

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**SESSION LAW 2003-284  
HOUSE BILL 397**

AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES, AND TO IMPLEMENT A STATE BUDGET THAT ENABLES THE STATE TO PROVIDE A SUSTAINABLE RECOVERY THROUGH STRONG EDUCATIONAL AND ECONOMIC TOOLS.

The General Assembly of North Carolina enacts:

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

**INTRODUCTION**

**SECTION 1.1.** The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

**TITLE OF ACT**

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

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

**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the biennium ending June 30, 2005, according to the following schedule:

<b>Current Operations - General Fund</b>	<b>2003-2004</b>	<b>2004-2005</b>
<b>EDUCATION</b>		
Community Colleges System Office	660,927,719	660,199,222
Department of Public Instruction	6,035,050,302	6,034,995,183
University of North Carolina - Board of Governors	1,792,141,661	1,822,426,657
<b>HEALTH AND HUMAN SERVICES</b>		
Department of Health and Human Services Office of the Secretary	82,168,433	80,968,433

Division of Aging	27,685,838	27,685,838
Division of Blind Services/Deaf/HH	9,302,670	9,387,008
Division of Child Development	259,017,167	259,210,693
Division of Education Services	31,806,862	31,670,076
Division of Facility Services	12,256,792	12,256,792
Division of Medical Assistance	1,987,409,086	2,449,169,963
Division of Mental Health	577,290,247	580,423,098
NC Health Choice	49,484,279	55,432,822
Division of Public Health	124,177,475	123,448,895
Division of Social Services	179,178,674	189,029,268
Division of Vocational Rehabilitation	40,042,124	40,834,858
Total	3,379,819,647	3,859,517,744

## **NATURAL AND ECONOMIC RESOURCES**

Department of Agriculture and Consumer Services	48,495,356	48,616,369
Department of Commerce		
Commerce	33,396,542	34,336,301
Commerce State-Aid	11,272,085	11,222,085
NC Biotechnology Center	5,883,395	5,883,395
Rural Economic Development Center	4,658,607	4,658,607
Department of Environment and Natural Resources		
Environment and Natural Resources	147,176,308	152,798,010
Clean Water Management Trust Fund	62,000,000	62,000,000

Department of Labor	13,265,454	13,274,104
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## **JUSTICE AND PUBLIC SAFETY**

Department of Correction	940,246,590	959,947,282
Department of Crime Control and Public Safety	28,744,326	28,139,010
Judicial Department	304,340,731	311,499,694
Judicial Department - Indigent Defense	73,264,829	71,019,451
Department of Justice	71,041,310	71,459,312
Department of Juvenile Justice and Delinquency Prevention	130,313,473	130,585,498

## **GENERAL GOVERNMENT**

Department of Administration	52,055,520	52,583,907
Office of Administrative Hearings	2,409,683	2,411,797
Department of State Auditor	10,293,801	10,293,801
Office of State Controller	9,694,464	9,719,451
Department of Cultural Resources		
Cultural Resources	55,227,767	54,088,598

Roanoke Island Commission	1,634,905	1,636,559
State Board of Elections	6,837,797	4,915,939
General Assembly	41,561,463	44,971,305
Office of the Governor		
Office of the Governor	4,976,503	4,826,503
Office of State Budget and Management	4,211,805	4,216,110
OSBM – Reserve for Special Appropriations	3,380,000	3,130,000
Housing Finance Agency	4,750,945	4,750,945
Department of Insurance		
Insurance	26,307,054	23,187,587
Insurance – Volunteer Safety Workers' Compensation	4,500,000	2,600,000
Office of Lieutenant Governor	601,722	601,722
Department of Revenue	74,930,766	75,174,094
Rules Review Commission	310,454	310,454
Department of Secretary of State	8,057,198	7,756,198
Department of State Treasurer		
State Treasurer	7,575,029	7,577,784
State Treasurer – Retirement for Fire and Rescue Squad Workers	7,481,179	7,481,179
<b>TRANSPORTATION</b>		
Department of Transportation	11,429,525	11,402,800
<b>RESERVES, ADJUSTMENTS AND DEBT SERVICE</b>		
Reserve for Compensation Increases	132,050,000	45,550,000
Reserve for State Health Plan	113,418,000	151,225,000
Reserve for Retiree Health Benefits	36,800,000	36,800,000
Reserve for Teachers' and State Employees' Retirement Contribution	26,546,000	154,200,000
Reserve for Transfer of Various Benefit Plans	(55,000,000)	(13,000,000)
Contingency and Emergency	5,000,000	5,000,000
Reserve for Salary Adjustments	4,500,000	4,500,000
Mental Health, Developmental Disabilities and Substance Abuse Services Trust Fund	12,500,000	0
Reserve to Implement HIPPA	2,000,000	0

State Surplus Real Property System	250,000	0
Blue Ribbon Commission on Medicaid Reform	250,000	0
Debt Service		
General Debt Service	387,785,920	503,682,683
Federal Reimbursement	1,155,948	1,155,948
<b>TOTAL CURRENT OPERATIONS – GENERAL FUND</b>	<b>14,747,521,783</b>	<b>15,505,328,288</b>

**GENERAL FUND AVAILABILITY STATEMENT**

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

	<b>FY 2003-2004</b>	<b>FY 2004-2005</b>
<b>Unappropriated Balance Remaining from FY 2002-2003</b>	103,885	163,383,597
<b>Beginning Credit Balance</b>	409,159,298	0
Credit to Savings Reserve Account	(150,000,000)	0
Credit to Repairs & Renovations Reserve Account	(15,000,000)	0
<b>Beginning Unreserved Credit Balance</b>	244,159,298	0
<b>Revenues Based on Existing Tax Structure</b>	13,028,600,000	13,766,160,000
<b>Nontax Revenues</b>		
Investment Income	113,900,000	119,690,000
Judicial Fees	137,520,000	144,430,000
Disproportionate Share	100,000,000	100,000,000
Insurance	51,900,000	53,900,000
Other Nontax Revenues	116,050,000	120,100,000
Highway Trust Fund/Use Tax Reimbursement Transfer	252,422,125	242,586,830
Highway Fund Transfer	16,379,000	16,166,400
<b>Subtotal Nontax Revenues</b>	<b>788,171,125</b>	<b>796,873,230</b>
<b>Total General Fund Availability</b>	<b>14,061,034,308</b>	<b>14,726,416,827</b>
<b>Adjustments to Availability: 2003 Session</b>		
Maintain Sales Tax Rate at 4.5%	341,750,000	388,200,000
Maintain Top Income Tax Bracket at 8.25%	37,500,000	92,700,000
Conform to Federal Definition of Child for State Child Tax Credit	16,800,000	17,000,000
Equalize Insurance Tax Rate on Article 65 Corporations	18,600,000	13,900,000
Conform to Streamline Sales Tax Provision (Soft Drinks, Prepared Food & Modified Software)	44,050,000	47,600,000
Tax Soft Drinks in Vending Machines at 50% of General Rate	(4,050,000)	(8,600,000)
Restore Use Tax Line on Individual Returns	3,100,000	3,100,000
Revenue: Project Tax Collect	50,000,000	50,000,000
Revenue: Project Compliance	40,204,537	76,116,865

Divert MSA Settlement Proceeds from Tobacco Trust Fund	40,000,000	40,000,000
Divert MSA Settlement Proceeds from Health & Wellness Trust Fund	25,000,000	25,000,000
Divert Additional Proceeds from MSA	1,800,000	0
Discontinue Tobacco Discounts	1,741,667	1,900,000
Discontinue Alcohol Discounts	3,666,667	4,000,000
Fee Increases	5,710,281	5,778,569
Attorney General Settlement Funds	10,000,000	0
Reserve for Special Funds Transfer	20,000,000	20,000,000
Divert Proceeds from 911 Fund	33,000,000	25,000,000
Sale of Surplus Real Property	10,000,000	30,000,000
Federal Relief Package (Grants to States)	136,859,298	0
Hurricane Floyd Disaster Relief Funds	108,796,845	0
Adjust Transfer from Insurance Regulatory Fund	2,942,777	(207,827)
Tax Reductions for Federal Conformity	(70,000,000)	0
Subtotal Adjustments to Availability: 2003 Session	877,472,072	831,487,607
<b>Revised General Fund Availability</b>	<b>14,938,506,380</b>	<b>15,557,904,434</b>
<b>Less: Total General Fund Appropriations</b>	<b>(14,775,122,783)</b>	<b>(15,505,328,288)</b>
<b>Unappropriated Balance Remaining</b>	<b>163,383,597</b>	<b>52,576,146</b>

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

**SECTION 2.2.(c)** Notwithstanding G.S. 143-16.4(a1), of the funds credited to the Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2003-2004 and 2004-2005 fiscal years, the sum of twenty million dollars (\$20,000,000) that would otherwise be deposited in the Fund Reserve established by G.S. 147-86.30(c) and five million (\$5,000,000) of the funds that are not reserved pursuant to G.S. 147-86.30(c) shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund), to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 and 2004-2005 fiscal years.

**SECTION 2.2.(d)** On July 1, 2003, the State Controller shall transfer one hundred eight million seven hundred ninety-six thousand eight hundred forty-five dollars (\$108,796,845) from the Disaster Reserve Fund, Budget Code 13017, to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 fiscal year.

**SECTION 2.2.(e)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, the State Controller shall transfer only one hundred fifty million dollars (\$150,000,000) from the unreserved credit balance to the Savings Reserve Account on June 30, 2003. This is not an "appropriation made by law", as that phrase is used in Article V, Section 7(1) of the North Carolina Constitution. This subsection becomes effective June 30, 2003.

**SECTION 2.2.(f)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer fifteen million dollars (\$15,000,000) from the unreserved

credit balance to the Repairs and Renovations Reserve Account on June 30, 2003. This subsection becomes effective June 30, 2003.

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

**SECTION 2.2.(h)** Notwithstanding the provisions of G.S. 62A-22(c), 62A-24(d), 62A-25, and 62A-26, the following shall be transferred from Wireless Fund created in G.S. 62A-22(c) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2005 fiscal biennium: (i) all service charges remitted to the Wireless Fund during the 2003-2004 fiscal year; and (ii) the sum of twenty-five million dollars (\$25,000,000) from the services charges remitted to the Wireless Fund during the 2004-2005 fiscal year.

**SECTION 2.2.(i)** Notwithstanding any other provision of law, the sum of ten million dollars (\$10,000,000) received by the State of North Carolina as the State's share of the Conflicts of Interest Global Settlement shall be deposited in the General Fund. The revenue shall be used for educational purposes.

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

In addition to the transfer authorized under G.S. 105-187.9(b)(2), and notwithstanding Section 26.14 of S.L. 2002-126 and G.S. 105-187.9(b)(1), the sum to be transferred to the General Fund for fiscal year 2003-2004 is two hundred fifty million dollars (\$250,000,000) and for fiscal year 2004-2005 is two hundred forty million dollars (\$240,000,000).

**SECTION 2.2.(k)** Effective June 30, 2003, notwithstanding G.S. 143-16.4(a1) and G.S. 143-16.4(a2), of the funds credited to the Tobacco Trust Account and Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2, the sum of one million eight hundred thousand dollars (\$1,800,000) which the State will receive from a settlement involving cigarettes that Brown & Williamson contract manufactured for Star Tobacco, Inc. and Star Scientific, Inc. during the years 1999 through 2002 shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 fiscal year.

