funds or State
15 appropriations as may be provided by the General Assembly. ~~Prior to taking any action~~
16 ~~under this section, the Director of the Budget may consult with the Advisory Budget~~
17 ~~Commission."~~

18 **SECTION 77.** G.S. 136-44.38 reads as rewritten:

19 **"§ 136-44.38. Department to provide State and federal financial assistance to cities**
20 **and counties for rail revitalization.**

21 (a) The Department of Transportation is authorized to distribute to cities and
22 counties State financial assistance for local rail revitalization programs provided that
23 every rail revitalization project for which State financial assistance would be utilized
24 must be approved by the Board of Transportation and by the Director of the Budget.
25 ~~Prior to taking any action under this section, the Director of the Budget may consult~~
26 ~~with the Advisory Budget Commission.~~

27 (b) Repealed by Session Laws 1989, c. 600, s. 4."

28 **SECTION 78.** G.S. 136-176(d) reads as rewritten:

29 "(d) A contract may be let for projects funded from the Trust Fund in anticipation
30 of revenues pursuant to the cash-flow provisions of ~~G.S. 143-28.1~~ G.S. 143C-6-11 only
31 for the two bienniums following the year in which the contract is let."

32 **SECTION 79.** G.S. 138-4 reads as rewritten:

33 **"§ 138-4. Governor to set salaries of administrative officers; exceptions; longevity**
34 **pay.**

35 The salaries of all State administrative officers not subject to the State Personnel Act
36 shall be set by the Governor, unless a law provides otherwise.

37 Whenever by law it is provided that a salary shall be fixed or set by the General
38 Assembly in the Current Operations Appropriations Act, and that office or position is
39 filled by appointment of the Governor, or the appointment is subject to the approval of
40 the Governor, or is made by a commission a majority of whose members are appointed
41 by the Governor, then the Governor may, increase or decrease the salary of a new
42 appointee by a maximum of ten percent (10%) over or under the salary of that position
43 as provided in the Current Operations Appropriations Act, such increased or decreased
44 salary to remain in effect until changed by the General Assembly or until the end of the

1 fiscal year, whichever occurs first. The Governor under this paragraph may not increase
2 the salary of any nonelected official above the level set in the Current Operations
3 Appropriations Act for any member of the Council of State. This section does not apply
4 to any office filled by election by the people, and does not apply to any office in the
5 legislative or judicial branches.

6 ~~Prior to taking any action under this section, the Governor may consult with the~~
7 ~~Advisory Budget Commission.~~

8 Officials whose salaries are covered by the provisions of this section shall be eligible
9 for longevity pay on the same basis as is provided to employees of the State who are
10 subject to the State Personnel Act."

11 **SECTION 80.** G.S. 140-9 reads as rewritten:

12 "**§ 140-9. Allocations from Contingency and Emergency Fund; expenditures.**

13 The Governor and Council of State are hereby authorized to allot such sums as they
14 may deem appropriate, from the Contingency and Emergency Fund, to the North
15 Carolina Symphony Society, to aid in carrying on the activities of the said Society. All
16 expenditures made by said Society shall be subject to the provisions of ~~G.S. 143-1 to~~
17 ~~143-34, inclusive~~ the State Budget Act, Chapter 143C of the General Statutes."

18 **SECTION 81.** G.S. 140-12 reads as rewritten:

19 "**§ 140-12. Department of Administration authorized to provide space for Art**
20 **Society.**

21 Subject to the approval of the Governor, the Department of Administration is
22 authorized and empowered to set apart, for the administration of the affairs of the State
23 Art Society, Incorporated, space in any of the public buildings in Wake County which
24 may be so used without interference with the conduct of the business of the State. ~~Prior~~
25 ~~to taking any action under this section, the Governor may consult with the Advisory~~
26 ~~Budget Commission."~~

27 **SECTION 82.** G.S. 143-49 reads as rewritten:

28 "**§ 143-49. Powers and duties of Secretary.**

29 The Secretary of Administration shall have power and authority, and it shall be his
30 duty, subject to the provisions of this Article:

31 (1) To canvass sources of supply, including sources of supply of materials
32 and supplies with recycled content, and to purchase or to contract for
33 the purchase, lease and lease-purchase of all supplies, materials,
34 equipment and other tangible personal property required by the State
35 government, or any of its departments, institutions or agencies under
36 competitive bidding or otherwise as hereinafter provided.

37 (2) To establish and enforce specifications which shall apply to all
38 supplies, materials and equipment to be purchased or leased for the use
39 of the State government or any of its departments, institutions or
40 agencies.

41 (3) To purchase or to contract for, by sealed, competitive bidding or other
42 suitable means, all contractual services and needs of the State
43 government, or any of its departments, institutions, or agencies; or to

1 authorize any department, institution or agency to purchase or contract
2 for such services.

3 When the award of any contract for contractual services exceeding
4 a cost of one hundred thousand dollars (\$100,000) requires negotiation
5 with prospective contractors, the Secretary shall request and the
6 Attorney General shall assign a representative of the office of the
7 Attorney General to assist in negotiation for the award of the contract.
8 It shall be the duty of such representative to assist and advise in
9 obtaining the most favorable contract for the State, to evaluate all
10 proposals available from prospective contractors for that purpose, to
11 interpret proposed contract terms and to advise the Secretary or his
12 representatives of the liabilities of the State and validity of the contract
13 to be awarded. All contracts and drafts of such contracts shall be
14 prepared by the office of the Attorney General and copies thereof shall
15 be retained by such office for a period of three years following the
16 termination of such contracts. The term "contractual services" as used
17 in this subsection shall mean work performed by an independent
18 contractor requiring specialized knowledge, experience, expertise or
19 similar capabilities wherein the service rendered does not consist
20 primarily of acquisition by this State of equipment or materials and the
21 rental of equipment, materials and supplies. The term "negotiation" as
22 used herein shall not be deemed to refer to contracts entered into or to
23 be entered into as a result of a competitive bidding process.

24 (4) To have general supervision of all storerooms and stores operated by
25 the State government, or any of its departments, institutions or
26 agencies and to have supervision of inventories of all tangible personal
27 property belonging to the State government, or any of its departments,
28 institutions or agencies. The duties imposed by this subdivision shall
29 not relieve any department, institution or agency of the State
30 government from accountability for equipment, materials, supplies and
31 tangible personal property under its control.

32 (5) To make provision for or to contract for all State printing, including all
33 printing, binding, paper stock, recycled paper stock, supplies, and
34 supplies with recycled content, or materials in connection with the
35 same.

36 (6) To make available to nonprofit corporations operating charitable
37 hospitals, to local nonprofit community sheltered workshops or centers
38 that meet standards established by the Division of Vocational
39 Rehabilitation of the Department of Health and Human Services, to
40 private nonprofit agencies licensed or approved by the Department of
41 Health and Human Services as child placing agencies, residential
42 child-care facilities, private nonprofit rural, community, and migrant
43 health centers designated by the Office of Rural Health and Resource
44 Development, to private higher education institutions that are defined

1 as "institutions" in G.S. 116-22(1), and to counties, cities, towns,
2 governmental entities and other subdivisions of the State and public
3 agencies thereof in the expenditure of public funds, the services of the
4 Department of Administration in the purchase of materials, supplies
5 and equipment under such rules, regulations and procedures as the
6 Secretary of Administration may adopt. In adopting rules and
7 regulations any or all provisions of this Article may be made
8 applicable to such purchases and contracts made through the
9 Department of Administration, and in addition the rules and
10 regulations shall contain a requirement that payment for all such
11 purchases be made in accordance with the terms of the contract. ~~Prior~~
12 ~~to adopting rules and regulations under this subdivision, the Secretary~~
13 ~~of Administration may consult with the Advisory Budget Commission.~~

- 14 (6) **(See Editor's note for effective date)** To make available to nonprofit
15 corporations operating charitable hospitals, to local nonprofit
16 community sheltered workshops or centers that meet standards
17 established by the Division of Vocational Rehabilitation of the
18 Department of Health and Human Services, to private nonprofit
19 agencies licensed or approved by the Department of Health and
20 Human Services as child placing agencies, residential child-care
21 facilities, private nonprofit rural, community, and migrant health
22 centers designated by the Office of Rural Health and Resource
23 Development, to private higher education institutions that are defined
24 as "institutions" in G.S. 116-22(1), and to counties, cities, towns, local
25 school administrative units, governmental entities and other
26 subdivisions of the State and public agencies thereof in the expenditure
27 of public funds, the services of the Department of Administration in
28 the purchase of materials, supplies and equipment under such rules,
29 regulations and procedures as the Secretary of Administration may
30 adopt. In adopting rules and regulations any or all provisions of this
31 Article may be made applicable to such purchases and contracts made
32 through the Department of Administration, and in addition the rules
33 and regulations shall contain a requirement that payment for all such
34 purchases be made in accordance with the terms of the contract. ~~Prior~~
35 ~~to adopting rules and regulations under this subdivision, the Secretary~~
36 ~~of Administration may consult with the Advisory Budget Commission.~~
- 37 (7) To evaluate the nonprofit qualifications and capabilities of qualified
38 work centers to manufacture commodities or perform services.
- 39 (8) To establish and maintain a procurement card program for use by State
40 agencies, community colleges, nonexempted constituent institutions of
41 The University of North Carolina, and local school administrative
42 units. The Secretary of Administration may adopt temporary rules for
43 the implementation and operation of the program in accordance with
44 the payment policies of the State Controller, after consultation with the

1 Office of Information Technology Services. These rules would include
2 the establishment of appropriate order limits that leverage the cost
3 savings and efficiencies of the procurement card program in
4 conjunction with the fullest possible use of the North Carolina
5 E-Procurement Service. Prior to implementing the program, the
6 Secretary shall consult with the State Controller, the UNC General
7 Administration, the Community Colleges System Office, the State
8 Auditor, the Department of Public Instruction, a representative chosen
9 by the local school administrative units, and the Office of Information
10 Technology Services. The Secretary may periodically adjust the order
11 limit authorized in this section after consulting with the State
12 Controller, the UNC General Administration, the Community Colleges
13 System Office, the Department of Public Instruction, and the Office of
14 Information Technology Services.

- 15 (8) **(See Editor's note for effective date)** To establish and maintain a
16 procurement card program for use by State agencies, community
17 colleges, and nonexempted constituent institutions of The University
18 of North Carolina. The Secretary of Administration may adopt
19 temporary rules for the implementation and operation of the program
20 in accordance with the payment policies of the State Controller, after
21 consultation with the Office of Information Technology Services.
22 These rules would include the establishment of appropriate order limits
23 that leverage the cost savings and efficiencies of the procurement card
24 program in conjunction with the fullest possible use of the North
25 Carolina E-Procurement Service. Prior to implementing the program,
26 the Secretary shall consult with the State Controller, the UNC General
27 Administration, the Community Colleges System Office, the State
28 Auditor, the Department of Public Instruction, a representative chosen
29 by the local school administrative units, and the Office of Information
30 Technology Services. The Secretary may periodically adjust the order
31 limit authorized in this section after consulting with the State
32 Controller, the UNC General Administration, the Community Colleges
33 System Office, the Department of Public Instruction, and the Office of
34 Information Technology Services."