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

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

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

<b>Current Operations – Highway Fund</b>	<b>2003-2004</b>	<b>2004-2005</b>
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(1)	Transportation Admin. (84210)	\$72,776,692	\$72,898,916
(2)	Transportation Operations (84220)	28,190,393	28,150,605
(3)	Transportation Programs (84230)		
	State Construction		
	Secondary	89,600,000	90,590,000
	Urban	28,000,000	14,000,000
	Public Access	2,000,000	2,000,000
	Spot Safety	9,100,000	9,100,000
	Contingency	15,000,000	10,000,000
	Federal Aid Match	4,160,000	4,280,000
	Maintenance	582,507,482	573,436,154
	Asphalt Plant/OSHA	425,000	425,000
	Capital	-	-
	Ferry Operations	19,677,283	19,677,283
	Aid to Municipalities	89,600,000	90,590,000
	Rail	15,090,919	15,531,153
	Public Transit	79,705,266	80,302,926
(4)	Governor's Highway Safety (84240)	292,449	293,118
(5)	Transportation Regulation (84260)	102,032,933	102,896,913
(6)	Reserves, Transfers, Other Agencies (84270)	214,626,257	217,352,347
	<b>TOTAL</b>	<b>\$1,352,784,674</b>	<b>\$1,331,524,415</b>

#### HIGHWAY FUND AVAILABILITY STATEMENT

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

<b>Highway Fund Budget Reform Statement</b>	<b>2003-2004</b>	<b>2004-2005</b>
Beginning Credit Balance	-	-
Estimated Revenue	\$ 1,352,784,674	\$ 1,375,848,337
Estimated Reversions	-	-
<b>Total Highway Fund Availability</b>	<b>\$ 1,352,784,674</b>	<b>\$ 1,375,848,337</b>

#### PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

##### HIGHWAY TRUST FUND APPROPRIATIONS

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

<b>Current Operations – Highway Trust Fund</b>	<b>2003-2004</b>	<b>2004-2005</b>
Intrastate System	\$422,754,783	\$452,665,225
Urban Loops	170,944,428	183,038,965
Aid to Municipalities	44,356,838	47,495,141
Total for Secondary Roads	79,559,266	83,648,141
Program Administration	40,001,560	39,636,698
Transfer to General Fund	252,422,125	242,586,830
<b>GRAND TOTAL CURRENT OPERATIONS AND EXPANSION</b>	<b>\$ 1,010,039,000</b>	<b>\$ 1,049,071,000</b>

#### PART V. BLOCK GRANTS

**DHHS BLOCK GRANTS**

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

**COMMUNITY SERVICES BLOCK GRANT**

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

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

**SOCIAL SERVICES BLOCK GRANT**

01.	County departments of social services (Transfer from TANF – \$4,500,000)	\$ 28,868,189
02.	Allocation for in-home services provided by county departments of social services	2,101,113
03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
04.	Division of Services for the Blind	3,105,711
05.	Division of Facility Services	426,836
06.	Division of Aging – Home and Community Care Block Grant	1,840,234
07.	Child Care Subsidies	3,000,000
08.	Division of Vocational Rehabilitation – United Cerebral Palsy	71,484
09.	State administration	1,693,368
10.	Child Medical Evaluation Program	238,321
11.	Adult day care services	2,155,301
12.	Comprehensive Treatment Services Program	422,003
13.	Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
14.	Division of Vocational Rehabilitation Services –	



	Easter Seals Society	116,779
15.	UNC-CH CARES Program for training and consultation services	247,920
16.	Office of the Secretary – Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
17.	Division of Social Services – Child Caring Agencies	1,500,000
18.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services – Developmentally Disabled Waiting List for services	5,000,000
19.	Transfer to Preventive Health Services Block Grant for HIV/AIDS education, counseling, and testing	145,819
20.	Division of Facility Services – Mental Health Licensure	213,128
21.	Transfer to the Office of the Secretary – N.C. Inter-Agency Council for Coordinating Homeless Programs	150,000
	<b>TOTAL SOCIAL SERVICES BLOCK GRANT</b>	<b>\$ 54,775,307</b>
	<b>LOW-INCOME ENERGY BLOCK GRANT</b>	
01.	Energy Assistance Programs	\$ 12,775,323
02.	Crisis Intervention	9,192,927
03.	Administration	2,957,339
04.	Weatherization Program	4,212,740
05.	Department of Administration – N.C. State Commission of Indian Affairs	54,840
06.	Heating Air Repair and Replacement Program	1,966,153
	<b>TOTAL LOW-INCOME ENERGY BLOCK GRANT</b>	<b>\$ 31,159,322</b>
	<b>MENTAL HEALTH SERVICES BLOCK GRANT</b>	
01.	Provision of community-based services for severe and persistently mentally ill adults	\$ 5,657,798
02.	Provision of community-based	

	services to children	2,513,141
03.	Comprehensive Treatment Services Program for Children	1,500,000
04.	Administration	568,911
<b>TOTAL MENTAL HEALTH SERVICES BLOCK GRANT</b>		<b>\$ 10,239,850</b>

**SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

01.	Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol and Drug Abuse Treatment Centers	\$ 18,901,711
02.	Continuation of services for pregnant women and women with dependent children	8,069,524
03.	Continuation of services to IV drug abusers and others at risk for HIV diseases	4,616,378
04.	Provision of services to children and adolescents	7,740,611
05.	Juvenile Services – Family Focus	851,156
06.	Allocation to the Division of Public Health for HIV/STD Risk Reduction Projects	383,980
07.	Allocation to the Division of Public Health for HIV/STD Prevention by County Health Departments	209,576
08.	Allocation to the Division of Public Health for the Maternal and Child Health Hotline	37,779
09.	Administration	2,596,307
<b>TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT</b>		<b>\$ 43,407,022</b>

**CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

01.	Child care subsidies	\$154,713,475
02.	Quality and availability initiatives	16,449,256
03.	Administrative expenses	6,969,533
04.	Transfer from TANF Block Grant for	

child care subsidies	79,562,189
<b>TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT</b>	<b>\$257,694,453</b>
<b>TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT</b>	
01. Work First Cash Assistance	\$129,396,275
02. Work First County Block Grants	94,653,315
03. Transfer to the Child Care and Development Fund Block Grant for child care subsidies	79,562,189
04. Child Care Subsidies for TANF Recipients	26,621,241
05. Child Welfare Workers for local DSS	11,452,391
06. Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
07. Support Our Students – Department of Juvenile Justice and Delinquency Prevention	2,249,642
08. Residential Substance Abuse Services for Women With Children	2,000,000
09. Domestic Violence Services for Work First Families	1,200,000
10. After-School Services for At-Risk Children YWCA Central Carolinas Youth Development Programs \$176,000	2,249,642
11. Division of Social Services – Administration	400,000
12. Child Welfare Training	2,550,000
13. TANF Automation Projects	592,500
14. Work First/Boys and Girls Clubs	1,000,000
15. Work Central Career Advancement Center	550,000
16. WCH-Teen Pregnancy Prevention	1,500,000
17. Transfer to Social Services Block Grant for Child Caring Institutions	1,500,000

18.	Special Children's Adoption Fund	2,000,000
19.	NC Fast Implementation	630,000
20.	Maternity Homes	838,000
21.	Pregnancy Prevention Coalition of North Carolina	127,500
22.	Individual Development Accounts	180,000
23.	Reduction of Out-of-Wedlock Births	1,000,000
<b>TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT</b>		<b>\$366,752,695</b>
<b>MATERNAL AND CHILD HEALTH BLOCK GRANT</b>		
01.	Healthy Mothers/Healthy Children Block Grants to Local Health Departments	9,838,074
02.	High-Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments	2,307,918
03.	Services to Children With Special Health Care Needs	5,078,647
<b>TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT</b>		<b>\$ 17,224,639</b>
<b>PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>		
01.	Statewide Health Promotion Programs	\$3,132,810
02.	Rape Crisis/Victims' Services Program – Council for Women	197,112
03.	Transfer from Social Services Block Grant – HIV/AIDS education, counseling, and testing	145,819
04.	Office of Minority Health	159,459
05.	Administrative Costs	108,546
06.	Osteoporosis Task Force Activities	150,000
<b>TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT</b>		<b>\$3,893,746</b>

**SECTION 5.1.(b)** Decreases in Federal Fund Availability. – If the United States Congress reduces federal fund availability in the Social Services Block Grant

below the amounts appropriated in this section, then the Department of Health and Human Services shall allocate these decreases giving priority first to those direct services mandated by State or federal law, then to those programs providing direct services that have demonstrated effectiveness in meeting the federally and State-mandated services goals established for the Social Services Block Grant. The Department shall not include transfers from TANF for specified purposes in any calculations of reductions to the Social Services Block Grant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 5.1.(k)** The sum of two million two hundred forty-nine thousand six hundred forty-two dollars (\$2,249,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2003-2004 fiscal year shall be used to support the existing Support Our Students Program and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the Program.

**SECTION 5.1.(l)** The sum of one million two hundred thousand dollars (\$1,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to provide domestic violence services to Work First

recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to establish one administrative position within the Division of Social Services to implement this subsection.

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

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

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

**SECTION 5.1.(m)** The sum of two million two hundred forty-nine thousand six hundred forty-two dollars (\$2,249,642) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy and school dropout. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to establish one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration. The Department shall report no later than March 1, 2004, on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, and the Fiscal Research Division.

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

**SECTION 5.1.(o)** The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the

Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2003-2004 fiscal year and the sum of four hundred twenty-two thousand three dollars (\$422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 21.60 of S.L. 2001-424, as amended.

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

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

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

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

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

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

**SECTION 5.1.(u)** The sum of one million dollars (\$1,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce school dropout and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls



Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

**SECTION 5.1.(v)** The Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities and expenditures of the North Carolina Inter-Agency Council for Coordinating Homeless Programs no later than April 1, 2004.

#### **NER BLOCK GRANT FUNDS**

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

#### **COMMUNITY DEVELOPMENT BLOCK GRANT**

01. State Administration	\$1,000,000
02. Urgent Needs and Contingency	50,000
03. Scattered Site Housing	13,200,000
04. Economic Development	10,960,000
05. Community Revitalization	12,200,000
06. State Technical Assistance	450,000
07. Housing Development	2,000,000
08. Infrastructure	5,140,000

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

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

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

**SECTION 5.2.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State administration; not less than fifty thousand dollars (\$50,000) may be used for Urgent Needs and Contingency; up to thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered Site Housing; up to ten million nine hundred sixty thousand dollars (\$10,960,000) may be used for Economic Development, including Urban Redevelopment grants; not less than twelve million two hundred thousand dollars (\$12,200,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to two million dollars (\$2,000,000) may be used for Housing Development; up to five million

one hundred forty thousand dollars (\$5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

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

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

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

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

## **PART VI. GENERAL PROVISIONS**

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

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

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

- (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or
- (2) If the Director of the Budget finds that the new permanent employee positions are necessary to maintain the function that generated the receipts at the level anticipated in the certified budget codes for that Fund. The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speakers of the House of Representatives,

the Chairs of the Appropriations Committees of the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office that he intends to make such a finding at least 10 days before he makes the finding. The notification shall set out the reason the positions are necessary to maintain the function.

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

This section shall expire June 30, 2004.

## **NO EXPENDITURE OF UNBUDGETED RECEIPTS**

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

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

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

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

## **BUDGET DIRECTOR TO REVIEW PRACTICES**

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

- (1) The proliferation of nonreverting funds and accounts.
- (2) The designation of selected funds as "off-budget".
- (3) The sources of authority, consistent with Article V, Section 7(1) of the Constitution, under which expenditures are being made from each special fund, trust fund, internal service fund, or enterprise fund.

- (4) The proper classification and management of funds as special funds, trust funds, internal service funds, or enterprise funds consistent with criteria adopted by the Governmental Accounting Standards Board.
- (5) Appropriate budget planning within special funds, trust funds, internal service funds, and enterprise funds, including, in particular, the accurate projection of receipts, expenditures, and fund balances and the presentation of that information for legislative review and appropriation action.
- (6) The administration of G.S. 143-27, which requires in part that the over collection of departmental receipts be accompanied by a corresponding reduction in the allotments to institutions, departments, and agencies.

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

#### **BUDGET CODE ADJUSTMENTS**

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

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

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

**SECTION 6.4.(a)** Funds in the amount of five million dollars (\$5,000,000) for the 2003-2004 fiscal year and five million dollars (\$5,000,000) for the 2004-2005 fiscal year are appropriated in this act to the Contingency and Emergency Fund. Of these funds:

- (1) Up to two million dollars (\$2,000,000) for the 2003-2004 fiscal year may be used for purposes related to the Base Realignment and Closure Act (BRAC); and
- (2) Up to two hundred fifty thousand dollars (\$250,000) for the 2003-2004 fiscal year may be expended for statutory purposes other than those set out in G.S. 143-23(a1)(2) or in subdivision (1) of this section.

The remainder of these funds shall be expended only for the purposes outlined in G.S. 143-23(a1)(2).

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

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

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

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

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

### **HIPAA RESERVE**

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

### **HIPAA IMPLEMENTATION**

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

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

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

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

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

### **STATE-OWNED SURPLUS REAL PROPERTY SYSTEM**

**SECTION 6.8.(a)** Definition. – For purposes of this section, the term "State-owned surplus real property" means State-owned land and buildings that are unused or underused.

**SECTION 6.8.(b)** Establish State-Owned Surplus Real Property Disposal System; Purpose; Use of Proceeds. – The Department of Administration, in consultation with the Office of State Budget and Management, the Department of Transportation, The University of North Carolina, and all other affected State departments, agencies, and institutions, shall develop and implement a State-owned surplus real property disposal system. The purpose of the system is to establish a uniform real property disposal system that will continuously identify State-owned surplus real property, evaluate that property, and dispose of that property as appropriate. Unless otherwise provided by law, the clear proceeds of the sale of State-owned surplus real property shall be credited to the General Fund. It is the intent of the General Assembly that these

proceeds shall partially offset debt service costs occasioned by the use of Certificates of Participation to finance the repair and renovation of State buildings.

**SECTION 6.8.(c) Duties; Criteria.** – In compliance with this section, the Department of Administration, in consultation with all other affected State departments, agencies, and institutions, shall do all of the following:

- (1) Review the current inventory of State-owned land and buildings for accuracy and completeness.
- (2) Determine how and when State-owned land and buildings should be declared surplus.
- (3) Develop criteria to be considered prior to the disposal of any property under the system. The criteria shall include all of the following factors:
  - a. The condition of the property;
  - b. The extent to which it meets the purpose for which it was intended;
  - c. The future needs of the Agency to perform the service intended at the location;
  - d. The best and most cost-effective manner in which these future needs can be serviced;
  - e. The practicability of moving the function of the services performed at a location to another area that might reduce acquisition, construction, and labor cost without diminishing the quality of service;
  - f. A recommendation as to whether a respective property should be (i) sold or retained, (ii) renovated, (iii) expanded for future use, or (iv) sold with a leaseback for a period of not more than 10 years in order to allow transition; and
  - g. Other recommendations regarding use of the property.
- (3) Determine whether the highest and best use is being made of the State-owned property.
- (4) Determine whether State agencies have the authority to retain funds from the disposal of State-owned surplus real property and whether this is consistent among agencies and conducive to the disposal of unneeded property.
- (5) Consider the use of private real estate brokers, auction, and any other method determined to be suitable in order to efficiently and effectively dispose of State-owned surplus real property.
- (6) Review the real property held by a selected number of State agencies to determine whether the agency has any property that meets the criteria as set forth in this section.
- (7) Assess the need for additional staff to effectively administer the system.
- (8) Examine current State law to assess the need for changes in order to support a uniform system to identify, evaluate, and dispose of all unused or underused State-owned land and buildings.

**SECTION 6.8.(d) Establish Real Property Management Advisory Council.** – There is established the Real Property Management Advisory Council in the Department of Administration. The Advisory Council shall examine the use of State-owned real property and shall advise the Secretary of Administration as to the identification of those properties that are unneeded or underutilized. Members of the Advisory Council must be knowledgeable in one of the following areas: real estate/appraisal, engineering, investment properties, or finance. The Advisory Council shall consist of 12 members appointed as follows:

- (1) Four members appointed by the Speaker of the House of Representatives, including one member who shall be designated as House cochair. Of the members appointed, one shall be knowledgeable

in the field of real estate/appraisal, one shall be knowledgeable in the field of engineering, one shall be knowledgeable in the field of investment properties, and one shall be knowledgeable in the field of finance.

- (2) Four members appointed by the President Pro Tempore of the Senate, including one member who shall be designated as Senate cochair. Of the members appointed, one shall be knowledgeable in the field of real estate/appraisal, one shall be knowledgeable in the field of engineering, one shall be knowledgeable in the field of investment properties, and one shall be knowledgeable in the field of finance.
- (3) Four members appointed by the Governor. Of the members appointed, one shall be knowledgeable in the field of real estate/appraisal, one shall be knowledgeable in the field of engineering, one shall be knowledgeable in the field of investment properties, and one shall be knowledgeable in the field of finance.

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

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

**SECTION 6.8.(e)** Consultants May Be Retained. – The Department may retain consultants to assist the accomplishment of the objectives set forth in subsection (a) of this section.

**SECTION 6.8.(f)** Study Sale and Lease-Back Potential of State-Owned Property. – As part of developing the State-owned surplus real property disposal system mandated by this section, the Department of Administration shall also review the highest and best use of state-owned property and determine if less expensive alternative sites should be acquired for State use and the former sites sold or marketed by sale and leaseback until the alternative site is ready for use. The Department shall include its findings and recommendations in the reports to the Joint Legislative Commission on Governmental Operations required by this section.

**SECTION 6.8.(g)** Reporting Requirement. – The Department of Administration shall make an interim report to the Joint Legislative Commission on Governmental Operations no later than December 1, 2003, regarding the extraordinary measures being taken to comply with this section and shall make a final report no later than March 1, 2004, regarding its findings and recommendations and the progress in implementing this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **BLUE RIBBON COMMISSION ON MEDICAID REFORM**

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

- (1) Methods to responsibly restrain the growth in Medicaid spending.
- (2) Best practices in both the public and private sectors in managing and administering health care.
- (3) Options for maximizing existing resources while controlling Medicaid program costs.
- (4) Current array of services available within the State Medicaid program to determine the appropriateness of the type, frequency, and duration of those services.
- (5) Opportunities for long-term, systemic change in the Medicaid program through the use of federal waivers and other management tools.
- (6) How to minimize the State and county share of Medicaid costs and maximize federal participation in Medicaid programs.
- (7) The role of Medicaid in the State's economy.



(8) Any other matter relating to reform of the State Medicaid program.

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

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

The appointing officer shall fill vacancies. The Commission shall meet at the call of the Cochairs. Members of the Commission shall receive per diem, subsistence, and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission may contract for consultant services as provided in G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may exercise all of the powers provided under G.S. 120-19 through G.S. 120-19.4 while in the discharge of its official duties. The funds appropriated by this act to the Reserve for the Blue Ribbon Commission on Medicaid Reform shall be transferred to the Department of Health and Human Services in order to draw down federal match funds to be used to cover the cost of the Commission's work.

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

### **COMPETITIVELY BID BEVERAGES CONTRACTS**

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

**"§ 143-64. Beverages contracts.**

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

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

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

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

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

**SECTION 6.20.** Notwithstanding G.S. 143-341(4)g. or any other provision of law, the property currently allocated to the Department of Administration and previously allocated to the Department of Health and Human Services for the Central School for the Deaf at Greensboro is hereby reallocated to the Board of Governors of The University of North Carolina. This property shall be used for the establishment of Millennium Campuses of the University of North Carolina at Greensboro and North Carolina Agricultural and Technical State University.

## REVISE LAW ON NON-STATE ENTITY REPORTS ON USE OF STATE FUNDS

SECTION 6.21. G.S. 143-6.1 reads as rewritten:

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

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

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

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

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

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

- ~~(1) Submit documents to the State Auditor in a prescribed format describing standards of compliance and suggested audit procedures sufficient to give adequate direction to independent auditors performing audits.~~
- ~~(2) Annually, at the time the grant is made, notify each grantee, in writing, of the reporting requirements set forth in this section and that the State agency is not authorized to disburse funds to grantees that fail to comply with the reporting requirements for funds received during the prior fiscal year.~~
- ~~(3) Provide each grantee with the accounting form and other requirements prescribed by the State Auditor.~~
- ~~(4) Submit a list to the State Auditor by October 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year, the amount disbursed to each grantee, and other such information as required by the State Auditor to comply with the requirements set forth in this section.~~
- ~~(5) Submit a list to the Office of State Budget and Management by January 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year and, for each grantee, whether that grantee has filed the sworn accounting required by subsection (c) of this section and whether the sworn accounting is in compliance with subsection (c) of this section.~~

(c) Grantee Receipt and Expenditure Reports. – A grantee that receives, uses, or expends between fifteen thousand dollars (\$15,000) and three hundred thousand dollars (\$300,000) in State funds annually, ~~except when the funds are for the purchase of goods~~

~~or services, annually~~ must file annually with the State agency that disbursed the funds a sworn accounting of receipts and expenditures of the State funds and a description of activities and accomplishments undertaken by the grantee with State funds. This accounting must be attested to by the treasurer of the grantee and one other authorizing officer of the grantee. The accounting must be filed within six months after the end of the grantee's fiscal year in which the State funds were received. The accounting shall be in the form required by the State Auditor and provided to the grantee by the disbursing agency. ~~Each State agency shall develop a format for these accountings and shall obtain the State Auditor's approval of the format.~~

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

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

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

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

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

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

(e) Federal Reporting Requirements. – Federal law may require a grantee to make additional reports with respect to funds for which reports are required under this section. Notwithstanding the provisions of this section, a grantee may satisfy the reporting requirements of subsection (c) of this section by submitting a copy of the report required under federal law with respect to the same funds or by submitting a copy of the report described in subsection (d) of this section.

(f) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or expends State funds. Such a grantee must, upon request, furnish to the State Auditor for

audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State funds. The grantee must furnish any additional financial or budgetary information requested by the State Auditor."

### **TRANSFERS BETWEEN LINE ITEMS**

**SECTION 6.22.** For fiscal year 2003-2004 only, State departments and agencies may transfer General Fund appropriations between personal service and nonpersonal service line items provided that it has been approved by the department or agency head and has received prior approval from the Office of State Budget and Management. Personal service funds may be transferred and used for nonpersonal service items in certain instances. Specifically, personal service funds may only be used to pay for costs related to continuing operations and shall not be used to expand existing programs or to establish new programs.

State departments and agencies shall report to the Joint Legislative Commission on Governmental Operations within 30 days on all transfers from personal service line items to nonpersonal service line items.

General Fund salary and related benefit appropriations for State departments and agencies that are reduced or eliminated in this act shall not be replaced by other budgeted line items supported by General Fund appropriations. Nonpersonal service funds or lapsed salary funds shall not be used to establish new permanent employee positions or to raise the salary of existing employees.

### **RESERVE FOR SPECIAL FUNDS TRANSFER**

**SECTION 6.23.(a)** The Office of State Budget and Management may transfer up to twenty percent (20%) of the balance of any special fund other than the Clean Water Management Trust Fund, the Natural Heritage Trust Fund, or the Parks and Recreation Trust Fund, to the Reserve for Special Funds Transfer.

If the above transfers are insufficient to meet the obligations set forth in the Reserve for Special Funds Transfer, then in such event the Office of State Budget and Management may transfer funds from the Clean Water Management Trust Fund, the Natural Heritage Trust Fund, or the Parks and Recreation Trust Fund, provided such transfers shall not exceed twenty percent (20%) of the balance of said fund and provided the Office of State Budget and Management consults with the Joint Legislative Commission on Governmental Operations prior to making the transfer. Further the Office of State Budget and Management may seek to transfer in excess of twenty percent (20%) of other special funds only after consulting with the Joint Legislative Commission on Governmental Operations prior to making the transfer.

**SECTION 6.23.(b)** Nothing in this section shall be construed to modify the authority of the Governor to act under Article III, Section 5(3) of the North Carolina Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall.

## **PART VII. PUBLIC SCHOOLS**

### **TEACHER SALARY SCHEDULES**

**SECTION 7.1.(a)** Effective for the 2003-2004 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2003-2004 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2003,

for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education. The longevity payment shall be paid in a lump sum once a year.

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

2003-2004 MONTHLY SALARY SCHEDULE

"A" TEACHERS

Years of Experience	"A" Teachers	NBPTS Certification
0	\$2,525	N/A
1	\$2,567	N/A
2	\$2,611	N/A
3	\$2,764	\$3,096
4	\$2,904	\$3,252
5	\$3,036	\$3,400
6	\$3,164	\$3,544
7	\$3,266	\$3,658
8	\$3,314	\$3,712
9	\$3,362	\$3,765
10	\$3,412	\$3,821
11	\$3,461	\$3,876
12	\$3,511	\$3,932
13	\$3,561	\$3,988
14	\$3,614	\$4,048
15	\$3,667	\$4,107
16	\$3,722	\$4,169
17	\$3,777	\$4,230
18	\$3,834	\$4,294
19	\$3,892	\$4,359
20	\$3,950	\$4,424
21	\$4,011	\$4,492
22	\$4,072	\$4,561
23	\$4,136	\$4,632
24	\$4,200	\$4,704
25	\$4,264	\$4,776
26	\$4,330	\$4,850
27	\$4,398	\$4,926
28	\$4,467	\$5,003
29	\$4,538	\$5,083
30+	\$4,538	\$5,083

2003-2004 MONTHLY SALARY SCHEDULE

"M" TEACHERS

Years of Experience	"M" Teachers	NBPTS Certification
0	\$2,778	N/A
1	\$2,824	N/A
2	\$2,872	N/A
3	\$3,040	\$3,405
4	\$3,194	\$3,577
5	\$3,340	\$3,741
6	\$3,480	\$3,898
7	\$3,593	\$4,024

8	\$3,645	\$4,082
9	\$3,698	\$4,142
10	\$3,753	\$4,203
11	\$3,807	\$4,264
12	\$3,862	\$4,325
13	\$3,917	\$4,387
14	\$3,975	\$4,452
15	\$4,034	\$4,518
16	\$4,094	\$4,585
17	\$4,155	\$4,654
18	\$4,217	\$4,723
19	\$4,281	\$4,795
20	\$4,345	\$4,866
21	\$4,412	\$4,941
22	\$4,479	\$5,016
23	\$4,550	\$5,096
24	\$4,620	\$5,174
25	\$4,690	\$5,253
26	\$4,763	\$5,335
27	\$4,838	\$5,419
28	\$4,914	\$5,504
29	\$4,992	\$5,591
30+	\$4,992	\$5,591