35 **SECTION 83.** G.S. 143-52 reads as rewritten:

36 **"§ 143-52. Competitive bidding procedure; consolidation of estimates by**
37 **Secretary; bids; awarding of contracts.**

38 As feasible, the Secretary of Administration will compile and consolidate all such
39 estimates of supplies, materials, printing, equipment and contractual services needed
40 and required by State departments, institutions and agencies to determine the total
41 requirements of any given commodity. Where such total requirements will involve an
42 expenditure in excess of the expenditure benchmark established under the provisions of
43 G.S. 143-53.1 and where the competitive bidding procedure is employed as hereinafter
44 provided, sealed bids shall be solicited by advertisement in a newspaper widely

1 distributed in this State or through electronic means, or both, as determined by the
2 Secretary to be most advantageous, at least once and at least 10 days prior to the date
3 designated for opening. Except as otherwise provided under this Article, contracts for
4 the purchase of supplies, materials or equipment shall be based on competitive bids and
5 acceptance made of the lowest and best bid(s) most advantageous to the State as
6 determined upon consideration of the following criteria: prices offered; the quality of
7 the articles offered; the general reputation and performance capabilities of the bidders;
8 the substantial conformity with the specifications and other conditions set forth in the
9 request for bids; the suitability of the articles for the intended use; the personal or
10 related services needed; the transportation charges; the date or dates of delivery and
11 performance; and such other factor(s) deemed pertinent or peculiar to the purchase in
12 question, which if controlling shall be made a matter of record. Competitive bids on
13 such contracts shall be received in accordance with rules and regulations to be adopted
14 by the Secretary of Administration, which rules and regulations shall prescribe for the
15 manner, time and place for proper advertisement for such bids, the time and place when
16 bids will be received, the articles for which such bids are to be submitted and the
17 specifications prescribed for such articles, the number of the articles desired or the
18 duration of the proposed contract, and the amount, if any, of bonds or certified checks to
19 accompany the bids. Bids shall be publicly opened. Any and all bids received may be
20 rejected. Each and every bid conforming to the terms of the invitation, together with the
21 name of the bidder, shall be tabulated and that tabulation shall become public record in
22 accordance with the rules adopted by the Secretary. All contract information shall be
23 made a matter of public record after the award of contract. Provided, that trade secrets,
24 test data and similar proprietary information may remain confidential. A bond for the
25 faithful performance of any contract may be required of the successful bidder at bidder's
26 expense and in the discretion of the Secretary of Administration. When the dollar value
27 of a contract for the purchase, lease, or lease/purchase of equipment, materials, and
28 supplies exceeds the benchmark established by G.S. 143-53.1, the contract shall be
29 reviewed by the Board of Awards pursuant to G.S. 143-52.1 prior to the contract being
30 awarded. After contracts have been awarded, the Secretary of Administration shall
31 certify to the departments, institutions and agencies of the State government the sources
32 of supply and the contract price of the supplies, materials and equipment so contracted
33 for. ~~Prior to adopting other methods of advertisement under this section, the Secretary
34 of Administration may consult with the Advisory Budget Commission. Prior to adopting
35 rules and regulations under this section, the Secretary of Administration may consult
36 with the Advisory Budget Commission."~~

37 **SECTION 84.** G.S. 143-53(c) reads as rewritten:

38 "(c) The purpose of rules promulgated hereunder shall be to promote sound
39 purchasing management.

40 ~~Prior to adopting rules under this section, the Secretary of Administration may
41 consult with the Advisory Budget Commission."~~

42 **SECTION 85.** G.S. 143-60 reads as rewritten:

43 "**§ 143-60. Rules covering certain purposes.**

1 The Secretary of Administration may adopt, modify, or abrogate rules covering the
2 following purposes, in addition to those authorized elsewhere in this Article:

- 3 (1) Requiring reports by State departments, institutions, or agencies of
4 stocks of supplies and materials and equipment on hand and
5 prescribing the form of such reports.
- 6 (2) Prescribing the manner in which supplies, materials and equipment
7 shall be delivered, stored and distributed.
- 8 (3) Prescribing the manner of inspecting deliveries of supplies, materials
9 and equipment and making chemicals and/or physical tests of samples
10 submitted with bids and samples of deliveries to determine whether
11 deliveries have been made in compliance with specifications.
- 12 (4) Prescribing the manner in which purchases shall be made in
13 emergencies.
- 14 (5) Providing for such other matters as may be necessary to give effect to
15 foregoing rules and provisions of this Article.
- 16 (6) Prescribing the manner in which passenger vehicles shall be
17 purchased.

18 Further, the Secretary of Administration may prescribe appropriate procedures
19 necessary to enable the State, its institutions and agencies, to obtain materials surplus or
20 otherwise available from federal, State or local governments or their disposal agencies.

21 ~~Prior to taking any action under this section, the Secretary of Administration may~~
22 ~~consult with the Advisory Budget Commission."~~

23 **SECTION 86.** G.S. 143-63 reads as rewritten:

24 **"§ 143-63. Financial interest of officers in sources of supply; acceptance of bribes.**

25 Neither the Secretary of Administration, nor any assistant of ~~his, nor any member of~~
26 ~~the Advisory Budget Commission~~ the Secretary's shall be financially interested, or have
27 any personal beneficial interest, either directly or indirectly, in the purchase of, or
28 contract for, any materials, equipment or supplies, nor in any firm, corporation,
29 partnership or association furnishing any such supplies, materials or equipment to the
30 State government, or any of its departments, institutions or agencies, nor shall such
31 Secretary, assistant, or member of the Commission accept or receive, directly or
32 indirectly, from any person, firm or corporation to whom any contract may be awarded,
33 by rebate, gifts or otherwise, any money or anything of value whatsoever, or any
34 promise, obligation or contract for future reward or compensation. Any violation of this
35 section shall be deemed a Class F felony. Upon conviction thereof, any such ~~Secretary,~~
36 ~~assistant or member of the Commission~~ Secretary or assistant shall be removed from
37 office."

38 **SECTION 87.** G.S. 143-135.27 reads as rewritten:

39 **"§ 143-135.27. (Effective until October 1, 2006) Definition of capital improvement**
40 **project.**

41 As used in this Article, "State capital improvement project" means the construction
42 of and any alteration, renovation, or addition to State buildings, as defined in
43 G.S. 143-336, for which State funds, as defined in ~~G.S. 143-1,~~ G.S. 143C-1-1, are used
44 and which is required by G.S. 143-129 to be publicly advertised. "State capital

1 improvement project" does not include a performance-based cleanup of environmental
2 damage resulting from the discharge or release of a petroleum product from an
3 underground storage tank pursuant to G.S. 143-215.94B(f) and G.S. 143-215.94D(f).

4 **"§ 143-135.27. (Effective October 1, 2006) Definition of capital improvement**
5 **project.**

6 As used in this Article, "State capital improvement project" means the construction
7 of and any alteration, renovation, or addition to State buildings, as defined in
8 G.S. 143-336, for which State funds, as defined in ~~G.S. 143-1~~, G.S. 143C-1-1, are used
9 and which is required by G.S. 143-129 to be publicly advertised."

10 **SECTION 88.** G.S. 143-214.4(g) reads as rewritten:

11 "(g) Any person who uses any cleaning agent in violation of the provisions of this
12 section shall be responsible for an infraction for which the sanction is a penalty of not
13 more than ten dollars (\$10.00). Notwithstanding ~~G.S. 143-3.1(a)~~, G.S. 14-3.1(a), the
14 clear proceeds of infractions pursuant to this section shall be remitted to the Civil
15 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

16 **SECTION 89.** G.S. 143-215.40(a) reads as rewritten:

17 "(a) The boards of commissioners of the several counties, in behalf of their
18 respective counties, the governing bodies of the several municipalities, in behalf of their
19 respective municipalities, the governing bodies of any other local government units, in
20 behalf of their units, and the North Carolina Environmental Management Commission,
21 in behalf of the State of North Carolina, subject to the approval of the Governor, are
22 hereby authorized to adopt such resolutions or ordinances as may be required giving
23 assurances to any appropriate agency of the United States government for the
24 fulfillment of the required items of local cooperation as expressed in acts of Congress or
25 congressional documents, as conditions precedent to the accomplishment of river and
26 harbor, flood control or other such civil works projects, when it shall appear, and is
27 determined by such board or governing body that any such project will accrue to the
28 general or special benefit of such county or municipality or to a region of the State. In
29 each case where the subject of such local cooperation requirements comes before a
30 board of county commissioners or the governing body of any municipality or other local
31 unit a copy of its final action, whether it be favorable or unfavorable, shall be sent to the
32 Secretary of Environment and Natural Resources for the information of the Governor.
33 ~~Prior to taking any action under this section, the Governor may consult with the~~
34 ~~Advisory Budget Commission."~~

35 **SECTION 90.** G.S. 143-215.73 reads as rewritten:

36 **"§ 143-215.73. Recommendation and disbursal of grants.**

37 After review of grant applications, project funds shall be disbursed and monitored by
38 the Department. ~~After review, but before transfer of funds from the Department's~~
39 ~~reserve fund into accounts for specific projects, the Secretary may forward the~~
40 ~~applications to the Advisory Budget Commission for its review of the~~
41 ~~recommendations."~~

42 **SECTION 91.** G.S. 143-215.73A(e) reads as rewritten:

43 "(e) Distribution of the plan. ~~The Director of the Budget shall provide copies of~~
44 ~~the plan to the members of the Advisory Budget Commission when the Advisory~~

1 ~~Budget Commission meets to deliberate on the biennial budget or on the revised budget~~
2 ~~for the second year of the biennium.~~ The Director of the Budget shall also provide
3 copies of the plan to the General Assembly along with the recommended biennial
4 budget and the recommended revised budget for the second year of the biennium."

5 **SECTION 92.** G.S. 143-250 reads as rewritten:

6 **"§ 143-250. Wildlife Resources Fund.**

7 All moneys in the game and fish fund or any similar State fund when this Article
8 becomes effective shall be credited forthwith to a special fund in the office of the State
9 Treasurer, and the State Treasurer shall deposit all such moneys in said special fund,
10 which shall be known as the Wildlife Resources Fund.

11 All unexpended appropriations made to the Department of Conservation and
12 Development, the Board of Conservation and Development, the Division of Game and
13 Inland Fisheries or to any other State agency for any purpose pertaining to wildlife and
14 wildlife resources shall also be transferred to the Wildlife Resources Fund.

15 Except as otherwise specifically provided by law, all moneys derived from hunting,
16 fishing, trapping, and related license fees, exclusive of commercial fishing license fees,
17 including the income received and accruing from the investment of license revenues,
18 and all funds thereafter received from whatever sources shall be deposited to the credit
19 of the Wildlife Resources Fund and made available to the Commission until expended
20 subject to the provisions of this Article. License revenues include the proceeds from the
21 sale of hunting, fishing, trapping, and related licenses, from the sale, lease, rental, or
22 other granting of rights to real or personal property acquired or produced with license
23 revenues, and from federal aid project reimbursements to the extent that license
24 revenues originally funded the project for which the reimbursement is being made. For
25 purposes of this section, real property includes lands, buildings, minerals, energy
26 resources, timber, grazing rights, and animal products. Personal property includes
27 equipment, vehicles, machines, tools, and annual crops. The Wildlife Resources Fund
28 herein created shall be subject to the provisions of the ~~Executive Budget Act, Chapter~~
29 ~~143, Article 1 of State Budget Act, Chapter 143C of the General Statutes of North~~
30 Carolina as amended, and the provisions of the General Statutes of North Carolina as
31 amended, and the provisions of the Personnel Act, Chapter 143, Article 2 of the General
32 Statutes of North Carolina as amended.