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

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

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

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

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with

certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

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

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

**SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

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

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

2003-2004

**PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES  
CLASSIFICATION**

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

2003-2004  
**PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES**  
**CLASSIFICATION**

Yrs of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
14	\$4,259	-	-	-
15	\$4,324	-	-	-
16	\$4,388	\$4,456	-	-
17	\$4,456	\$4,524	\$4,666	-
18	\$4,524	\$4,596	\$4,737	\$4,811
19	\$4,596	\$4,666	\$4,811	\$4,886
20	\$4,666	\$4,737	\$4,886	\$4,963
21	\$4,737	\$4,811	\$4,963	\$5,042
22	\$4,811	\$4,886	\$5,042	\$5,143
23	\$4,886	\$4,963	\$5,143	\$5,246
24	\$4,963	\$5,042	\$5,246	\$5,351
25	\$5,042	\$5,143	\$5,351	\$5,458
26	\$5,143	\$5,246	\$5,458	\$5,567
27	\$5,246	\$5,351	\$5,567	\$5,678
28	\$5,351	\$5,458	\$5,678	\$5,792
29	\$5,458	\$5,567	\$5,792	\$5,908
30	\$5,567	\$5,678	\$5,908	\$6,026
31	\$5,678	\$5,792	\$6,026	\$6,147
32	\$5,792	\$5,908	\$6,147	\$6,270
33	\$5,908	\$6,026	\$6,270	\$6,395
34	\$6,026	\$6,147	\$6,395	\$6,523
35	\$6,147	\$6,270	\$6,523	\$6,653
36	\$6,270	\$6,395	\$6,653	\$6,786
37	\$6,395	\$6,523	\$6,786	\$6,922
38	\$6,523	\$6,653	\$6,922	\$7,060
39	-	\$6,786	\$7,060	\$7,201
40	-	\$6,922	\$7,201	\$7,345
41	-	-	\$7,345	\$7,492

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

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

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



**SECTION 7.2.(d)** A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

**SECTION 7.2.(e)** Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

**SECTION 7.2.(f)** There shall be no State requirement that superintendents in each local school unit shall receive in State-paid salary at least one percent (1%) more than the highest paid principal receives in State salary in that school unit; provided, however, the additional State-paid salary a superintendent who was employed by a local school administrative unit for the 1992-1993 fiscal year received because of that requirement shall not be reduced because of this subsection for subsequent fiscal years that the superintendent is employed by that local school administrative unit so long as the superintendent is entitled to at least that amount of additional State-paid salary under the rules in effect for the 1992-1993 fiscal year.

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

**SECTION 7.2.(h)**

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

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

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

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

## **CENTRAL OFFICE SALARIES**

**SECTION 7.3.(a)** The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2003-2004 fiscal year, beginning July 1, 2003. All employees so classified who are employed on October 1, 2003 shall receive a one-time, lump sum compensation bonus, payable at the end of the employee's first pay period after October 1, 2003, of five hundred and fifty dollars (\$550.00).

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

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

**SECTION 7.3.(b)** The monthly salary ranges that follow apply to public school superintendents for the 2003-2004 fiscal year, beginning July 1, 2003. All employees so classified who are employed on October 1, 2003, shall receive a one-time, lump sum compensation bonus, payable at the end of the employee's first pay period after October 1, 2003, of five hundred and fifty dollars (\$550.00).

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

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

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

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

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

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

**SECTION 7.3.(f)** The Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act for fiscal year 2003-2004, beginning July 1, 2003, funds necessary to provide a one-time, lump sum compensation bonus, payable at the end of the employee's first pay period after October 1, 2003, of five hundred fifty

dollars (\$550.00) for all permanent full-time personnel paid from the Central Office Allotment. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing their salary increases to these personnel.

#### **NONCERTIFIED PERSONNEL**

**SECTION 7.4.(a)** The Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act for fiscal year 2003-2004, commencing July 1, 2003, funds necessary to provide a one-time, lump sum compensation bonus, payable at the end of the employee's first pay period after October 1, 2003, of five hundred fifty dollars (\$550.00), for all noncertified public school employees whose salaries are supported from the State's General Fund and who are employed by the public schools on October 1, 2003.

**SECTION 7.4.(b)** Local boards of education shall provide a one-time, lump sum compensation bonus, payable at the end of the employee's first pay period after October 1, 2003, of five hundred fifty dollars (\$550.00) for all such employees who were employed on October 1, 2003. For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

**SECTION 7.4.(c)** These funds shall not be used for any purpose other than for the one-time, lump sum compensation bonuses and necessary employer contributions provided by this section.

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

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

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

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

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

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

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

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

- (1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.
- (2) "Anticipated total county revenue availability" means the sum of the:
  - a. Anticipated county property tax revenue availability,
  - b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
  - c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521, and
  - d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.
- (3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.
- (4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.
- (5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.
- (6) "County-adjusted property tax base" shall be computed as follows:
  - a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,
  - b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,
  - c. Add to the resulting amount the:
    1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,
    2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
    3. Personal property value for the county.
- (7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

- (8) "County wealth as a percentage of State average wealth" shall be computed as follows:
  - a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
  - b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,
  - c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,
  - d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.
- (9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.
- (10) "Effective State average tax rate" means the average of effective county tax rates for all counties.
- (10a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- (11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.
- (12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).
- (13) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- (14) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.
- (14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.
- (15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

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

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

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

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

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

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

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

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

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

- (1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and
- (2) The county cannot show: (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to

supplant local current expense funds with funds allocated under this section.

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

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

**SECTION 7.6.(j) Department of Revenue Reports.** – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

### **SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

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

- (1) Round all fractions of positions to the next whole position.
- (2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.
- (3) Provide additional program enhancement teachers adequate to offer the standard course of study.
- (4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.
- (5) Provide a base for the consolidated funds allotment of at least six hundred fourteen thousand one hundred forty-eight dollars (\$614,148), excluding textbooks for the 2003-2004 fiscal year and a base of six hundred forty-seven thousand four hundred eighty-one dollars (\$647,481) for the 2004-2005 fiscal year.
- (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

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

**SECTION 7.7.(b) Nonsupplant Requirement.** – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not

allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

- (1) The sum of six million ninety-three thousand one hundred eighty-one dollars (\$6,093,181) for the 2003-2004 and 2004-2005 fiscal years

- shall be used to reduce class size at each of these schools to ensure that no class kindergarten through third grade has more than 15 students;
- (2) The sum of two million two hundred sixty-six thousand twenty-six dollars (\$2,266,026) for the 2003-2004 and 2004-2005 fiscal years shall be used to extend all teachers' contracts at these schools for a total of 10 days, with five days for staff development, including staff development on methods to individualize instruction in smaller classes, and preparation for the 2003-2004 and 2004-2005 school years, and five additional days of instruction with related costs for other than teachers' salaries; and
  - (3) The sum of one million seven hundred seventy-five thousand four hundred dollars (\$1,775,400) for the 2003-2004 and 2004-2005 fiscal years shall be used to provide one additional instructional support position at each priority school.

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

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

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

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

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

- (1) An assessment of the overall impact these initiatives have had on student achievement;
- (2) An assessment of the effectiveness of each individual initiative set for this section in improving student achievement;
- (3) An identification of changes in staffing patterns, instructional methods, staff development, and parental involvement as a result of these initiatives;

- (4) An accounting of how funds and personnel resources made available for these schools were utilized and the impact of varying patterns of utilization on changes in student achievement;
- (5) An assessment of the impact of bonuses for mathematics, science, and special education teachers on (i) the retention of these teachers in the targeted schools, (ii) the recruitment of teachers in these specialties into targeted schools, (iii) the recruitment of teachers certified in these disciplines, and (iv) student achievement in schools at which these teachers receive these bonuses; and
- (6) Recommendations for the continuance and improvement of these initiatives.

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

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

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

### **ADDITIONAL TEACHER POSITIONS FOR SECOND GRADE**

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

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

### **CHILDREN WITH DISABILITIES**

**SECTION 7.13.** The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand six hundred seventy dollars and twenty-eight cents (\$2,670.28) per child for a maximum of 164,167 children for the 2003-2004 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the 2003-2004 allocated average daily membership in the local school administrative unit.

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

### **FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

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

The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary

increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

## **STUDENTS WITH LIMITED ENGLISH PROFICIENCY**

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

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

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

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

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

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

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

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

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

- (1) Incentive awards in schools that achieve higher than expected improvements may be up to:
  - a. One thousand five hundred dollars (\$1,500) for each teacher and for certified personnel; and
  - b. Five hundred dollars (\$500.00) for each teacher assistant.
- (2) Incentive awards in schools that meet the expected improvements may be up to:

- a. Seven hundred fifty dollars (\$750.00) for each teacher and for certified personnel; and
- b. Three hundred seventy-five dollars (\$375.00) for each teacher assistant.

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

**SECTION 7.16.(c)** The pilot program established by the State Board of Education under Section 8.36 of S.L. 1999-237 is terminated as of June 30, 2002. The State Board of Education shall report its findings and recommendations based on results of the pilot program as of June 30, 2002, to the Joint Legislative Education Oversight Committee by October 15, 2003.

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

**SECTION 7.16.(e)** Subsection (c) of this section becomes effective June 30, 2003.

### **LEA ASSISTANCE PROGRAM**

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

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

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

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

Local boards of education are encouraged to use federal funds such as Title I Comprehensive School Reform Development Funds and to examine the use of State

funds to ensure that every student is performing at or above grade level in reading and mathematics.

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

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

### **FUNDS FOR TEACHER RECRUITMENT INITIATIVES**

**SECTION 7.19.** The State Board of Education may use up to two hundred thousand dollars (\$200,000) of the funds appropriated for State Aid to Local School Administrative Units each year for the 2003-2004 fiscal year and for the 2004-2005 fiscal year to enable teachers who have received NBPTS certification or who have otherwise received special recognition to advise the State Board of Education on teacher recruitment and other strategic priorities of the State Board.

### **RECRUITMENT AND RETENTION INITIATIVES TO ADDRESS TEACHER SHORTAGES**

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

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

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

**SECTION 7.20.(c)** Chapter 115C of the General Statutes is amended by adding a new section to read:

**"§ 115C-296.3. Certification of highly qualified teachers from other states.**

**Notwithstanding any other provision of law, a teacher from another state shall be granted North Carolina certification under the following conditions:**

- (1) **New hires to the profession from other states. – A teacher from another state who (i) has less than three years of experience as a full-time classroom teacher, (ii) is fully certified and highly qualified, as provided in the No Child Left Behind Act of 2001, in that other state; and (iii) is employed as a teacher by a local school administrative unit in North Carolina, is deemed to have satisfied the academic and professional preparation required to receive initial certification in North Carolina. The initial certification shall be granted for one year or for the period of time necessary for the teacher to acquire three years of full-time teaching experience in North Carolina and the other state combined, whichever is longer.**

Once the teacher has three years of experience as a full-time teacher with at least one full year in a local school administrative unit in North Carolina, the teacher shall receive continuing certification unless the employing local school administrative unit recommends that the teacher not be granted continuing certification. The teacher shall be subject to the same requirements for continuing certification and certificate renewal as other teachers in North Carolina.

The teacher shall not be required to take and pass a standard examination to demonstrate adequate academic and professional preparation for certification, except as otherwise provided by the No Child Left Behind Act of 2001.

- (2) New hires with at least three years of experience from other states. – A teacher from another state who (i) has three or more years of experience as a full-time teacher, (ii) is fully certified and highly qualified as provided in the No Child Left Behind Act of 2001 in that other state, and (iii) is employed as a teacher by a local school administrative unit in North Carolina is deemed to have satisfied the academic and professional preparation required to receive continuing certification for one year in North Carolina.

If at the end of one year of employment, the employing local board of education recommends to the State Board of Education that the teacher's certification be renewed, the teacher shall retain continuing certification. The teacher shall be subject to the same requirements for continuing certification and certificate renewal as other teachers in North Carolina.

The teacher shall not be required to take and pass a standard examination to demonstrate adequate academic and professional preparation for certification, except as otherwise provided by the No Child Left Behind Act of 2001."

**SECTION 7.20.(d)** The State Board of Education shall review the requirements for initial certification as a teacher to determine whether the prescribed minimum score on the PRAXIS examination is appropriate to demonstrate an applicant's academic and professional preparation for teaching. The State Board shall report the results of this study to the Joint Legislative Education Oversight Committee by April 15, 2004.

**SECTION 7.20.(e)** G.S. 115C-296(c) reads as rewritten:

"(c) It is the policy of the State of North Carolina to encourage lateral entry into the profession of teaching by ~~skilled individuals from the private sector~~ qualified individuals who hold a postsecondary degree that is at least a bachelors degree. To this end, before the ~~1985-86~~ 2004-2005 school year begins, the State Board of Education shall ~~develop criteria and procedures to accomplish the employment of such individuals as classroom teachers~~ review and revise the curriculum requirements for lateral entry candidates to receive certification. Regardless of credentials or competence, no one shall begin teaching above the middle level of differentiation. Skilled individuals who choose to enter the profession of teaching laterally

Qualified first-year lateral entry candidates who are required by federal law to obtain certification before contracting to teach for a fourth year may be granted a provisional teaching certificate for no more than three years. Other qualified lateral entry candidates may be granted a provisional teaching certificate for no more than five years and shall be required to obtain certification before contracting for a sixth year of service with any local administrative unit in this State. The State Board of Education shall ensure that the institutions of higher learning in the State, including community colleges, that are providing training to lateral entry candidates shall provide that training in a uniform and consistent manner that enables lateral entry candidates to obtain certification in

accordance with the requirements of the No Child Left Behind Act of 2001 while working as full-time teachers.

~~It is further the policy of the State of North Carolina to ensure that local boards of education can provide the strongest possible leadership for schools based upon the identified and changing needs of individual schools. To this end, before the 1994-95 school year begins, the State Board of Education shall carefully consider a lateral entry program for school administrators to ensure that local boards of education will have sufficient flexibility to attract able candidates."~~

**SECTION 7.20.(f)** The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to July 1, 2004, on revisions the Board made to the curriculum requirements for lateral entry candidates pursuant to G.S. 115C-296(c), as rewritten by subsection (e) of this section.

**SECTION 7.20.(g)** Subsection (c) of this section is effective when this act becomes law and applies to all persons initially employed as teachers by a local school administrative unit in North Carolina for the 2003-2004 school year or a subsequent school year.

**SECTION 7.20.(h)** This section expires June 30, 2004.

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

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

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

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

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

## **LITIGATION RESERVE FUNDS**

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

## **LOCAL EDUCATION AGENCY FLEXIBILITY**

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

Each unit shall report to the Department of Public Instruction on the discretionary budget reductions it has identified for the unit within 30 days of the date this act becomes law and by September 1, 2004, for reductions for the 2004-2005 fiscal year. No later than December 31, 2003, the State Board of Education shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division on all reductions made by the LEAs to achieve this reduction.

For fiscal years 2003-2004 and 2004-2005, the General Assembly urges local school administrators to make every effort to reduce spending whenever and wherever such budget reductions are appropriate as long as the targeted reductions do not directly impact classroom services or any services for students at risk or children with special



needs, including those services or supports that are called for in students' Personal Education Plans (PEP) and/or Individual Education Plans (IEP). If reductions to the allotment categories listed in this paragraph are necessary in order to meet the reduction target, the local board of education shall submit an explanation of the anticipated impact of the reductions to student services along with the budget reductions to the Department of Public Instruction. By August 15, 2004, for fiscal year 2005-2006 and subsequent fiscal years, the State Board of Education shall determine the changes to the allotment categories to make such reductions permanent. Notwithstanding other provisions of law, the State Board of Education has the authority to reduce the proposed funding level of any allotment category in the State Public School Fund or the Department of Public Instruction in order to carry out the requirements of this section to make changes to the proposed continuation budget for the 2005-2007 fiscal biennium. The changes proposed by the State Board of Education shall be subject to the approval of the General Assembly.

## **BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC INSTRUCTION**

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

## **REPLACEMENT SCHOOL BUSES FUNDS/SAFETY RULES FOR SCHOOL ACTIVITY BUSES**

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

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

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

**SECTION 7.25.(c)** The State Board of Education shall study the adequacy of the safety rules and policies adopted by local boards of education regarding the use of activity buses. The State Board shall report the results of this study to the Joint Legislative Education Oversight Committee by March 15, 2004.

## **EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES**

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

## **DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM**

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

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

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

## **CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL EVALUATION**

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

## **STUDY OF ISSUES RELATED TO RAPID GROWTH IN STUDENT POPULATION**

**SECTION 7.29.** The Joint Legislative Education Oversight Committee shall study the effects of rapid growth in student population on local school administrative units. In the course of the study, the Committee shall consider issues related to rapid growth and strategies for addressing these issues. The Committee shall report to the 2004 Regular Session of the 2003 General Assembly on its findings and recommendations.

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

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

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

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

**SECTION 7.30.(c)** The Winston-Salem/Forsyth, Charlotte/Mecklenburg, and Wake County Public School systems may continue with their existing pilot mentor

programs, but shall submit plans as required in subsection (a) of this section. These three local boards of education shall report as required in subsection (d) of this section.

**SECTION 7.30.(d)** Each local board of education with a plan approved pursuant to subsection (a) of this section shall report to the State Board on the impact of its mentor program on teacher retention. The State Board shall analyze these reports to determine the characteristics of mentor programs that are most effective in retaining teachers and shall report its findings to the Joint Legislative Education Oversight Committee by October 15, 2004.

**SECTION 7.30.(e)** In addition to the report required in subsection (d) of this section, the State shall also evaluate the effectiveness of a representative sample of local mentor programs and report on its findings to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by December 15, 2004. The evaluation shall focus on quantitative evidence, quality of service delivery, and satisfaction of those involved. The report shall include the results of the evaluation and recommendations both for improving mentor programs generally and for an appropriate level of State support for mentor programs.

### **EXPLORNET AUDIT**

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

### **SCHOOL NURSE SERVICES**

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

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

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

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

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

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

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

**SECTION 7.34.** Local boards of education may use up to ten percent (10%) of State funds allocated for staff development to contract with Regional Education

Services Alliances without such funds being subject to the provisions of G.S. 115C-105.30.

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

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

**SECTION 7.35.** The State Board of Education shall establish a pilot program authorizing and assisting up to five local school administrative units in the implementation of programs on teaching personal financial literacy. The purpose of the pilot program is to determine the best methods of equipping students with the knowledge and skills they need, before they become self-supporting, to make critical decisions regarding their personal finances. The components of personal financial literacy covered in the pilot program shall include, at a minimum, consumer financial education, personal finance, and personal credit.

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

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

### **CREDIT FOR HIGH SCHOOL STUDENTS TAKING COMMUNITY COLLEGE COURSES**

**SECTION 7.36.** The State Board of Education shall study the issue of weighted grades for high school students who take university and community college courses. The State Board of Education shall report the results of the study and its recommendations on the issue to the Joint Legislative Education Oversight Committee by December 15, 2003.

### **VOCATIONAL EDUCATION FUNDING**

**SECTION 7.37.** It is the intent of the General Assembly to eliminate funding for vocational education in the seventh grade. Local school administrative units shall make every effort to focus the vocational education budget reductions on the seventh grade for 2003-2004 school year. For the 2004-2005 school year, after making the base allotment for each local school administrative unit, the State Board of Education shall use the average daily membership for grades eight through twelve only to calculate vocational education budget allotments to local school administrative units. For the 2004-2005 school year, local school administrative units shall take all of the vocational education budget reductions for the 2003-2005 biennium in the seventh grade before making reductions to other grades.

### **REVIEW OF TEACHER CERTIFICATION PROCESS**

**SECTION 7.39.** Section 7.18 of S.L. 2002-126 reads as rewritten:

**"SECTION 7.18.(a)** The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the Education Cabinet, shall review teacher preparation programs and the continuing certification process to determine how these programs can be modified to enhance the continuing teacher certification process and to reduce the burden the continuing certification process places on newly certified teachers. This evaluation shall consider strategies for streamlining the current continuing certification process and reducing the amount of documentation required in the applicant's portfolio process.

~~The State Board of Education shall suspend the portfolio requirement for all teachers who are required, under the current law, to submit portfolios from August 1, 2002, through June 30, 2004. Teachers who are not required to submit portfolios during the period the portfolio requirement is suspended shall be subject to interim requirements adopted by the State Board and shall complete the interim requirements. The State Board of Education shall make every effort to insure that any interim requirements do not require significant and unnecessary paperwork, effort, and administrative burden. Prior to implementation of the interim requirements, the State Board of Education shall report to the Joint Legislative Education Oversight Committee on the proposed requirements.~~

**SECTION 7.18.(b)** ~~The State Board of Education shall contract with an outside consultant to study and propose modifications to the current North Carolina initial certification, continuing certification, and recertification programs that ensure high standards, support for teachers, and high retention rates. Specifically, the contractor~~ State Board of Education shall:

- (1) Review the administration and implementation of the certification programs and identify significant strengths and weaknesses of the programs;
- (2) Identify issues related to administration, staffing, and paperwork at the school, local, and State levels;
- (3) Investigate and identify communication concerns about the certification programs between the school, local, and State levels;
- (4) Randomly survey and interview participating teachers and administrators regarding key aspects of the certification programs and ways to improve them;
- (5) Examine the possibility of making the programs more focused on and supportive of early teacher development and integrating them more appropriately into a teacher's daily work;
- ~~(6) Examine the portfolios previously submitted and identify the elements that are most troublesome to teachers, schools, and school systems;~~
- ~~(7) Identify alternatives to the portfolio approach and ways to keep paperwork requirements to a minimum;~~
- (8) Review the State's mentor program and the mentor's role in support of certification efforts to determine whether the two programs are complementary;
- (9) Examine the effect of the certification programs on teacher retention, using valid evidence; and
- (10) Examine the impact the certification programs have on improving teaching practices, using valid evidence.

**SECTION 7.18.(c)** The State Board of Education shall use the results of the study to make recommendations to:

- (1) Improve the administration and implementation of the certification programs, including improving the process for teachers;
- ~~(2) Resolve the issues surrounding the portfolio process and the collection of professional evidence during initial certification;~~
- (3) Reduce paperwork and bureaucracy in initial certification, continuing certification, and recertification for teachers, schools, and school systems;
- (4) Provide schools and districts incentives and flexibility to participate in more rigorous certification processes;
- (5) Effectively use information regarding teacher supply and demand, standards and retention to inform policy decisions;
- (6) Improve the relationship and coordination between the certification programs and mentoring programs;

- (7) Provide appropriate sample work to teachers, including lesson plans, unit plans, and other professional work required during initial certification; and
- (8) Provide ongoing program evaluation to monitor the quality of the programs and to inform policymakers.

**SECTION 7.18.(d)** The State Board of Education shall enlist the assistance of the Southern Regional Education Board in ~~evaluating the responses to the request for proposals. Prior to awarding the contract for the consultant study, the State Board shall consult with the Joint Legislative Education Oversight Committee conducting the study.~~

The State Board shall use federal No Child Left Behind State Grants for Improving Teacher Quality, to the extent possible, to cover the cost of the ~~consultant and study.~~

The State Board shall report the findings of the ~~consultant study~~ and the recommendations required by this section to the Joint Legislative Education Oversight Committee by ~~January 1, 2004.~~ March 15, 2004.

**SECTION 7.18.(e)** The Joint Legislative Education Oversight Committee shall make recommendations to the General Assembly on any changes to law or policy affecting certification of teachers on or after August 1, 2004, after reviewing the findings and recommendations of the ~~consultant and State Board of Education.~~"

## **ENHANCEMENT OF CHARACTER AND CIVIC EDUCATION PROGRAM**

**SECTION 7.40.(a)** G.S. 115C-81 is amended by adding two new subsections to read:

### **"§ 115C-81. Basic Education Program.**

(g2) Student Councils. – All high schools and middle schools shall be encouraged to have elected student councils through which students have input into policies and decisions that affect them. All other schools are encouraged to have student councils.

The purpose of these student councils is to build civic skills and attitudes such as participation in elections, discussion and debate of issues, and collaborative decision making. Schools shall encourage active, broad-based participation in these student councils.

(g3) Current Events. – Schools should encourage discussions of current events in a wide range of classes, especially social studies and language arts classes. All high schools and middle schools are encouraged to have at least two classes per grade level to offer interactive current events discussions at least every four weeks."

**SECTION 7.40.(b)** G.S. 115C-81(h1) reads as rewritten:

"(h1) In addition to the instruction under subsection (h) of this section, local boards of education are encouraged to include instruction on the following responsibilities:

- (1) Respect for school personnel. – In the school environment, respect includes holding teachers, school administrators, and all school personnel in high esteem and demonstrating in words and deeds that all school personnel deserve to be treated with courtesy and proper deference.
- (2) Responsibility for school safety. – Helping to create a harmonious school atmosphere that is free from threats, weapons, and violent or disruptive behavior; cultivate an orderly learning environment in which students and school personnel feel safe and secure; and encourage the resolution of conflicts and disagreements through peaceful means including peer mediation. Instruction in this responsibility should include a consistent and age-appropriate antiviolence message and a conflict resolution component for students in kindergarten through twelfth grade. These messages should include media-awareness education to help children recognize stereotypes and messages portraying violence.