33 All moneys credited to the Wildlife Resources Fund shall be made available to carry
34 out the intent and purposes of this Article in accordance with plans approved by the
35 North Carolina Wildlife Resources Commission, and all such funds are hereby
36 appropriated, reserved, set aside and made available until expended, for the enforcement
37 and administration of this Article, Chapter 75A, Article 1, and Chapter 113, Subchapter
38 IV of the General Statutes of North Carolina. The Wildlife Resources Commission shall
39 report to the Joint Legislative Commission on Governmental Operations before
40 expending from the Wildlife Resources Fund more than the amount authorized in the
41 budget enacted by the General Assembly for the fiscal period.

42 In the event any uncertainty should arise as to the funds to be turned over to the
43 North Carolina Wildlife Resources Commission the Governor shall have full power and

1 authority to determine the matter and his recommendation shall be final and binding to
2 all parties concerned."

3 **SECTION 93.** G.S. 143-318.14A(a) reads as rewritten:

4 "(a) Except as provided in subsection (e) below, all official meetings of
5 commissions, committees, and standing subcommittees of the General Assembly
6 (including, without limitation, joint committees and study committees), shall be held in
7 open session. For the purpose of this section, the following also shall be considered to
8 be "commissions, committees, and standing subcommittees of the General Assembly":

- 9 (1) The Legislative Research Commission;
- 10 (2) The Legislative Services Commission;
- 11 ~~(3) The Advisory Budget Commission;~~
- 12 (4) The Joint Legislative Utility Review Committee;
- 13 (5) The Joint Legislative Commission on Governmental Operations;
- 14 (6) The Joint Legislative Commission on Municipal Incorporations;
- 15 (7) Repealed by Session Laws 1997, c. 443, s. 12.30, effective August 28,
16 1997.
- 17 (8) The Joint Select Committee on Low-Level Radioactive Waste;
- 18 (9) The Environmental Review Commission;
- 19 (10) The Joint Legislative Transportation Oversight Committee;
- 20 (11) The Joint Legislative Education Oversight Committee;
- 21 (12) The Joint Legislative Commission on Future Strategies for North
22 Carolina;
- 23 (13) The Commission on Children with Special Needs;
- 24 (14) The Legislative Committee on New Licensing Boards;
- 25 (15) The Agriculture and Forestry Awareness Study Commission;
- 26 (16) The North Carolina Study Commission on Aging; and
- 27 (17) The standing Committees on Pensions and Retirement."

28 **SECTION 94.** G.S. 143-318.15 is repealed.

29 **SECTION 95.** G.S. 143-318.18 reads as rewritten:

30 **"§ 143-318.18. Exceptions.**

31 This Article does not apply to:

- 32 (1) Grand and petit juries.
- 33 (2) Any public body that is specifically authorized or directed by law to
34 meet in executive or confidential session, to the extent of the
35 authorization or direction.
- 36 (3) The Judicial Standards Commission.
- 37 (4) Repealed by Session Laws 1991, c. 694, s. 9.
- 38 (4a) The Legislative Ethics Committee.
- 39 (4b) A conference committee of the General Assembly.
- 40 (4c) A caucus by members of the General Assembly; however, no member
41 of the General Assembly shall participate in a caucus which is called
42 for the purpose of evading or subverting this Article.
- 43 (5) Law enforcement agencies.

- 1 (6) A public body authorized to investigate, examine, or determine the
- 2 character and other qualifications of applicants for professional or
- 3 occupational licenses or certificates or to take disciplinary actions
- 4 against persons holding such licenses or certificates, (i) while
- 5 preparing, approving, administering, or grading examinations or (ii)
- 6 while meeting with respect to an individual applicant for or holder of
- 7 such a license or certificate. This exception does not amend, repeal, or
- 8 supersede any other statute that requires a public hearing or other
- 9 practice and procedure in a proceeding before such a public body.
- 10 (7) Any public body subject to the ~~Executive Budget Act (G.S. 143-1 et~~
- 11 ~~seq.)~~ State Budget Act, Chapter 143C of the General Statutes and
- 12 exercising quasi-judicial functions, during a meeting or session held
- 13 solely for the purpose of making a decision in an adjudicatory action
- 14 or proceeding.
- 15 (8) The boards of trustees of endowment funds authorized by G.S. 116-36
- 16 or G.S. 116-238.
- 17 (9) Repealed by Session Laws 1991, c. 694, s. 9.
- 18 (10) The Board of Awards.
- 19 (11) The General Court of Justice."

20 **SECTION 96.** G.S. 143-341(3) reads as rewritten:

21 **"§ 143-341. Powers and duties of Department.**

22 The Department of Administration has the following powers and duties:

- 23 ...
- 24 (3) Architecture and Engineering:
 - 25 a. To examine and approve all plans and specifications for the
 - 26 construction or renovation of:
 - 27 1. All State buildings or buildings located on State lands,
 - 28 except those buildings over which a local building code
 - 29 inspection department has and exercises jurisdiction; and
 - 30 2. All community college buildings requiring the estimated
 - 31 expenditure for construction or repair work for which
 - 32 public bidding is required under G.S. 143-129 prior to
 - 33 the awarding of a contract for such work; and to examine
 - 34 and approve all changes in those plans and specifications
 - 35 made after the contract for such work has been awarded.
 - 36 b. To assist, as necessary, all agencies in the preparation of
 - 37 requests for appropriations for the construction or renovation of
 - 38 all State buildings.
 - 39 b1. To certify that a statement of needs pursuant to ~~G.S. 143-6~~
 - 40 G.S. 143C-3-3 is feasible. For purposes of this sub-subdivision,
 - 41 "feasible" means that the proposed project is sufficiently
 - 42 defined in overall scope; building program; site development;
 - 43 detailed design, construction, and equipment budgets; and
 - 44 comprehensive project scheduling so as to reasonably ensure

1 that it may be completed with the amount of funds requested.
 2 At the discretion of the General Assembly, advanced planning
 3 funds may be appropriated in support of this certification. This
 4 sub-subdivision shall not apply to requests for appropriations of
 5 less than one hundred thousand dollars (\$100,000).

6 c. To supervise the letting of all contracts for the design,
 7 construction or renovation of all State buildings and all
 8 community college buildings whose plans and specifications
 9 must be examined and approved under a.2. of this subdivision.

10 d. To supervise and inspect all work done and materials used in
 11 the construction or renovation of all State buildings and all
 12 community college buildings whose plans and specifications
 13 must be examined and approved under a.2. of this subdivision;
 14 and no such work may be accepted by the State or by any State
 15 agency until it has been approved by the Department.

16 Except for sub-subdivisions b. and b1. of this subdivision, this
 17 subdivision does not apply to the design, construction, or renovation of
 18 projects by The University of North Carolina pursuant to
 19 G.S. 116-31.11."

20 **SECTION 97.** G.S. 143-341(8) reads as rewritten:

21 **"§ 143-341. Powers and duties of Department.**

22 The Department of Administration has the following powers and duties:

23 ...

24 (8) General Services:

25 a. To locate, maintain and care for public buildings and grounds;
 26 to establish, locate, maintain, and care for walks, driveways,
 27 trees, shrubs, flowers, fountains, monuments, memorials,
 28 markers, and tablets on public grounds; and to beautify the
 29 public grounds.

30 b. To provide necessary and adequate cleaning and janitorial
 31 service, elevator operation service, and other operation or
 32 maintenance services for the public buildings and grounds.

33 c. To provide necessary night watchmen for the public buildings
 34 and grounds.

35 d. To make prompt repair of all public buildings and the
 36 equipment, furniture, and fixtures thereof; and to establish and
 37 operate shops for that purpose.

38 e. To keep in repair, out of funds appropriated for that purpose,
 39 the furniture of the halls of the Senate and House of
 40 Representatives and the rooms of the Capitol used by the
 41 officers, clerks, and other employees of the General Assembly.

42 f. Struck out by Session Laws 1959, c. 68, s. 3.

43 g. To establish and operate a mail service center that shall be used
 44 by all State agencies other than the Employment Security

1 Commission, and in connection therewith and in the discretion
2 of the Secretary, to do all things necessary in connection with
3 the maintenance of the mail service center. The Secretary shall
4 allocate and charge against the respective departments and
5 agencies their proportionate parts of the cost of the maintenance
6 of the mail service center. The Secretary shall develop a plan
7 for the efficient operation of the center that meets the needs of
8 State agencies, ensures timely delivery of mail, and ensures no
9 loss of federal funds.

10 h. To provide necessary and adequate messenger service for the
11 State agencies served by the Department. However, this may
12 not be construed as preventing the employment and control of
13 messengers by any State agency when those messengers are
14 compensated out of the funds of the employing agency.

15 i. To establish and operate a central motor pool and such
16 subsidiary related facilities as the Secretary may deem
17 necessary, and to that end:

18 1. To establish and operate central facilities for the
19 maintenance, repair, and storage of state-owned
20 passenger motor vehicles for the use of State agencies; to
21 utilize any available State facilities for that purpose; and
22 to establish such subsidiary facilities as the Secretary
23 may deem necessary.

24 2. To acquire passenger motor vehicles by transfer from
25 other State agencies and by purchase. All motor vehicles
26 transferred to or purchased by the Department shall
27 become part of a central motor pool.

28 3. To require on a schedule determined by the Department
29 all State agencies to transfer ownership, custody or
30 control of any or all passenger motor vehicles within the
31 ownership, custody or control of that agency to the
32 Department, except those motor vehicles under the
33 ownership, custody or control of the Highway Patrol or
34 the State Bureau of Investigation which are used
35 primarily for law-enforcement purposes, and except
36 those motor vehicles under the ownership, custody or
37 control of the Department of Crime Control and Public
38 Safety for Butner Public Safety which are used primarily
39 for law-enforcement, fire, or emergency purposes.

40 4. To maintain, store, repair, dispose of, and replace
41 state-owned motor vehicles under the control of the
42 Department, using best management practices. The
43 Department shall ensure that state-owned vehicles are
44 replaced when most cost effective using a replacement

1 formula developed by the Department and reviewed
2 periodically for appropriateness of use. The Department
3 shall report semiannually to the cochairs of the Joint
4 Appropriations Subcommittee on General Government,
5 on or before October 15 and March 15, on the effect of
6 any new or revised replacement formula on the cost of
7 operating the central motor pool, including the amount of
8 any savings from use of any new or revised replacement
9 formula.

- 10 5. Upon proper requisition, proper showing of need for use
11 on State business only, and proper showing of proof that
12 all persons who will be driving the motor vehicle have
13 valid drivers' licenses, to assign economically suitable
14 transportation, either on a temporary or permanent basis,
15 to any State employee or agency. An agency assigned a
16 motor vehicle may not allow a person to operate that
17 motor vehicle unless that person displays to the agency
18 and allows the agency to copy that person's valid driver's
19 license. Notwithstanding G.S. 20-30(6), persons or
20 agencies requesting assignment of motor vehicles may
21 photostat or otherwise reproduce drivers' licenses for
22 purposes of complying with this subpart.