- (3) Service to others. – Engaging in meaningful service to their schools and their communities. Schools may teach service-learning by (i) incorporating it into their standard curriculum, or (ii) involving a classroom of students or some other group of students in one or more hands-on community-service projects. All schools are encouraged to provide opportunities for student involvement in community service or service-learning projects.
- (4) Good citizenship. – Obeying the laws of the nation and this State; abiding by school rules; and understanding the rights and responsibilities of a member of a republic."

**SECTION 7.40.(c)** G.S. 115C-105.35 reads as rewritten:

**"§ 115C-105.35. Annual performance goals.**

The School-Based Management and Accountability Program shall (i) focus on student performance in the basics of reading, mathematics, and communications skills in elementary and middle schools, (ii) focus on student performance in courses required for graduation and on other measures required by the State Board in the high schools, and (iii) hold schools accountable for the educational growth of their students. To those ends, the State Board shall design and implement an accountability system that sets annual performance standards for each school in the State in order to measure the growth in performance of the students in each individual school. For purposes of this Article, beginning school year 2002-2003, the State Board shall include a "closing the achievement gap" component in its measurement of educational growth in student performance for each school. The "closing the achievement gap" component shall measure and compare the performance of each subgroup in a school's population to ensure that all subgroups as identified by the State Board are meeting State standards.

The State Board shall consider incorporating into the School-Based Management and Accountability Program a character and civic education component which may include a requirement for student councils."

**SECTION 7.40.(d)** This section is effective when it becomes law. The rewrite of G.S. 115C-81(h1)(2) set out in subsection (b) of this section applies beginning with the 2004-2005 school year.

**VISITING INTERNATIONAL FACULTY**

**SECTION 7.41.** The State Board of Education shall convert teacher positions to dollars for Visiting International Faculty Program teachers for the 2003-2004 fiscal year on the basis of the allotted average teacher salary and benefits.

**PART VIII. COMMUNITY COLLEGES**

**COMMUNITY COLLEGE FUNDING FLEXIBILITY**

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

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

**FLEXIBILITY TO IMPLEMENT BUDGET REDUCTIONS**

**SECTION 8.2.** Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Community Colleges may use salary reserve funds and other funds,

and may transfer funds within the Community College System Office continuation budget to the extent necessary to implement budget reductions for the 2003-2004 fiscal year.

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

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

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

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

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

## **REGISTRATION FEES FOR OCCUPATIONAL CONTINUING EDUCATION OR FOCUSED INDUSTRIAL TRAINING**

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

## **SUMMER SCHOOL FUNDING**

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

## **CARRYFORWARD FOR EQUIPMENT**

**SECTION 8.6.(a)** Subject to cash availability, the North Carolina Community Colleges System may carry forward an amount not to exceed five million dollars (\$5,000,000) of the operating funds held in reserve that were not reverted in



fiscal year 2002-2003 to be reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These funds should be distributed to colleges consistent with G.S. 115D-31.

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

#### **HOSIERY CENTER FUNDS**

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

#### **SCHOLARSHIPS FOR PROSPECTIVE TEACHERS**

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

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

#### **MANAGEMENT INFORMATION SYSTEM FUNDS**

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

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

#### **USE OF LITERACY FUNDS FOR LITERACY LABS**

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

#### **FACULTY AND PROFESSIONAL STAFF SALARIES**

**SECTION 8.11.** Three million two hundred fifty thousand dollars (\$3,250,000) in the Reserve for Compensation Increases in Section 2.1 of this act shall be used to increase faculty and professional staff salaries by an average of one-half percent (0.5%). These increases are in addition to the one-time, lump sum compensation bonus provided by Section 30.11 of this act, and shall be calculated on the average salaries prior to the issuance of the compensation bonus. Colleges may provide additional increases from funds available.

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

#### **EVALUATION OF THE COMPREHENSIVE ARTICULATION AGREEMENT**

**SECTION 8.12.(a)** The General Assembly finds that (i) there is a general sentiment expressed by students that the Comprehensive Articulation Agreement adopted by the Board of Governors of The University of North Carolina and the State Board of Community Colleges should be improved and (ii) over the past five years, there have been many suggestions for improving the Comprehensive Articulation

Agreement as well as recommendations for new directions in which the Comprehensive Articulation Agreement should be developed.

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

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

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

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

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

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

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

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

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

#### **AUTOMOTIVE TRAINING INCENTIVE**

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

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

#### **COMMUNITY COLLEGES TRUST FUND**

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

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

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

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

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

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

- (1) Resource center materials;
- (2) Professional development of instructional faculty and staff in cases in which (i) professional development will improve the quality of performance provided by the employee and (ii) the employee makes a commitment to remain at the college for a prescribed period of time;
- (3) Professional development of instructional faculty and staff in cases in which professional development is necessary to enhance the

employee's ability to meet newly mandated instructional or performance requirements; and

(4) Other purposes authorized by the State Board of Community Colleges that are consistent with the college's mission.

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

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

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

## **FOCUSED INDUSTRIAL TRAINING FUNDS**

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

## **TUITION MODIFICATIONS**

**SECTION 8.16.(a)** G.S. 116-143.3 reads as rewritten:

**"§ 116-143.3. Tuition of active duty personnel in the armed services.**

(a) Definitions. – For purposes of this section the ~~The following definitions apply in this section:~~

(1) The term "armed services" shall mean the United States Air Force, Army, Coast Guard, Marine Corps, and Navy; the North Carolina National Guard; and any Reserve Component of the foregoing.

(2) The term "abode" shall mean the place where a person actually lives, whether temporarily or permanently; the term "abide" shall mean to live in a given place.

(3) The term "tuition assistance" shall be used as defined in the United States Department of Defense Directive 1322.8, implementing 10 U.S.C. § 2007.

(b) Any active duty member of the armed services qualifying for admission to an institution of higher education a community college under the jurisdiction of the State Board of Community Colleges as defined in G.S. 116-143.1(a)(3) but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the out-of-State tuition rate; provided, that the out-of-State tuition shall be forgiven to the extent that the out-of-State tuition rate exceeds any amounts payable to the institution or the service member by the service member's employer by reason of enrollment pursuant to such admission while the member is abiding in this State incident to active military duty, plus the amount that represents the percentage of the out-of-State tuition rate paid to the

institution or the service member by the service member's employer multiplied by the in-State tuition rate and then subtracted from the in-State tuition rate.

(b1) Any active duty member of the armed services qualifying for admission to a constituent institution of The University of North Carolina but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the maximum available tuition assistance as the required payment for tuition and mandatory fees not to exceed the established out-of-state tuition and mandatory fee rates. The Board of Governors of The University of North Carolina shall determine which mandatory fees apply to active duty members of the armed services attending The University of North Carolina.

(b2) Any active duty member of the armed services who does not qualify for any payment by the member's employer pursuant to subsections (b) or (b1) of this section shall be eligible to be charged the in-State tuition rate and shall pay the full amount of the in-State tuition ~~rate~~ rate and applicable mandatory fees.

(c) Any dependent relative of a member of the armed services who is abiding in this State incident to active military duty, as defined by the Board of Governors of The University of North Carolina and by the State Board of Community Colleges while sharing the abode of that member shall be eligible to be charged the in-State tuition rate, if the dependent relative qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3). The dependent relatives shall comply with the requirements of the Selective Service System, if applicable, in order to be accorded this benefit. In the event the member of the armed services removes his abode from North Carolina during an academic year, the dependent relative shall continue to be eligible for the in-State tuition rate during the remainder of that academic year.

(d) The burden of proving entitlement to the benefit of this section shall lie with the applicant therefor.

(e) A person charged less than the ~~out-of-State~~ out-of-state tuition rate solely by reason of this section shall not, during the period of receiving that benefit, qualify for or be the basis of conferring the ~~benefits~~ benefit of G.S. 116-143.1(g), (h), (i), (j), (k), or (l)."

**SECTION 8.16.(b)** G.S. 115D-39 reads as rewritten:

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

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

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

The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and G.S. 116-143.3, shall apply to students attending institutions operating pursuant to this Chapter; provided, however, that when an employer other than the armed services, as that term is defined in G.S. 116-143.3, pays tuition for an employee to attend an institution operating pursuant to this Chapter and when the employee works at a North Carolina business location, the employer shall be charged the in-State tuition rate; provided further, however, a community college may charge in-State tuition to up to one percent (1%) of its out-of-state students, rounded up to the next whole number, to accommodate the families transferred by business, the families transferred by industry, or the civilian families transferred by the military, consistent with the provisions of G.S. 116-143.3, into the State. Notwithstanding these requirements, a refugee who lawfully entered the United States and who is living in this State shall be deemed to qualify as a domiciliary of this State under G.S. 116-143.1(a)(1) and as a State resident for community college tuition purposes as defined in G.S. 116-143.1(a)(2). Also, a nonresident of the United States who has resided in North Carolina for a 12-month qualifying period and has filed an immigrant petition with the United States

Immigration and Naturalization Service shall be considered a State resident for community college tuition purposes.

(b) In addition, any person lawfully admitted to the United States who satisfied the qualifications for assignment to a public school set out under G.S. 115C-366 and graduated from the public school to which the student was assigned shall also be eligible for the State resident community college tuition rate. This subsection does not make a person a resident of North Carolina for any other purpose."

## **TUITION MODIFICATIONS/NONPROFIT SPONSORSHIP OF COMMUNITY COLLEGE STUDENT**

**SECTION 8.16A.(a)** G.S. 115D-39 is amended by adding a new subsection to read:

"(c) In addition, a person sponsored under this subsection who is lawfully admitted to the United States is eligible for the State resident community college tuition rate. For purposes of this subsection, a North Carolina nonprofit entity is a charitable or religious corporation as defined in G.S. 55A-1-40 that is incorporated in North Carolina and that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or a civic league incorporated in North Carolina under Chapter 55A of the General Statutes that is exempt from taxation under section 501(c)(4) of the Internal Revenue Code. A nonresident of the United States is sponsored by a North Carolina nonprofit entity if the student resides in North Carolina while attending the community college and the North Carolina nonprofit entity provides a signed affidavit to the community college verifying that the entity accepts financial responsibility for the student's tuition and any other required educational fees. Any North Carolina nonprofit entity that sponsors a nonresident of the United States under this subsection may sponsor no more than five nonresident students annually under this subsection. This subsection does not make a person a resident of North Carolina for any other purpose."

**SECTION 8.16A.(b)** The State Board of Community Colleges shall report to the Senate Committee on Appropriations and the House of Representatives Committee on Appropriations in April of 2004 on the implementation of this section during the 2003-2004 academic year.

## **PART IX. UNIVERSITIES**

### **UNC FLEXIBILITY GUIDELINES**

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

### **ESCHEAT FUNDS**

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

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

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

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

### **UNC BOND PROJECT MODIFICATIONS**

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

**SECTION 9.3.(a1)** With the approval of the Board of Governors of The University of North Carolina, Elizabeth City State University may transfer funds from bond projects for planning facilities needed for the Joint Pharmacy Program.

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

- (1) In the portion entitled "Pearson Cafeteria – Comprehensive Renovation" under North Carolina Central University, by deleting "Comprehensive Renovation" and by substituting "Expansion" and by adding \$7,730,700 for the project so that it reads "Pearson Cafeteria – Expansion...\$8,994,300".
- (2) In the portion under North Carolina Central University, by deleting "Old Senior Dorm – Conversion to Academic Use...\$2,130,700".
- (3) In the portion entitled "Farrison-Newton Building – Comprehensive Renovation of Classroom Building" under North Carolina Central

University, by decreasing by \$5,600,000 the \$7,048,700 for the project so that it reads "Farrison-Newton Building – Comprehensive Renovation of Classroom Building...\$1,448,700".

**SECTION 9.3.(b1)** With the approval of The Board of Governors of The University of North Carolina, North Carolina Central University may transfer funds from one bond project to another to make infrastructure improvements and repairs within buildings for the remediation of mold on campus.

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

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

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

- (1) In the portion entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs" under Winston-Salem State University, by deleting "& Change of Use for Early Childhood/Gerontology Programs" and by decreasing by \$1.9 million the \$6,917,900 for the project so that it reads "Anderson Center – Comprehensive Renovation...\$5,017,900".
- (2) In the portion under Winston-Salem State University, by adding a new project "Coltrane Hall – Renovation to House Gerontology...\$400,000".



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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 9.4.(b)** This section applies to students graduating in the 2003-2004 academic year and each subsequent academic year.

### **FILM INDUSTRY FEASIBILITY STUDY**

**SECTION 9.5.** The Board of Governors of The University of North Carolina shall conduct a feasibility study to assess the strategic opportunities in the arts and entertainment industry in Forsyth County and its environs in the creation of programs, facilities, job opportunities, and tourism demand related to the film industry. The study shall include, but not be limited to: (i) the development of a program in digital media, and (ii) the development of a tourist destination film industry studio backlot.

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

#### **AREA HEALTH EDUCATION CENTER (AHEC) FUNDS**

**SECTION 9.7.** Of the funds appropriated by this act to the Board of Governors of The University of North Carolina for the 2003-2004 fiscal year, the Board of Governors shall allocate the sum of twenty-four thousand dollars (\$24,000) to the Wilmington AHEC program for the 2003-2004 fiscal year and the sum of twenty-four thousand dollars (\$24,000) to the Region L. AHEC program for the 2003-2004 fiscal year to pay for information highway line charges.

#### **FUNDS FOR TEACCH PROGRAM**

**SECTION 9.8.** Of the funds appropriated in this act to the Board of Governors of The University of North Carolina, the sum of one hundred eighty-seven thousand dollars (\$187,000) for the 2003-2004 fiscal year and the sum of one hundred eighty-seven thousand dollars (\$187,000) for the 2004-2005 fiscal year shall be used for the Division TEACCH program at the University of North Carolina at Chapel Hill.

#### **NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY/ALLOCATE STATE MATCHING FUNDS FOR 2004-2005 FISCAL YEAR**

**SECTION 9.9.** Of the funds appropriated to The Board of Governors of The University of North Carolina for the 2004-2005 fiscal year the sum of one million ninety-two thousand nine hundred forty-four dollars (\$1,092,944) shall be allocated to North Carolina Agricultural and Technical State University for the 2004-2005 fiscal year to continue to match federal funds for conducting agricultural research and cooperative extension service work.

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

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

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

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

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

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

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

- (1) Coordinate the development of departmental policies, plans, and rules, in consultation with the Divisions of the Department.
- (2) Development of a departmental process for the development and implementation of new policies, plans, and rules.
- (3) Development of a departmental process for the review of existing policies, plans, and rules to ensure that departmental policies, plans, and rules are relevant.
- (4) Coordination and review of all departmental policies before dissemination to ensure that all policies are well-coordinated within and across all programs.
- (5) Implementation of ongoing strategic planning that integrates budget, personnel, and resources with the mission and operational goals of the Department.
- (6) Review, disseminate, monitor, and evaluate best practice models.

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

#### **WEATHERIZATION ASSISTANCE PROGRAM**

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

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

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

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

#### **NONMEDICAID REIMBURSEMENT CHANGES**

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

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

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as

close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

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

<u>Family Size</u>	<u>Medical Eye Care Adults</u>	<u>Rehabilitation Except DSB Over 55 Grant</u>	<u>Other</u>
1	\$4,860	\$8,364	\$4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,821	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

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

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

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

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

## **SENIOR CARES PROGRAM ADMINISTRATION**

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

## **PHYSICIAN SERVICES**

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

#### **LIABILITY INSURANCE**

**SECTION 10.7.(a)** The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

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

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

#### **BUTNER COMMUNITY LAND RESERVATION**

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

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

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

#### **DHHS CENTRALIZE INFORMATION TECHNOLOGY OPERATIONS**

**SECTION 10.8A.(a)** The Department of Health and Human Services shall conduct a thorough, department-wide examination and analysis of its Information Technology (IT) infrastructure, including IT expenditures and management functions. The purpose of the examination is to enable the General Assembly and the Office of State Budget and Management to readily determine the amount of State funds being expended annually on each and all IT functions. As part of this examination, the Department shall review IT contracts with outside vendors, including the adequacy of contract management, and shall consider the implementation of performance measures in the development of future IT contracts. Upon completion of its examination and analysis, the Department shall develop a plan for the establishment of a Central IT Operations Unit encompassing all IT operations and functions that are common to all divisions, offices, and programs of the Department. The Central IT Operations Unit shall be organized such that all IT expenditures and personnel are readily identifiable. The Department may exclude from the Central IT Operations Unit those IT functions that are unique to one or more individual divisions, offices, or programs, provided that such separate IT functions are readily identifiable in terms of expenditures and personnel and that the separation allows for combining the expenditures and personnel data with expenditures and personnel data of the Central IT Operations Unit. The Department shall identify all excluded IT functions and provide reasons why it is more beneficial to the State to exclude those functions from the Central IT Operations Unit.

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

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

## **EDUCATION AND AWARENESS OF INFANT HOMICIDE PREVENTION ACT**

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

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

## **MEDICAL CARE COMMISSION TEMPORARY RULE-MAKING AUTHORITY EXTENDED**

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

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

## **UNLAWFUL PRACTICE OF PHARMACY**

**SECTION 10.8D.** Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-85.21B. Unlawful practice of pharmacy.**

It shall be unlawful for any person, firm, or corporation not licensed or registered under the provisions of this Article to:

- (1) Use in a trade name, sign, letter, or advertisement any term, including 'drug', 'pharmacy', 'prescription drugs', 'prescription', 'Rx', or 'apothecary', that would imply that the person, firm, or corporation is licensed or registered to practice pharmacy in this State.
- (2) Hold himself or herself out to others as a person, firm, or corporation licensed or registered to practice pharmacy in this State."

**EFFECTIVE DATE OF LONG-TERM CARE CRIMINAL RECORD CHECKS FOR EMPLOYMENT POSITIONS**

**SECTION 10.8E.** Notwithstanding any other provision of law to the contrary, the requirements of G.S. 131E-265 for nursing homes to conduct national criminal history record checks for employment positions other than those involving direct patient care shall become effective no earlier than January 1, 2005. Notwithstanding any other provision of law to the contrary, the requirements of G.S. 131D-2 for adult care homes to conduct national criminal records checks for all staff positions shall become effective no earlier than January 1, 2005.

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

**SECTION 10.8F.(a)** In accordance with the recommendations in the final report from the Institute of Medicine Task Force on Long-Term Care and the study report recommendations resulting from S.L. 2001-491, Part XXII, the Department of Health and Human Services shall implement a communications and coordination initiative to support local coordination of long-term care and shall pilot the establishment of local lead agencies to facilitate the long-term care coordination process at the county or regional level. For those counties that voluntarily participate, the local long-term care coordination initiative shall aid in the development of core services, coordinate local services, and streamline access to services. The initiative shall eliminate fragmentation and barriers to information and services; provide a seamless connection among State agencies and local entities, regardless of funding sources; and allow consumers to efficiently and effectively navigate among long-term care services.

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

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

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

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

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

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

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

**SUBSTANCE ABUSE PREVENTION SERVICES REPORTING**

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

**TRANSITION PLANNING FOR STATE PSYCHIATRIC HOSPITALS**

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

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

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

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



community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W.

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

### **COMPREHENSIVE TREATMENT SERVICES PROGRAM**

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

### **MENTAL RETARDATION CENTER DOWNSIZING**

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

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

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

**SECTION 10.14.(c)** The Department of Health and Human Services shall report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research

Division. The progress report shall be submitted not later than January 15, 2004, and a final report submitted not later than May 1, 2004.

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

#### **MENTAL RETARDATION CENTER TRANSITION PLAN**

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

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

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

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

#### **SERVICES TO MULTIPLY DIAGNOSED ADULTS**

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

- (1) Implement the following guiding principles for the provision of services:
  - a. Service delivery system must be outcome oriented and evaluation based.
  - b. Services should be delivered as close as possible to the consumer's home.
  - c. Services selected should be those that are most efficient in terms of cost and effectiveness.
  - d. Services should not be provided solely for the convenience of the provider or the client.

- e. Families and consumers should be involved in decision making throughout treatment planning and delivery.
- (2) Provide those treatment services that are medically necessary.
- (3) Implement utilization review of services provided.

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

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

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

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

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

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

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

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

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

**SECTION 10.17.(c)** The Department may implement alternative approaches to establish reasonable administrative cost limitations for Local Management Entities

(LMEs), including both county programs and area authority models, and service providers in accordance with system reform and changes in system funding structures.

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

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

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

#### **GROUP HOME TRACKING SYSTEM**

**SECTION 10.18A.** The Department of Health and Human Services shall use funds within its budget for the 2003-2004 fiscal year to develop a group home tracking system.

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

#### **MEDICAID**

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

Services and payment bases:

- (1) Hospital-Inpatient. – Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Health and Human Services.
- (2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.
- (3) Nursing Facilities. – Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid Program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare. The Division of Medical Assistance shall allow nursing facility providers sufficient time from the effective date of this act to certify additional Medicare beds if necessary. In determining the date that the requirements of this subdivision become effective, the Division of Medical Assistance shall consider the regulations governing certification of Medicare beds and the length of time required for this process to be completed.

- (4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed in the State Plan as established by the Department of Health and Human Services.
- (5) Drugs. – Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section or in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand name drugs. Adjustments to the professional services fee shall be established by the General Assembly.
- (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services, Nurse Practitioners. – Fee schedules as developed by the Department of Health and Human Services. Payments for dental services are subject to the provisions of subsection (g) of this section.
- (7) Community Alternative Program, EPSDT Screens. – Payment to be made in accordance with the rate schedule developed by the Department of Health and Human Services.
- (8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment. – Payment to be made according to reimbursement plans developed by the Department of Health and Human Services.
- (9) Medicare Buy-In. – Social Security Administration premium.
- (10) Ambulance Services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.
- (11) Hearing Aids. – Actual cost plus a dispensing fee.
- (12) Rural Health Clinic Services. – Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.
- (13) Family Planning. – Negotiated rate for local health departments. For other providers, see specific services, for instance, hospitals, physicians.
- (14) Independent Laboratory and X-Ray Services. – Uniform fee schedules as developed by the Department of Health and Human Services.
- (15) Optical Supplies. – One hundred percent (100%) of reasonable wholesale cost of materials.
- (16) Ambulatory Surgical Centers. – Payment as prescribed in the reimbursement plan established by the Department of Health and Human Services.
- (17) Medicare Crossover Claims. – By not later than October 1, 2005, the Department shall apply Medicaid medical policy to Medicare claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services.

- (18) Physical Therapy and Speech Therapy. – Services limited to EPSDT-eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy (including occupational therapy) and speech therapy services are subject to prior approval and utilization review.
- (19) Personal Care Services. – Payment in accordance with the State Plan approved by the Department of Health and Human Services.
- (20) Case Management Services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.
- (21) Hospice. – Services may be provided in accordance with the State Plan developed by the Department of Health and Human Services.
- (22) Other Mental Health Services. – Unless otherwise covered by this section, coverage is limited to:
  - a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and
  - b. For children eligible for EPSDT services:
    - 1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, when Medicaid-eligible children are referred by the Carolina ACCESS primary care physician or the area mental health program, and
    - 2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under sub-subdivisions a. and b.2 of this subdivision shall be established by the Division of Medical Assistance.
- (23) Medically Necessary Prosthetics or Orthotics for EPSDT-Eligible Children. – Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services.
- (24) Health Insurance Premiums. – Payments to be made in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal regulations.

- (25) Medical Care/Other Remedial Care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this subdivision are limited to those prescribed in the State Plan as established by the Department of Health and Human Services.
- (26) Pregnancy-Related Services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

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

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

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

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

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

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

<u>Family Size</u>	<u>Categorically Needy</u>	<u>Medically Needy</u>	
	<u>WFFA*</u> Standard of Need	Families and Children <u>Income Level</u>	<u>AA, AB, AD*</u>
1	\$4,344	\$2,172	\$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800

5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

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

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

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

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

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

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

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

**SECTION 10.19.(h)** Dispensing of Generic Drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

**SECTION 10.19.(i)** The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the



treatment of: (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

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

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

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

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

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

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

- (1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits. In determining income eligibility under this subdivision, the income of a minor's parents shall be counted if the minor is residing in the home.
- (2) Infants under the age of one with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (3) Children aged one through five with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (4) Children aged six through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (5) The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 10.19.(aa)** The Department of Health and Human Services, Division of Medical Assistance, shall convene a work group to review the current Medicaid standards for vision screening for Medicaid-eligible children to determine whether the standards are meeting the vision needs of these children. The Secretary shall appoint to the work group pediatricians, ophthalmologists, optometrists, and other individuals with expertise or interest in children's vision care. The Department shall report the findings of the work group to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division by March 1, 2004. The report shall include recommendations on whether current Medicaid standards need to be modified to meet the vision care needs of Medicaid-eligible children and, if modification is necessary, the cost of providing vision services based on the modified standards.

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

- (1) During the development of new medical coverage policy or amendment to existing medical coverage policy, consult with and seek the advice of the Physician Advisory Group of the North Carolina Medical Society and other organizations the Secretary deems

appropriate. The Secretary shall also consult with and seek the advice of officials of the professional societies or associations representing providers groups listed in subdivision (a)(6) of this section who are affected by the new medical coverage policy or amendments to existing medical coverage policy due to their involvement with or use of new technologies or therapies.