23 As used in this subpart, "economically suitable
24 transportation" means the most cost-effective standard
25 vehicle in the State motor fleet, unless special towing
26 provisions are required by the agency. The Department
27 may not assign any employee or agency a motor vehicle
28 that is not economically suitable. The Department shall
29 not approve requests for vehicle assignment or
30 reassignment when the purpose of that assignment or
31 reassignment is to provide any employee with a newer or
32 lower mileage vehicle because of his or her rank,
33 management authority, or length of service or because of
34 any non-job-related reason. The Department shall not
35 assign "special use" vehicles, such as four-wheel drive
36 vehicles or law enforcement vehicles, to any agency or
37 individual except upon written justification, verified by
38 historical data, and accepted by the Secretary. The
39 Department may provide law enforcement vehicles only
40 to those agencies which have statutory pursuit authority.

- 41 6. To allocate and charge against each State agency to
42 which transportation is furnished, on a basis of mileage
43 or of rental, its proportionate part of the cost of
44 maintenance and operation of the motor pool.

1 The amount allocated and charged by the Department
2 of Administration to State agencies to which
3 transportation is furnished shall be at least as follows:

4 I. Pursuit vehicles and full size four-wheel drive
5 vehicles \$.24/mile.

6 II. Vans and compact four-wheel drive vehicles –
7 \$.22/mile.

8 III. All other vehicles – \$.20/mile.

9 7. To adopt, with the approval of the Governor, reasonable
10 rules for the efficient and economical operation,
11 maintenance, repair, and replacement, as limited in
12 paragraph 4. of this subdivision, of all state-owned motor
13 vehicles under the control of the Department, and to
14 enforce those rules; and to adopt, with the approval of
15 the Governor, reasonable rules regulating the use of
16 private motor vehicles upon State business by the
17 officers and employees of State agencies, and to enforce
18 those rules. The Department, with the approval of the
19 Governor, may delegate to the respective heads of the
20 agencies to which motor vehicles are permanently
21 assigned by the Department the duty of enforcing the
22 rules adopted by the Department pursuant to this
23 paragraph. Any person who violates a rule adopted by
24 the Department and approved by the Governor is guilty
25 of a Class 1 misdemeanor.

26 7a. To adopt with the approval of the Governor and to
27 enforce rules and to coordinate State policy regarding (i)
28 the permanent assignment of state-owned passenger
29 motor vehicles and (ii) the use of and reimbursement for
30 those vehicles for the limited commuting permitted by
31 this subdivision. For the purpose of this subdivision 7a,
32 "state-owned passenger motor vehicle" includes any
33 state-owned passenger motor vehicle, whether or not
34 owned, maintained or controlled by the Department of
35 Administration, and regardless of the source of the funds
36 used to purchase it. Notwithstanding the provisions of
37 G.S. 20-190 or any other provisions of law, all
38 state-owned passenger motor vehicles are subject to the
39 provisions of this subdivision 7a; no permanent
40 assignment shall be made and no one shall be exempt
41 from payment of reimbursement for commuting or from
42 the other provisions of this subdivision 7a except as
43 provided by this subdivision 7a. Commuting, as defined
44 and regulated by this subdivision, is limited to those

1 specific cases in which the Secretary has received and
2 accepted written justification, verified by historical data.
3 The Department shall not assign any state-owned motor
4 vehicle that may be used for commuting other than those
5 authorized by the procedure prescribed in this
6 subdivision.

7 A State-owned passenger motor vehicle shall not be
8 permanently assigned to an individual who is likely to
9 drive it on official business at a rate of less than 3,150
10 miles per quarter unless (i) the individual's duties are
11 routinely related to public safety or (ii) the individual's
12 duties are likely to expose the individual routinely to
13 life-threatening situations. A State-owned passenger
14 motor vehicle shall also not be permanently assigned to
15 an agency that is likely to drive it on official business at
16 a rate of less than 3,150 miles per quarter unless the
17 agency can justify to the Division of Motor Fleet
18 Management the need for permanent assignment because
19 of the unique use of the vehicle. Each agency, other than
20 the Department of Transportation, that has a vehicle
21 assigned to it or has an employee to whom a vehicle is
22 assigned shall submit a quarterly report to the Division
23 of Motor Fleet Management on the miles driven during
24 the quarter by the assigned vehicle. The Division of
25 Motor Fleet Management shall review the report to
26 verify that each motor vehicle has been driven at the
27 minimum allowable rate. If it has not and if the
28 department by whom the individual to which the car is
29 assigned is employed or the agency to which the car is
30 assigned cannot justify the lower mileage for the quarter,
31 the permanent assignment shall be revoked immediately.
32 The Department of Transportation shall submit an annual
33 report to the Division of Motor Fleet Management on the
34 miles driven during the year by vehicles assigned to the
35 Department or to employees of the Department. If a
36 vehicle included in this report has not been driven at
37 least 12,600 miles during the year, the Department of
38 Transportation shall review the reasons for the lower
39 mileage and decide whether to terminate the assignment.
40 The Division of Motor Fleet Management may not
41 revoke the assignment of a vehicle to the Department of
42 Transportation or an employee of that Department for
43 failure to meet the minimum mileage requirement unless

1 the Department of Transportation consents to the
2 revocation.

3 Every individual who uses a State-owned passenger
4 motor vehicle, pickup truck, or van to drive between the
5 individual's official work station and his or her home,
6 shall reimburse the State for these trips at a rate
7 computed by the Department. This rate shall
8 approximate the benefit derived from the use of the
9 vehicle as prescribed by federal law. Reimbursement
10 shall be for 20 days per month regardless of how many
11 days the individual uses the vehicle to commute during
12 the month. Reimbursement shall be made by payroll
13 deduction. Funds derived from reimbursement on
14 vehicles owned by the Motor Fleet Management
15 Division shall be deposited to the credit of the Division;
16 funds derived from reimbursements on vehicles initially
17 purchased with appropriations from the Highway Fund
18 and not owned by the Division shall be deposited in a
19 Special Depository Account in the Department of
20 Transportation, which shall revert to the Highway Fund;
21 funds derived from reimbursement on all other vehicles
22 shall be deposited in a Special Depository Account in the
23 Department of Administration which shall revert to the
24 General Fund. Commuting, for purposes of this
25 paragraph, does not include those individuals whose
26 office is in their home, as determined by the Department
27 of Administration, Division of Motor Fleet Management.
28 Also, this paragraph does not apply to the following
29 vehicles: (i) clearly marked police and fire vehicles, (ii)
30 delivery trucks with seating only for the driver, (iii)
31 flatbed trucks, (iv) cargo carriers with over a 14,000
32 pound capacity, (v) school and passenger buses with
33 over 20 person capacities, (vi) ambulances, (vii)
34 [Repealed]. (viii) bucket trucks, (ix) cranes and derricks,
35 (x) forklifts, (xi) cement mixers, (xii) dump trucks, (xiii)
36 garbage trucks, (xiv) specialized utility repair trucks
37 (except vans and pickup trucks), (xv) tractors, (xvi)
38 unmarked law-enforcement vehicles that are used in
39 undercover work and are operated by full-time, fully
40 sworn law-enforcement officers whose primary duties
41 include carrying a firearm, executing search warrants,
42 and making arrests, and (xvii) any other vehicle
43 exempted under Section 274(d) of the Internal Revenue
44 Code of 1954, and Federal Internal Revenue Services

1 regulations based thereon. The Department of
2 Administration, Division of Motor Fleet Management,
3 shall report quarterly to the Joint Legislative
4 Commission on Governmental Operations and to the
5 Fiscal Research Division of the Legislative Services
6 Office on individuals who use State-owned passenger
7 motor vehicles, pickup trucks, or vans between their
8 official work stations and their homes, who are not
9 required to reimburse the State for these trips.

10 The Department of Administration shall revoke the
11 assignment or require the Department owning the vehicle
12 to revoke the assignment of a State-owned passenger
13 motor vehicle, pickup truck or van to any individual
14 who:

- 15 I. Uses the vehicle for other than official business
16 except in accordance with the commuting rules;
- 17 II. Fails to supply required reports to the Department
18 of Administration, or supplies incomplete reports,
19 or supplies reports in a form unacceptable to the
20 Department of Administration and does not cure
21 the deficiency within 30 days of receiving a
22 request to do so;
- 23 III. Knowingly and willfully supplies false
24 information to the Department of Administration
25 on applications for permanent assignments,
26 commuting reimbursement forms, or other
27 required reports or forms;
- 28 IV. Does not personally sign all reports on forms
29 submitted for vehicles permanently assigned to
30 him or her and does not cure the deficiency within
31 30 days of receiving a request to do so;
- 32 V. Abuses the vehicle; or
- 33 VI. Violates other rules or policy promulgated by the
34 Department of Administration not in conflict with
35 this act.

36 A new requisition shall not be honored until the
37 Secretary of the Department of Administration is assured
38 that the violation for which a vehicle was previously
39 revoked will not recur.

40 The Department of Administration, with the approval
41 of the Governor, may delegate, or conditionally delegate,
42 to the respective heads of agencies which own passenger
43 motor vehicles or to which passenger motor vehicles are
44 permanently assigned by the Department, the duty of

1 enforcing all or part of the rules adopted by the
2 Department of Administration pursuant to this
3 subdivision 7a. The Department of Administration, with
4 the approval of the Governor, may revoke this delegation
5 of authority.

6 ~~Prior to adopting rules under this paragraph, the~~
7 ~~Secretary of Administration may consult with the~~
8 ~~Advisory Budget Commission.~~

9 Notwithstanding the provisions of this section and
10 G.S. 14-247, the Department of Administration may
11 allow the organization sanctioned by the Governor's
12 Council on Physical Fitness to conduct the North
13 Carolina State Games to use State trucks and vans for the
14 State Games of North Carolina. The Department of
15 Administration shall not charge any fees for the use of
16 the vehicles for the State Games. The State shall incur no
17 liability for any damages resulting from the use of
18 vehicles under this provision. The organization that
19 conducts the State Games shall carry liability insurance
20 of not less than one million dollars (\$1,000,000)
21 covering such vehicles while in its use and shall be
22 responsible for the full cost of repairs to these vehicles if
23 they are damaged while used for the State Games.

24 8. To adopt and administer rules for the control of all
25 state-owned passenger motor vehicles and to require
26 State agencies to keep all records and make all reports
27 regarding motor vehicle use as the Secretary deems
28 necessary.

29 9. To acquire motor vehicle liability insurance on all
30 State-owned motor vehicles under the control of the
31 Department.

32 10. To contract with the appropriate State prison authorities
33 for the furnishing, upon such conditions as may be
34 agreed upon from time to time between such State prison
35 authorities and the Secretary, of prison labor for use in
36 connection with the operation of a central motor pool
37 and related activities.

38 11. To report annually to the General Assembly on any rules
39 adopted, amended or repealed under paragraphs 3, 7, or
40 7a of this subdivision.

41 j. To establish and operate central mimeographing and duplicating
42 services, central stenographical and clerical pools, and other
43 central services, if the Governor after appropriate investigation
44 deems it advisable from the standpoint of efficiency and

1 economy in operation to establish any or all such services. The
2 Secretary may allocate and charge against the respective
3 agencies their proportionate part of the cost of maintenance and
4 operation of the central services which are established, in
5 accordance with the rules adopted by him and approved by the
6 Governor and Council of State pursuant to paragraph k, below.
7 Upon the establishment of central mimeographing and
8 duplicating services, the Secretary may, with the approval of the
9 Governor, require any State agency to be served by those
10 central services to transfer to the Department ownership,
11 custody, and control of any or all mimeographing and
12 duplicating equipment and supplies within the ownership,
13 custody, or control of such agency.

14 k. To require the State agencies and their officers and employees
15 to utilize the central facilities and services which are
16 established; and to adopt, with the approval of the Governor and
17 Council of State, reasonable rules and procedures requiring the
18 utilization of such central facilities and services, and governing
19 their operation and the charges to be made for their services.

20 l. To provide necessary information service for visitors to the
21 Capitol.

22 m. To perform such additional duties and exercise such additional
23 powers as may be assigned to it by statute or by the Governor."

24 **SECTION 98.** G.S. 143-344(d) is repealed.

25 **SECTION 99.** G.S. 143-722(b) as amended by Section 4 of S.L. 2004-196

26 reads as rewritten:

27 "(b) Any non-State entity as that term is defined in ~~G.S. 143-6.2~~ G.S. 143C-1-1
28 that receives, uses, or expends any funds from the Commission is subject to the
29 applicable reporting requirements of ~~G.S. 143-6.2~~ G.S. 143-6-14."

30 **SECTION 100.** G.S. 143A-10 reads as rewritten:

31 "**§ 143A-10. Governor; continuation of powers and duties; staff.**

32 All powers, duties and functions vested by law in the Governor or in the office of
33 Governor are continued, except as otherwise provided by this Chapter.

34 The immediate staff of the Governor shall not be subject to the State Personnel Act;
35 however, salaries for these positions shall be filed with the General Assembly pursuant
36 to ~~G.S. 143-34.3 commencing with the 1973 General Assembly Act.~~"

37 **SECTION 101.** G.S. 143B-10(d) reads as rewritten:

38 "(d) Appointment of Committees or Councils. – The head of each principal
39 department may create and appoint committees or councils to consult with and advise
40 the department. The General Assembly declares its policy that insofar as feasible, such
41 committees or councils shall consist of no more than 12 members, with not more than
42 one from each congressional district. If any department head desires to vary this policy,
43 he must make a request in writing to the Governor, stating the reasons for the request.
44 The Governor may approve the request, but may only do so in writing. Copies of the

1 request and approval shall be transmitted ~~to the Advisory Budget Commission and to~~
2 the Joint Legislative Commission on Governmental Operations. The members of any
3 committee or council created by the head of a principal department shall serve at the
4 pleasure of the head of the principal department and may be paid per diem and
5 necessary travel and subsistence expenses within the limits of appropriations and in
6 accordance with the provisions of G.S. 138-5, when approved in advance by the
7 Director of the Budget. Per diem, travel, and subsistence payments to members of the
8 committees or councils created in connection with federal programs shall be paid from
9 federal funds unless otherwise provided by law.

10 An annual report listing these committees or councils, the total membership on each,
11 the cost in the last 12 months and the source of funding, and the title of the person who
12 made the appointments shall be made ~~to the Advisory Budget Commission and the~~ Joint
13 Legislative Commission on Governmental Operations by March 31 of each year.

14 ~~Prior to taking any action under this subsection, the Director of the Budget may~~
15 ~~consult with the Advisory Budget Commission."~~

16 **SECTION 102.** G.S. 143B-131.10 reads as rewritten:

17 **"§ 143B-131.10. Exceptions.**

18 Notwithstanding ~~G.S. 143-28~~, G.S. 143C-1-1, the following provisions do not apply
19 to this Part: ~~G.S. 143-16.3 and G.S. 143-23~~. G.S. 143C-6-4, 143C-6-5, and 143C-6-9."

20 **SECTION 103.** G.S. 143B-139.2 reads as rewritten:

21 **"§ 143B-139.2. Secretary of Health and Human Services requests for grants-in-aid**
22 **from non-State agencies.**

23 It is the intent of this General Assembly that non-State health and human services
24 agencies submit their appropriation requests for grants-in-aid through the Secretary of
25 the Department of Health and Human Services for recommendations to the Governor
26 ~~and the Advisory Budget Commission~~ and the General Assembly, and that agencies
27 receiving these grants, at the request of the Secretary of the Department of Health and
28 Human Services, provide a postaudit of their operations that has been done by a
29 certified public accountant."

30 **SECTION 104.** G.S. 143B-168.12(c) reads as rewritten:

31 "(c) The North Carolina Partnership shall require each local partnership to place
32 in each of its contracts a statement that the contract is subject to monitoring by the local
33 partnership and North Carolina Partnership, that contractors and subcontractors shall be
34 fidelity bonded, unless the contractors or subcontractors receive less than one hundred
35 thousand dollars (\$100,000) or unless the contract is for child care subsidy services, that
36 contractors and subcontractors are subject to audit oversight by the State Auditor, and
37 that contractors and subcontractors shall be ~~audited as required by G.S. 143-6.1~~. subject
38 to the requirements of G.S. 143C-6.14. Organizations subject to G.S. 159-34 shall be
39 exempt from this requirement."

40 **SECTION 105.** G.S. 143B-313.2(e) reads as rewritten:

41 "(e) Removal. – The Governor may remove, as provided in ~~G.S. 143-13~~, Article
42 10 of Chapter 143C of the General Statutes any member of the North Carolina Parks
43 and Recreation Authority appointed by the Governor for misfeasance, malfeasance, or
44 nonfeasance. The General Assembly may remove any member of the North Carolina

1 Parks and Recreation Authority appointed by the General Assembly for misfeasance,
2 malfeasance, or nonfeasance."

3 **SECTION 106.** G.S. 143B-394.10(a) reads as rewritten:

4 "(a) There is established in the Department of Administration the North Carolina
5 Fund for Displaced Homemakers. The Fund shall be administered by the North Carolina
6 Council for Women in accordance with ~~Article 1 of Chapter 143~~Chapter 143C of the
7 General Statutes and shall be used to make grants to programs for displaced
8 homemakers. The Council shall make quarterly grants to each eligible program. Grants
9 shall be awarded according to criteria established by the Council. No more than ten
10 percent (10%) of these funds shall be used for administrative costs by the Council. In
11 order to be eligible to receive grant funds under this section, a displaced homemaker
12 program shall fulfill all of the criteria established by the Council. The Council shall
13 report annually to the Joint Legislative Commission on Governmental Operations on the
14 revenues credited to the Fund, the programs receiving grants from the Fund, the success
15 of those programs, and the costs associated with administering the Fund."

16 **SECTION 107.** G.S. 143B-426.11 reads as rewritten:

17 "§ 143B-426.11. **Powers of Agency.**

18 In order to enable it to carry out the purposes of this Part, the Agency:

- 19 (1) Has the powers of a body corporate, including the power to sue and be
20 sued, to make contracts, to hold and own copyrights and to adopt and
21 use a common seal and to alter the same as may be deemed expedient;
- 22 (2) May make all necessary contracts and arrangements with any parties
23 which will serve the purposes and facilitate the business of the North
24 Carolina Agency for Public Telecommunications; except that, the
25 Agency may not contract or enter into any agreement for the
26 production by the Agency of programs or programming materials with
27 any person, group, or organization other than government agencies;
28 principal State departments; public and noncommercial broadcast
29 licensees;
- 30 (3) May rent, lease, buy, own, acquire, mortgage, or otherwise encumber
31 and dispose of such property, real or personal; and construct, maintain,
32 equip and operate any facilities, buildings, studios, equipment,
33 materials, supplies and systems as said Board may deem proper to
34 carry out the purposes and provisions of this Part;
- 35 (4) May establish an office for the transaction of its business at such place
36 or places as the Board deems advisable or necessary in carrying out the
37 purposes of this Part;
- 38 (5) May apply for and accept loans and grants of money from any federal
39 agency or the State of North Carolina or any political subdivision
40 thereof or from any public or private sources for any and all of the
41 purposes authorized in this Part; may extend or distribute the funds in
42 accordance with directions and requirements attached thereto or
43 imposed thereon by the federal agency, the State of North Carolina or
44 any political subdivision thereof, or any public or private lender or

1 donor; and may give such evidences of indebtedness as shall be
2 required, but no indebtedness of any kind incurred or created by the
3 Agency shall constitute an indebtedness of the State of North Carolina
4 or any political subdivision thereof, and no such indebtedness shall
5 involve or be secured by the faith, credit or taxing power of the State
6 of North Carolina or any political subdivision thereof. At no time may
7 the total outstanding indebtedness of the Agency, excluding bond
8 indebtedness, exceed five hundred thousand dollars (\$500,000) unless
9 the Agency has consulted with the Director of the Budget;

10 (6) May pay all necessary costs and expenses involved in and incident to
11 the formation and organization of the Agency and incident to the
12 administration and operation thereof, and may pay all other costs and
13 expenses reasonably necessary or expedient in carrying out and
14 accomplishing the purposes of this Part;

15 (7) Under such conditions as the Board may deem appropriate to the
16 accomplishment of the purposes of this Part, may distribute in the form
17 of grants, gifts, or loans any of the revenues and earnings received by
18 the Agency from its operations;

19 (8) May adopt, alter or repeal its own bylaws, rules and regulations
20 governing the manner in which its business may be transacted and in
21 which the power granted to it may be exercised, and may provide for
22 the creation of such divisions and for the appointment of such
23 committees, and the functions thereof, as the Board deems necessary
24 or expedient in facilitating the business and purposes of the Agency;

25 (9) The Board shall be responsible for all management functions of the
26 Agency. The chairman shall serve as the chief executive officer, and
27 shall have the responsibility of executing the policies of the Board.
28 The Executive Director shall be the chief operating and administrative
29 officer and shall be responsible for carrying out the decisions made by
30 the Board and its chairman. The Executive Director shall be appointed
31 by the Governor upon the recommendation of the Board and shall
32 serve at the pleasure of the Governor. The salary of the Executive
33 Director shall be fixed by the General Assembly in the Current
34 Operations Appropriations Act. Subject to the provisions of the State
35 Personnel Act and with the approval of the Board, the Executive
36 Director may appoint, employ, dismiss and fix the compensation of
37 such professional, administrative, clerical and other employees as the
38 Board deems necessary to carry out the purposes of this Part; but any
39 employee who serves as the director of any division of the Agency
40 which may be established by the Board shall be appointed with the
41 additional approval of the Secretary of Administration. There shall be
42 an executive committee consisting of three of the appointed members
43 and three of the ex officio members elected by the Board and the
44 chairman of the Board, who shall serve as chairman of the executive

1 committee. The executive committee may do all acts which are
2 authorized by the bylaws of the Agency. Members of the executive
3 committee shall serve until their successors are elected;

4 (10) May do any and all other acts and things in this Part authorized or
5 required to be done, whether or not included in the general powers in
6 this section; and

7 (11) May do any and all things necessary to accomplish the purposes of this
8 Part.

9 Nothing herein authorizes the Agency to exercise any control over any public
10 noncommercial broadcast licensee, its staff or facilities or over any community antenna
11 television system (Cable TV; CATV), its staff, employees or facilities operating in
12 North Carolina, or the Police Information Network (PIN), its staff, employees or
13 facilities or the Judicial Department.

14 The property of the Agency shall not be subject to any taxes or assessments.

15 ~~Prior to taking any action under subdivisions (5) or (7) of this section, the Board~~
16 ~~may consult with the Advisory Budget Commission."~~

17 **SECTION 108.** G.S. 143B-426.14 reads as rewritten:

18 "**§ 143B-426.14. Issuance of bonds.**

19 As a means of raising the funds needed from time to time in the acquisition,
20 construction, equipment, maintenance and operation of any facility, building, structure,
21 telecommunications equipment or systems or any other matter or thing which the
22 Agency is herein authorized to acquire, construct, equip, maintain, or operate, the
23 Agency ~~may, with the approval of the Advisory Budget Commission,~~ may at one time
24 or from time to time issue negotiable revenue bonds of the Agency. The principal and
25 interest of the revenue bonds shall be payable solely from the revenues to be derived
26 from the operation of all or any part of the Agency's properties and facilities. A pledge
27 of the net revenues derived from the operation of specified properties and facilities of
28 the Agency may be made to secure the payment of the bonds as they mature. Revenue
29 bonds issued under the provisions of this Part shall not be deemed to constitute a debt of
30 the State of North Carolina or a pledge of the faith and credit of the State. The issuance
31 of revenue bonds shall not directly or indirectly or contingently obligate the State to
32 levy or to pledge any form of taxation whatever therefor or to make any appropriation
33 for their payment. The bonds and the income therefrom shall be exempt from all
34 taxation within the State."

35 **SECTION 109.** G.S. 143B-454(a) reads as rewritten:

36 "(a) In order to enable it to carry out the purposes of this Part, the said Authority
37 shall:

38 (1) Have the powers of a body corporate, including the power to sue and
39 be sued, to make contracts, and to adopt and use a common seal and to
40 alter the same as may be deemed expedient;

41 (2) Have the authority to make all necessary contracts and arrangements
42 with other port authorities of this and other states for the interchange
43 of business, and for such other purposes as will facilitate and increase
44 the business of the North Carolina State Ports Authority;

- 1 (3) Be authorized and empowered to rent, lease, buy, own, acquire,
2 mortgage, otherwise encumber, and dispose of such property, real or
3 personal, as said Authority may deem proper to carry out the purposes
4 and provisions of this Part, all or any of them;
- 5 (4) **(See Editor's Note)** Be authorized and empowered to acquire,
6 construct, maintain, equip and operate any wharves, docks, piers,
7 quays, elevators, compresses, refrigeration storage plants, warehouses
8 and other structures, and any and all facilities needful for the
9 convenient use of the same in the aid of commerce, including the
10 dredging of approaches thereto, and the construction of beltline roads
11 and highways and bridges and causeways thereon, and other bridges
12 and causeways necessary or useful in connection therewith, and
13 shipyards, shipping facilities, and transportation facilities incident
14 thereto and useful or convenient for the use thereof, excluding terminal
15 railroads;
- 16 (4) **(See Editor's Note)** Be authorized and empowered to acquire,
17 construct, maintain, equip and operate any wharves, docks, piers,
18 quays, elevators, compresses, refrigeration storage plants, warehouses
19 and other structures, and any and all facilities needful for the
20 convenient use of the same in the aid of commerce, including the
21 dredging of approaches thereto, and the construction of beltline roads
22 and highways and bridges and causeways thereon, and other bridges
23 and causeways necessary or useful in connection therewith, and
24 shipyards, shipping facilities, and transportation facilities incident
25 thereto and useful or convenient for the use thereof, and to acquire,
26 construct, and maintain, but not operate, such rail facilities as may be
27 necessary or useful in connection with the operation of the State Ports,
28 provided that nothing in this subdivision shall be construed as
29 requiring or allowing the North Carolina State Ports Authority to
30 become a carrier by rail subject to the federal laws regulating those
31 carriers;
- 32 (5) The Authority shall appoint an Executive Director, whose salary shall
33 be fixed by the Authority, to serve at its pleasure. The Executive
34 Director or his designee shall appoint, employ, dismiss and, within the
35 limits of available funding, fix the compensation of such other
36 employees as he deems necessary to carry out the purposes of this Part.
37 There shall be an executive committee consisting of the chairman of
38 the Authority and two other members elected annually by the
39 Authority. The executive committee shall be vested with authority to
40 do all acts which are authorized by the bylaws of the Authority.
41 Members of the executive committee shall serve until their successors
42 are elected;

- 1 (6) Establish an office for the transaction of its business at such place or
2 places as, in the opinion of the Authority, shall be advisable or
3 necessary in carrying out the purposes of this Part;
- 4 (7) Be authorized and empowered to create and operate such agencies and
5 departments as said board may deem necessary or useful for the
6 furtherance of any of the purposes of this Part;
- 7 (8) Be authorized and empowered to pay all necessary costs and expenses
8 involved in and incident to the formation and organization of said
9 Authority, and incident to the administration and operation thereof,
10 and to pay all other costs and expenses reasonably necessary or
11 expedient in carrying out and accomplishing the purposes of this Part;
- 12 (9) Be authorized and empowered to apply for and accept loans and grants
13 of money from any federal agency or the State of North Carolina or
14 any political subdivision thereof or from any public or private sources
15 available for any and all of the purposes authorized in this Article, and
16 to expend the same in accordance with the directions and requirements
17 attached thereto, or imposed thereon by any such federal agency, the
18 State of North Carolina, or any political subdivision thereof, or any
19 public or private lender or donor, and to give such evidences of
20 indebtedness as shall be required, provided, however, that no
21 indebtedness of any kind incurred or created by the Authority shall
22 constitute an indebtedness of the State of North Carolina, or any
23 political subdivision thereof, and no such indebtedness shall involve or
24 be secured by the faith, credit or taxing power of the State of North
25 Carolina, or any political subdivision thereof;
- 26 (10) Be authorized and empowered to act as agent for the United States of
27 America, or any agency, department, corporation, or instrumentality
28 thereof, in any matter coming within the purposes or powers of the
29 Authority;
- 30 (11) Have power to adopt, alter or repeal its own bylaws, rules and
31 regulations governing the manner in which its business may be
32 transacted and in which the power granted to it may be enjoyed, and
33 may provide for the appointment of such committees, and the
34 functions thereof, as the Authority may deem necessary or expedient in
35 facilitating its business. The Authority may establish fees for its
36 services. In establishing these fees, the Authority shall consider the
37 cost of providing service, revenue requirements, the cost of similar
38 services at other seaports in the South Atlantic region, and any other
39 factors it considers relevant. The Authority shall report the
40 establishment or increase of any fee to the Joint Legislative
41 Commission on Governmental Operations no later than 30 business
42 days after it establishes or increases the fee.

1 (12) Be authorized and empowered to do any and all other acts and things
2 in this Part authorized or required to be done, whether or not included
3 in the general powers in this section mentioned; and

4 (13) Be authorized and empowered to do any and all things necessary to
5 accomplish the purposes of this Part: Provided, that said Authority
6 shall not engage in shipbuilding.

7 The property of the Authority shall not be subject to any taxes or assessments
8 thereon.

9 ~~Prior to taking any action under this subsection, the Authority may consult with the~~
10 ~~Advisory Budget Commission."~~

11 **SECTION 110.** G.S. 143B-456(b) reads as rewritten:

12 "(b) Prior to the sale and delivery of any bonds or notes by the Authority, the
13 Governor shall approve the general purposes of and the general security provisions for
14 any such bonds or notes. Such bonds or notes may be sold in such manner, either at
15 public or private sale, and for such price as the Authority shall determine. Bonds or
16 notes may be issued under the provisions of this Part without obtaining, except as
17 otherwise expressly provided in this Part, the consent of any department, division,
18 commission, board, body, bureau or agency of the State, and without any other
19 proceedings or the happening of any conditions or things other than those proceedings,
20 conditions or things which are specifically required by this Part and the provisions of
21 the resolution authorizing the issuance of such bonds or notes or the trust agreement
22 securing the same. ~~Prior to taking any action under this subsection, the Governor may~~
23 ~~consult with the Advisory Budget Commission."~~

24 **SECTION 111.** G.S. 143B-516(b)(2) reads as rewritten:

25 "(b) The Secretary shall have the following powers and duties:

26 ...
27 (2) Close a State youth development center when its operation is no longer
28 justified and transfer State funds appropriated for the operation of that
29 youth development center to fund community-based programs, to
30 purchase care or services for predelinquents, delinquents, or status
31 offenders in community-based or other appropriate programs, or to
32 improve the efficiency of existing youth development centers,
33 ~~provided the Advisory Budget Commission reviews this action after~~
34 consultation with the Joint Legislative Commission on Governmental
35 Operations."

36 **SECTION 112.** G.S. 147-9.3 reads as rewritten:

37 "**§ 147-9.3. Annuity contracts; salary deductions.**

38 Notwithstanding the provisions of ~~G.S. 143-3.3, —G.S. 143B-426.39A~~ and
39 notwithstanding any provision of law relating to salaries or salary schedules of State
40 employees, if the employee be one described in section 403(b) (1) (A) (i) or (ii) of the
41 United States Internal Revenue Code, the chief executive officer of such employee, on
42 behalf of the employer, may enter into an annual contract with the employee which
43 provides for a reduction in salary below the total established compensation or salary
44 schedule for a term of one year. The chief executive officer shall use the funds derived

1 from the reduction in the salary of the employee to purchase a nonforfeitable annuity or
2 retirement income contract for the benefit of said employee. An employee who has
3 agreed to a salary reduction for this purpose shall not have the right to receive the
4 amount of salary reduction in cash or in any other way except the annuity or retirement
5 income contract. Funds used for the purchase of an annuity or retirement income
6 contract shall not be in lieu of any amount earned by the employee before his election
7 for a salary reduction has become effective. The agreement for salary reduction referred
8 to herein shall be effective under the necessary regulations and procedures adopted by
9 the chief executive officer and on forms prescribed by him. Notwithstanding any other
10 provision of law, the amount by which the salary of an employee is reduced pursuant to
11 this section shall not be excluded, but shall be included, in computing and making
12 payroll deductions for social security and retirement system purposes, if any, and in
13 computing and providing matching funds for retirement system purposes, if any."

14 **SECTION 113.** G.S. 147-9.4 reads as rewritten:

15 **"§ 147-9.4. Deferred Compensation Plan.**

16 Notwithstanding the provisions of ~~G.S. 143-3.3~~, G.S. 143B-426.39A and
17 notwithstanding any provision of law relating to salaries or salary schedules of teachers
18 or State employees, the chief executive officer of an employer, on behalf of the
19 employer, may from time to time enter into a contract with a teacher or employee under
20 which the teacher or employee irrevocably elects to defer receipt of a portion of his
21 scheduled salary in the future, but only if, as a result of such contract, the income so
22 deferred is deferred pursuant to the Plan provided for in G.S. 143B-426.24 or pursuant
23 to some other plan established before January 1, 1983, and is not constructively
24 received by the teacher or employee in the year in which it was earned, for State and
25 federal income tax purposes. In addition, the income so deferred shall be invested in the
26 manner provided in the applicable Plan; however, the teacher or employee may revoke
27 his election to participate and may amend the amount of compensation to be deferred by
28 signing and filing with the Board a written revocation or amendment on a form and in
29 the manner approved by the Board. Any such revocation or amendment shall be
30 effective prospectively only and shall cause no change in the allocation of amounts
31 invested prior to the filing date of such revocation or amendment.

32 A teacher or employee who has agreed to the deferral of income pursuant to the Plan
33 shall have the right to receive the income so deferred only in accordance with the
34 provisions of the Plan. Funds so deferred shall not be in lieu of any amount earned by
35 the teacher or employee before his election to defer compensation became effective.
36 The agreement to defer income referred to herein shall be effective under such
37 necessary regulations and procedures as are adopted by the Board, and on forms
38 prepared or approved by it. A teacher or employee who agrees to defer income as
39 provided in this section may authorize payroll deductions for deferral of the income. An
40 employer shall make payroll deduction available for a teacher or employee who
41 authorizes payroll deduction. Notwithstanding any other provisions of law, the amount
42 by which the salary of a teacher or employee is deferred pursuant to the Plan shall not
43 be excluded, but shall be included, in computing and making payroll deductions for

1 social security and retirement system purposes, if any, and in computing and providing
2 matching funds for retirement system purposes, if any.

3 Except for the applications of the provisions of G.S. 110-136, and in connection with
4 a court-ordered equitable distribution under G.S. 50-20, the right of a teacher or
5 employee, who elects to defer income pursuant to the North Carolina Public Employee
6 Deferred Compensation Plan under G.S. 143B-426.24, to benefits that have vested
7 under the Plan, is nonforfeitable. These benefits are exempt from levy, sale, and
8 garnishment, except as provided by this section."

9 **SECTION 114.** G.S. 147-12(a)(3) reads as rewritten:

10 **"§ 147-12. Powers and duties of Governor.**

11 (a) In addition to the powers and duties prescribed by the Constitution, the
12 Governor has the powers and duties prescribed in this and the following sections:

13 ...

14 (3) To make the appointments and fill the vacancies not otherwise
15 provided for in all departments.

16 In every case where the Governor is authorized by statute to make
17 an appointment to fill a State office, the Governor may also appoint to
18 fill any vacancy occurring in that office, and the person the Governor
19 appoints shall serve for the unexpired term of the office and until the
20 person's successor is appointed and qualified.

21 In every case where the Governor is authorized by statute to
22 appoint to fill a vacancy in an office in the executive branch of State
23 government, the Governor may appoint an acting officer to serve

- 24 a. During the physical or mental incapacity of the regular holder
25 of the office to discharge the duties of the office,
26 b. During the continued absence of the regular holder of the office,
27 or
28 c. During a vacancy in an office and pending the selection and
29 qualification, in the manner prescribed by statute, of a person to
30 serve for the unexpired term.

31 An acting officer appointed in accordance with this subsection may
32 perform any act and exercise any power which a regularly appointed
33 holder of such office could lawfully perform and exercise. All powers
34 granted to an acting officer under this subsection shall expire
35 immediately

- 36 a. Upon the termination of the incapacity of the officer in whose
37 stead the person acts,
38 b. Upon the return of the officer in whose stead the person acts, or
39 c. Upon the selection and qualification, in the manner prescribed
40 by statute, of a person to serve for the unexpired term.

41 The Governor may determine (after such inquiry as the Governor
42 deems appropriate) that any of the officers referred to in this paragraph
43 is physically or mentally incapable of performing the duties of the

1 office. The Governor may also determine that such incapacity has
2 terminated.

3 The compensation of an acting officer appointed pursuant to the
4 provisions of this subdivision shall be fixed by the Governor. ~~Prior to~~
5 ~~taking any action under this paragraph, the Governor may consult with~~
6 ~~the Advisory Budget Commission."~~

7 **SECTION 115.** G.S. 147-36(16) reads as rewritten:

8 **"§ 147-36. Duties of Secretary of State.**

9 It is the duty of the Secretary of State:

10 ...

11 (16) To apply for and accept grants from the federal government and its
12 agencies and from any foundation, corporation, association, or
13 individual in order to effectuate the purposes of the Nonprofit
14 Corporation Act, Chapter 55A of the General Statutes, and to further
15 aid in the operation and development of nonprofit corporations. The
16 Secretary shall comply with the terms, conditions, and limitations of
17 grants applied for and accepted and shall expend grant funds pursuant
18 to ~~Article 1 of Chapter 143 of the General Statutes, The Executive~~
19 ~~Budget Act.~~ Chapter 143C of the General Statutes, The State Budget
20 Act."

21 **SECTION 116.** G.S. 147-64.7(b) reads as rewritten:

22 "(b) Experts; Contracted Audits. –

23 (1) The Auditor may obtain the services of independent public
24 accountants, qualified management consultants, or other professional
25 persons and experts as he deems necessary or desirable to carry out the
26 duties and functions assigned under the act.

27 (2) No State agency may enter into any contract for auditing services
28 which may impact on the State's comprehensive annual financial
29 report without consultation with, and the prior written approval of, the
30 Auditor, except in instances where audits are called for by the
31 Governor under ~~G.S. 143-3-143C-2-1~~ and he shall so notify the
32 Auditor. The Auditor shall prescribe policy and establish guidelines
33 containing appropriate criteria for selection and use of independent
34 public accountants, qualified management consultants, or other
35 professional persons by State agencies and governing bodies to
36 perform all or part of the audit function."

37 **SECTION 117.** G.S. 147-64.11 reads as rewritten:

38 **"§ 147-64.11. Review of office.**

39 The Auditor may, on his own initiative and as often as he deems necessary, or as
40 requested by the General Assembly, cause to be made a quality review audit of the
41 operations of his office. Such a "peer review" shall be conducted in accordance with
42 standards prescribed by the accounting profession. Upon the recommendation of ~~the~~
43 ~~Advisory Budget Commission,~~ the Joint Legislative Commission on Governmental
44 Operations may contract with an independent public accountant, qualified management

1 consultant, or other professional person to conduct a financial and compliance, economy
2 and efficiency, and program result audit of the State Auditor."

3 **SECTION 118.** G.S. 147-68 reads as rewritten:

4 **"§ 147-68. To receive and disburse moneys; to make reports.**

5 (a) It is the duty of the Treasurer to receive all moneys which shall from time to
6 time be paid into the treasury of this State; and to pay all warrants legally drawn on the
7 Treasurer.

8 (b) No moneys shall be paid out of the treasury except on warrant unless there is
9 a legislative appropriation or authority to pay the same.

10 (c) It shall be the responsibility of the Treasurer to determine that all warrants
11 presented to him for payment are valid and legally drawn on the Treasurer.

12 (d) The Treasurer shall report to the Governor ~~and Advisory Budget Commission~~
13 annually and to the General Assembly at the beginning of each biennial session the
14 exact balance in the treasury to the credit of the State, with a summary of the receipts
15 and payments of the treasury during the preceding fiscal year, and so far as practicable
16 an account of the same down to the termination of the current calendar year.

17 (d1) The Treasurer shall report to the Joint Legislative Commission on
18 Governmental Operations, to the Chairman, Appropriations Base Budget Committee
19 and the Chairman, Appropriations Expansion Budget Committee of the House of
20 Representatives, and to the Chairman, Committee on Appropriations and the Chairman,
21 Committee on Base Budget of the Senate, on a quarterly basis, concerning all
22 investments and deposits made by and through his office. The report shall include a
23 listing of all investments with or on behalf of the State or any of its agencies or
24 institutions and shall include the particular agency or institution, fund, rate of return,
25 duration of the investment, and the amount of deposit on all noninterest bearing
26 accounts. The first report is due 90 days after July 1, 1982, and shall include all
27 investments and deposits made during the 1981-82 fiscal year and all investments made
28 during the first quarter of the 1982-83 fiscal year; thereafter, reports shall be made on a
29 quarterly basis including all investments and deposits made during that reporting period.

30 (d2) After consulting with the Select Committee on Information Technology and
31 the Joint Legislative Commission on Governmental Operations and after consultation
32 with and approval of the Information Resources Management Commission, the
33 Department of State Treasurer may spend departmental receipts for the 2000-2001 fiscal
34 year to continue improvement of the Department's investment banking operations
35 system, retirement payroll systems, and other information technology infrastructure
36 needs. The Department of State Treasurer shall report by January 1, 2001, and annually
37 thereafter to the following regarding the amount and use of the departmental receipts:
38 the Joint Legislative Commission on Governmental Operations, the Chairs of the
39 General Government Appropriations Subcommittees of both the House of
40 Representatives and the Senate, and the Select Committee on Information Technology.

41 (e) The State Treasurer, in carrying out the responsibilities of this section, shall
42 be independent of any fiscal control exercise by the Director of the Budget or the
43 Department of Administration and shall be responsible to ~~the Advisory Budget~~
44 ~~Commission~~, the General Assembly and the people of North Carolina for the efficient

1 and faithful exercise of the responsibilities of his office. The State Treasurer, for all
2 other purposes, is subject to ~~Article 1 of Chapter 143~~Chapter 143C of the General
3 Statutes."

4 **SECTION 119.** G.S. 147-69.3(h) reads as rewritten:

5 "(h) The State Treasurer shall prepare, as of the end of each fiscal year, a report on
6 the financial condition of each investment program created pursuant to this section. A
7 copy of each report shall be submitted within 30 days following the end of the fiscal
8 year to the official, institution, board, commission or other agency whose funds are
9 invested, the State Auditor, ~~the Advisory Budget Commission,~~ and the chairs of the
10 Finance Committees of the House of Representatives and the Senate."

11 **SECTION 120.** G.S. 147-86.10 reads as rewritten:

12 **"§ 147-86.10. Statement of policy.**

13 It is the policy of the State of North Carolina that all agencies, institutions,
14 departments, bureaus, boards, commissions, and officers of the State, whether or not
15 subject to the ~~Executive Budget Act, Chapter 143, Article 1~~State Budget Act, Chapter
16 143C of the General Statutes, shall devise techniques and procedures for the receipt,
17 deposit, and disbursement of moneys coming into their control and custody which are
18 designed to maximize interest-bearing investment of cash, and to minimize idle and
19 nonproductive cash balances. This policy shall apply to the General Court of Justice as
20 defined in Article IV of the North Carolina Constitution, the public school
21 administrative units, and the community colleges with respect to the receipt, deposit,
22 and disbursement of moneys required by law to be deposited with the State Treasurer
23 and with respect to moneys made available to them for expenditure by warrants drawn
24 on the State Treasurer. This policy shall include the acceptance of electronic payments
25 in accordance with G.S. 147-86.22 to the maximum extent possible consistent with
26 sound business practices."

27 **SECTION 121.** G.S. 147-86.11 reads as rewritten:

28 **"§ 147-86.11. Cash management for the State.**

29 (a) Uniform Plan. – The State Controller, with the advice and assistance of the
30 State Treasurer, the State Budget Officer, and the State Auditor, shall develop,
31 implement and amend as necessary a uniform statewide plan to carry out the cash
32 management policy for all State agencies. The State Auditor shall report annually to ~~the~~
33 ~~Advisory Budget Commission~~ and the General Assembly on the implementation of the
34 plan as shown in the audits completed during the prior fiscal year. The State Treasurer
35 shall recommend periodically to the General Assembly any implementing legislation
36 necessary or desirable in the furtherance of the State policy. When used in this section,
37 "State agency" means any agency, institution, bureau, board, commission or officer of
38 the State; however, except as provided in G.S. 147-86.12, 147-86.13, 147-86.14, and
39 147-86.22, this Article does not apply to the agencies, institutions, bureaus, boards,
40 commissions and officers of the General Court of Justice as defined in Article IV of the
41 North Carolina Constitution or to the local school administrative units and community
42 colleges and their officers and employees.

43 (b) Duties of Auditor. – The State Auditor pursuant to authority under
44 G.S. 147-64.6 shall monitor agency compliance with this Article, and make any

1 comments, suggestions, and recommendations the Auditor deems advisable to the
2 agencies.

3 (c) Treasurer's Report. – The State Treasurer shall publish a quarterly report on
4 all funds in the control or custody of the State Treasurer showing cash balances on hand,
5 investments of cash balances and a comparative analysis of earnings and investment
6 performances.

7 (d) Earnings on Trust Funds. – The statewide cash management plan shall
8 provide that any net earnings on invested funds, whose beneficial owner is not the State
9 or a local governmental unit, shall be paid to the beneficial owners of the funds. "Net
10 earnings" are the amounts remaining after allowance for the cost of administration,
11 management, and operation of the invested funds.

12 (e) Elements of Plan. – For moneys received or to be received, the statewide cash
13 management plan shall provide at a minimum that:

14 (1) Except as otherwise provided by law, moneys received by employees
15 of State agencies in the normal course of their employment shall be
16 deposited as follows:

17 a. Moneys received in trust for specific beneficiaries for which the
18 employee-custodian has a duty to invest shall be deposited with
19 the State Treasurer under the provisions of G.S. 147-69.3.

20 b. All other moneys received shall be deposited with the State
21 Treasurer pursuant to G.S. 147-77 and G.S. 147-69.1.

22 (2) Moneys received shall be deposited daily in the form and amounts
23 received, except as otherwise provided by statute.

24 (3) Moneys due to a State agency by another governmental agency or by
25 private persons shall be promptly billed, collected and deposited.

26 (4) Unpaid billings due to a State agency shall be turned over to the
27 Attorney General for collection no more than 90 days after the due
28 date of the billing, except that a State agency need not turn over to the
29 Attorney General unpaid billings of less than five hundred dollars
30 (\$500.00), or (for institutions where applicable) amounts owed by all
31 patients which are less than the federally established deductible
32 applicable to Part A of the Medicare program, and instead may handle
33 these unpaid bills pursuant to agency debt collection procedures.

34 (5) Moneys received in the form of warrants drawn on the State Treasurer
35 shall be deposited by the State agency directly with the State Treasurer
36 and not through the banking system, unless otherwise approved by the
37 State Treasurer.

38 (6) State agencies shall accept payment by electronic payment in
39 accordance with G.S. 147-86.22 to the maximum extent possible
40 consistent with sound business practices.

41 (f) Disbursement Requirements. – For the disbursement of money, the statewide
42 cash management plan shall provide at a minimum that:

43 (1) Moneys deposited with the State Treasurer remain on deposit with the
44 State Treasurer until final disbursement to the ultimate payee.

- 1 (2) The order in which appropriations and other available resources are
2 expended shall be subject to the provisions of ~~G.S. 143-27~~ Chapter
3 143C of the General Statutes regardless of whether the State agency
4 disbursing or expending the moneys is subject to the ~~Executive Budget~~
5 Act. State Budget Act.
- 6 (3) Federal and other reimbursements of expenditures paid from State
7 funds shall be paid immediately to the source of the State funds.
- 8 (4) Billings to the State for goods received or services rendered shall be
9 paid neither early nor late but on the discount date or the due date to
10 the extent practicable.
- 11 (5) Disbursement cycles for each agency shall be established to the extent
12 practicable so that the overall efficiency of the warrant disbursement
13 system is maximized while maintaining prompt payment of bills due.
- 14 (g) Interest Maximized. – The interest earnings of the General Fund and
15 Highway Fund shall be maximized to the extent practicable. To this end:
- 16 (1) Interest earnings shall not be allocated to an account by the State
17 Treasurer unless all of the moneys in the account are expressly eligible
18 by law for receiving interest allocations.
- 19 (2) State officers and employees who received moneys in trust or for
20 investment shall be solely responsible for properly segregating such
21 funds for investment in the manner prescribed by law. The officer or
22 employee charged with the responsibility for these moneys shall be
23 under a duty to segregate the funds in a timely manner. No investment
24 income shall be allocated by the State Treasurer to trust or other
25 investment accounts until properly segregated into investment
26 accounts as provided by law and the rules of the State Treasurer.
- 27 (h) New Technologies. – The statewide cash management plan shall consider
28 new technologies and procedures whenever the technologies and procedures are
29 economically beneficial to the State as a whole. Where the new technologies and
30 procedures may be implemented without additional legislation, the technologies and
31 procedures shall be implemented in the plan.
- 32 (i) Penalty. – A willful or continued failure of an employee paid from State
33 funds or employed by a State agency to follow the statewide cash management plan is
34 sufficient cause for immediate dismissal of the employee."
- 35 **SECTION 122.** G.S. 147-86.30(c) reads as rewritten:
- 36 "(c) Creation of Fund Reserve. – The Commission shall reserve, and shall not
37 expend, fifty percent (50%) of each annual payment allocated to the Health and
38 Wellness Trust Fund pursuant to ~~G.S. 143-16.4~~ G.S. 143C-9-3 during years 2001
39 through 2025 to create and build the Fund Reserve. During years 2001 through 2025,
40 the Commission may expend any investment earnings on the reserved funds. Beginning
41 in year 2026, and thereafter, the Commission shall not expend the reserved funds but
42 may continue to expend any investment earnings on the reserved funds."
- 43 **SECTION 123.** G.S. 147-86.35(b) as amended by Section 3 of S.L.
44 2004-196 reads as rewritten:

1 "(b) Any non-State entity as that term is defined in ~~G.S. 143-6.2~~ G.S. 143C-1-1
2 that receives, uses, or expends any funds from the Commission is subject to the
3 applicable reporting requirements of ~~G.S. 143-6.2~~ G.S. 143C-6-14."

4 **SECTION 124.** G.S. 150B-21.4(a) reads as rewritten:

5 "(a) State Funds. – Before an agency publishes in the North Carolina Register the
6 proposed text of a permanent rule change that would require the expenditure or
7 distribution of funds subject to the ~~Executive Budget Act, Article 1 of Chapter 143, State~~
8 Budget Act, Chapter 143C of the General Statutes it must submit the text of the
9 proposed rule change and a fiscal note on the proposed rule change to the Director of
10 the Budget and obtain certification from the Director that the funds that would be
11 required by the proposed rule change are available. The fiscal note must state the
12 amount of funds that would be expended or distributed as a result of the proposed rule
13 change and explain how the amount was computed. The Director of the Budget must
14 certify a proposed rule change if funds are available to cover the expenditure or
15 distribution required by the proposed rule change."

16 **SECTION 125.** G.S. 159-7(b) reads as rewritten:

17 "(b) The words and phrases defined in this section have the meanings indicated
18 when used in this Article, unless the context clearly requires another meaning.

- 19 (1) "Budget" is a proposed plan for raising and spending money for
20 specified programs, functions, activities or objectives during a fiscal
21 year.
- 22 (2) "Budget ordinance" is the ordinance that levies taxes and appropriates
23 revenues for specified purposes, functions, activities, or objectives
24 during a fiscal year.
- 25 (3) "Budget year" is the fiscal year for which a budget is proposed or a
26 budget ordinance is adopted.
- 27 (4) "Debt service" is the sum of money required to pay installments of
28 principal and interest on bonds, notes, and other evidences of debt
29 accruing within a fiscal year, to maintain sinking funds, and to pay
30 installments on debt instruments issued pursuant to Chapter 159G of
31 the General Statutes or Chapter 159I of the General Statutes accruing
32 within a fiscal year.
- 33 (5), (6) Repealed by Session Laws 1975, c. 514, s. 2.
- 34 (7) "Fiscal year" is the annual period for the compilation of fiscal
35 operations, as prescribed in G.S. 159-8(b).
- 36 (8) "Fund" is a fiscal and accounting entity with a self-balancing set of
37 accounts recording cash and other resources, together with all related
38 liabilities and residual equities or balances, and changes therein, for
39 the purpose of carrying on specific activities or attaining certain
40 objectives in accordance with special regulations, restrictions, or
41 limitations.
- 42 (9) Repealed by Session Laws 1975, c. 514, s. 2.
- 43 (10) "Public authority" is a municipal corporation (other than a unit of local
44 government) that is not subject to the ~~Executive Budget Act (Article 1~~

1 of ~~Chapter 143 of the General Statutes~~ State Budget Act (Chapter
2 143C of the General Statutes) or a local governmental authority, board,
3 commission, council, or agency that (i) is not a municipal corporation,
4 (ii) is not subject to the ~~Executive Budget Act, State Budget Act,~~ and
5 (iii) operates on an area, regional, or multi-unit basis, and the
6 budgeting and accounting systems of which are not fully a part of the
7 budgeting and accounting systems of a unit of local government.

8 (11) Repealed by Session Laws 1975, c. 514, s. 2.

9 (12) "Sinking fund" means a fund held for the retirement of term bonds.

10 (13) "Special district" is a unit of local government (other than a county,
11 city, town, or incorporated village) that is created for the performance
12 of limited governmental functions or for the operation of a particular
13 utility or public service enterprises.

14 (14) "Taxes" do not include special assessments.

15 (15) "Unit," "unit of local government," or "local government" is a
16 municipal corporation that is not subject to the ~~Executive Budget Act~~
17 ~~(Article 1 of Chapter 143 of the General Statutes)~~ State Budget Act
18 (Chapter 143C of the General Statutes) and that has the power to levy
19 taxes, including a consolidated city-county, as defined by
20 G.S. 160B-2(1), and all boards, agencies, commissions, authorities,
21 and institutions thereof that are not municipal corporations.

22 (16) "Vending facilities" has the same meaning as it does in ~~G.S. 143-12.1.~~
23 G.S. 111-42(d), but also means any mechanical or electronic device
24 dispensing items or something of value or entertainment or services for
25 a fee, regardless of the method of activation, and regardless of the
26 means of payment, whether by coin, currency, tokens, or other means."

27 **SECTION 126.** This act becomes effective July 1, 2007, and applies to the
28 budget for the 2007-2009 biennium and each subsequent biennium thereafter.
29 Prosecutions for offenses committed before the effective date of this act are not abated
30 or affected by this act, and the statutes that would be applicable but for this act remain
31 applicable to those prosecutions.