- (2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:
  - a. Publish the proposed new or amended medical coverage policy on the Department's web site;
  - b. Notify all Medicaid providers of the proposed, new, or amended policy; and
  - c. Upon request, provide persons copies of the proposed medical coverage policy.
- (3) During the 45-day period immediately following publication of the proposed new or amended medical coverage policy, accept oral and written comments on the proposed new or amended policy.
- (4) If, following the comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption:
  - a. Notify all Medicaid providers of the proposed policy;
  - b. Upon request, provide persons notice of amendments to the proposed policy; and
  - c. Accept additional oral or written comments during this 15-day period.

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

**SECTION 10.20.** Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of sixty-two million five hundred thousand dollars (\$62,500,000) for the 2003-2004 fiscal year and the sum of sixty-two million five hundred thousand dollars (\$62,500,000) for the 2004-2005 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

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

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

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

#### **COUNTY MEDICAID COST SHARE**

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

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

#### **MEDICAID COST CONTAINMENT ACTIVITIES**

**SECTION 10.23.** The Department of Health and Human Services may use not more than five million dollars (\$5,000,000) in the 2003-2004 fiscal year and not more than three million dollars (\$3,000,000) in the 2004-2005 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services or hiring additional staff. Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, plastic magnetic stripped Medicaid identification cards for issuance to Medicaid enrollees, fraud detection software or other fraud detection activities, credit balance recovery and data mining services, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the Fiscal Research Division.

#### **INCREASES IN FEDERAL MEDICAID FUNDS**

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

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

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

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

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

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

(a) Any person, otherwise eligible, who, either while receiving medical assistance benefits or ~~within one year prior to the date of applying for medical assistance benefits, unless some other~~ within the time period is mandated by controlling federal law, sells, gives, assigns or transfers countable real or personal property or an interest in real or personal property for the purpose of retaining or establishing

eligibility for medical assistance benefits, shall be ineligible to receive medical assistance benefits as set forth in ~~subsection (e) of this section~~ section 1917(c) of the Social Security Act. Countable real and personal property includes real property, excluding a homesite, unless other applicable federal or State law requires the homesite to be counted for transfer of property purposes, intangible personal property, nonessential motor and recreational vehicles, nonincome producing business equipment, boats and motors. The provisions of this act shall not apply to the sale, gift, assignment or transfer of real or personal property if and to the extent that the person applying for medical assistance would have been eligible for such assistance notwithstanding ownership of such property or an interest therein.

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

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

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

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

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

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

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

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

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

#### **MEDICARE ENROLLMENT REQUIRED**

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

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

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

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

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

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

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

#### **HEALTH CHOICE**

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

**"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.**

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

(1) Children must:

- a. Be under the age of 19;
- b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;
- c. Be uninsured;
- d. Be in a family that meets the following family income requirements:
  1. Infants under the age of one year whose family income is from one hundred eighty-five percent (185%) through two hundred percent (200%) of the federal poverty level;
  2. Children age one year through five years whose family income is above one hundred thirty-three percent (133%) through two hundred percent (200%) of the federal poverty level; and
  3. Children age six years through eighteen years whose family income is above one hundred percent (100%) through two hundred percent (200%) of the federal poverty level;
- e. Be a resident of this State and eligible under federal law; and
- f. Have paid the Program enrollment fee required under this Part.

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

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

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

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

(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost-sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan, including optional prepaid plans. Prescription drug providers shall accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the



average wholesale price for the prescription drug or the amounts published by the Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand name drugs. All other health care providers providing services to Program enrollees shall accept as payment in full for services rendered the maximum allowable charges under the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan for services less any copayments assessed to enrollees under this Part. No child enrolled in the Plan's self-insured indemnity program shall be required by the Plan to change health care providers as a result of being enrolled in the Program.

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

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

The Department may provide services to children aged birth through five years enrolled in the Program through the State Medical Assistance managed care program. Services provided through the managed care program shall be paid from Program funds.

(c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage for enrollees whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be fifty dollars (\$50.00) per year per child with a maximum annual

enrollment fee of one hundred dollars (\$100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees.

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

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

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

(e) Cost-Sharing Limitations. – The total annual aggregate cost-sharing, including fees, with respect to all children in a family receiving Program benefits under this Part shall not exceed five percent (5%) of the family's income for the year involved. To assist the Department in monitoring and ensuring that the limitations of this subsection are not exceeded, the Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall provide data to the Department showing cost-sharing paid by Program enrollees.

(f) Coverage From Private Plans. – The Department shall, from funds available for the Program, pay the cost for dependent coverage provided under a private insurance plan for persons eligible for coverage under the Program if all of the following conditions are met:

- (1) The person eligible for Program coverage requests to obtain dependent coverage from a private insurer in lieu of coverage under the Program and shows proof that coverage under the private plan selected meets the requirements of this subsection;
- (2) The dependent coverage under the private plan is actuarially equivalent to the coverage provided under the Program and the private plan does not engage in the exclusive enrollment of children with favorable health care risks;
- (3) The cost of dependent coverage under the private plan is the same as or less than the cost of coverage under the Program; and
- (4) The total annual aggregate cost-sharing, including fees, paid by the enrollee under the private plan for all dependents covered by the plan,

do not exceed five percent (5%) of the enrollee's family income for the year involved.

The Department may reimburse an enrollee for private coverage under this subsection upon a showing of proof that the dependent coverage is in effect for the period for which the enrollee is eligible for the Program.

(g) Purchase of Extended Coverage. – An enrollee in the Program who loses eligibility due to an increase in family income above two hundred percent (200%) of the federal poverty level and up to and including two hundred twenty-five percent (225%) of the federal poverty level may purchase at full premium cost continued coverage under the Program for a period not to exceed one year beginning on the date the enrollee becomes ineligible under the income requirements for the Program. The same benefits, copayments, and other conditions of enrollment under the Program shall apply to extended coverage purchased under this subsection.

(h) No State Funds for Voluntary Participation. – No State or federal funds shall be used to cover, subsidize, or otherwise offset the cost of coverage obtained under subsection (g) of this section."

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

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

- (1) The same level of services as provided for special needs children under the Medical Assistance Program as authorized in the Current Operations Appropriations Act ~~except that that:~~
  - a. ~~no~~ No services for long-term care shall be provided under this section, ~~and section:~~
  - b. ~~except that services~~ Services for respite care shall be provided only under emergency circumstances; and
  - c. The Department may limit services for special needs children after consultation with the Commission on Children with Special Health Care Needs.
- (2) Only those services eligible under this section that are not covered or otherwise provided under Part 5 of Article 3 of Chapter 135 of the General Statutes."

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

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

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

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

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

**SECTION 10.29B.(a)** If State funds are appropriated to the Office of State Auditor for this purpose, then the State Auditor shall perform an audit of the Community Alternatives Program for Disabled Adults (CAP/DA). The audit shall build upon the results of the study conducted in accordance with Section 10.16(c) of S.L. 2002-126, by the North Carolina Institute of Medicine and shall provide information necessary to determine whether CAP/DA is operating within waiver guidelines and

program goals. The State Auditor shall report the results of the audit to the North Carolina Study Commission on Aging by January 1, 2004.

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

- (1) A review of the current assessment process for CAP/DA clients, including an explanation of how assessments are conducted and a comparison of the assessment process for CAP/DA clients with the assessment process for nursing home and adult care home clients.
- (2) A description of total program costs to the State and counties for clients receiving CAP/DA payments and an analysis of per-client costs in CAP/DA to per-client costs in nursing homes and adult care homes. This analysis shall include the costs of all forms of assistance received by CAP/DA clients, such as food stamps and housing assistance.
- (3) A description of total program costs and an analysis of per-participant costs for individuals in the State-County In-Home Program. The analysis shall include a comparison of per-client costs for participants in the In-Home Program to per-client costs in adult care homes.
- (4) A description of total program costs and an analysis of per-person costs for persons receiving personal care services through the Medicaid program. The analysis shall include a comparison of per-person costs in nursing homes and adult care homes.
- (5) A description of the monitoring of quality of care for CAP/DA clients.
- (6) An evaluation of the current waiting list procedures.

**SECTION 10.29B.(c)** The Department of Health and Human Services shall review, on a pilot basis, a selected number of CAP/DA programs to determine compliance with eligibility requirements for the program. The Department shall include the results of the review in its report to the Study Commission on Aging required under subsection (b) of this section.

## **MEDICAID HOSPITAL PAYMENTS**

**SECTION 10.29C.** The Department of Health and Human Services shall evaluate all medical payment programs and policies administered by the Department that may affect the future viability and sustainability of financially vulnerable hospitals. Based on the evaluation of the medical payment programs and policies affecting hospitals, the Department shall implement those programs and policies such that they have the least impact on the future viability and sustainability of financially vulnerable hospitals. The Department shall also review the status of financially vulnerable hospitals to determine whether additional State actions are appropriate to ensure that communities served by these hospitals continue to receive essential medical services. The Department shall consult with the North Carolina Hospital Association while conducting the evaluation of medical payment programs and policies and determining how to implement them. The Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on its activities under this section not later than November 1, 2003.

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

### **IMMUNIZATION PROGRAM FUNDING**

**SECTION 10.30.(a)** Of the funds appropriated in this act to the Department of Health and Human Services for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of one million dollars (\$1,000,000) for the 2003-2004 fiscal year and the sum of one million dollars

(\$1,000,000) for the 2004-2005 fiscal year may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

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

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

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

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

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

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

### **ADAP INCOME ELIGIBILITY**

**SECTION 10.31A.(a)** It is the intent of the General Assembly to assist citizens of North Carolina who are diagnosed with HIV/AIDS to live healthy and productive lives. In keeping with this goal, the Department of Health and Human Services shall pursue alternatives to the current financing of the AIDS Drug Assistance Program (ADAP). Notwithstanding Section 10.31 of this act, the Department shall explore various options or arrangements in order to expand income eligibility for ADAP. The Department may develop and administer an expanded ADAP that maximizes existing State funds. The expanded ADAP may include an increase in current income eligibility levels.

**SECTION 10.31A.(b)** Nothing in this section shall be construed as obligating the General Assembly to appropriate funds for the expanded AIDS Drug Assistance Program or as entitling any person to receive services under the Program.

**SECTION 10.31A.(c)** The Department of Health and Human Services shall report its progress in complying with this section and any corresponding findings and recommendations to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on or before April 1, 2004.

#### **NEWBORN HEARING SCREENING PROGRAM REPORT**

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

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

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

#### **EMPLOYEES EXAMINED FOR ASBESTOSIS OR SILICOSIS UNDER WORKERS' COMPENSATION STATUTE**

**SECTION 10.33.(a)** G.S. 97-60 is repealed.

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

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

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

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

When a competent physician certifies to the Industrial Commission that the employee's physical condition is such that his movement to the place of examination

ordered by the Industrial Commission as herein provided in G.S. 97-61.1, 97-61.3 and 97-61.4 would be harmful or injurious to the health of the employee, the Industrial Commission shall cause the examination of the employee to be made by the advisory medical committee or other designated qualified physician as herein provided at some place in the vicinity of the residence of the employee suitable for the purposes of making such examination."

**SECTION 10.33.(c)** G.S. 97-72(b) is repealed.

**SECTION 10.33.(d)** G.S. 97-73(b) and (c) are repealed.

**SECTION 10.33.(e)** The Department of Health and Human Services shall develop a plan for the future storage or disposal of X ray files. In doing so, the Division of Public Health shall consider disposal of the files, archiving the files by digitizing them, or returning the files to the medical facility that conducted the X ray. The Department shall report on its activities under this subsection no later than March 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

**SECTION 10.33.(f)** G.S. 97-75 and G.S. 97-76 are repealed.

### **RENAME NORTH CAROLINA HEART DISEASE AND STROKE PREVENTION TASK FORCE**

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

"§ 143B-216.60. ~~North Carolina~~ The Justus-Warren Heart Disease and Stroke Prevention Task Force.

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

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

- (1) By the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as follows:
  - a. Three members of the Senate;
  - b. A heart attack survivor;
  - c. A local health director;
  - d. A certified health educator;
  - e. A hospital administrator; and
  - f. A representative of the North Carolina Association of Area Agencies on Aging.
- (2) By the General Assembly upon the recommendation of the Speaker of the House of Representatives, as follows:
  - a. Three members of the House of Representatives;
  - b. A stroke survivor;
  - c. A county commissioner;
  - d. A licensed dietitian/nutritionist;
  - e. A pharmacist; and
  - f. A registered nurse.
- (3) By the Governor, as follows:
  - a. A practicing family physician, pediatrician, or internist;
  - b. A president or chief executive officer of a business upon recommendation of a North Carolina wellness council which is a member of the Wellness Councils of America;
  - c. A news director of a newspaper or television or radio station;

- d. A volunteer of the North Carolina Affiliate of the American Heart Association;
- e. A representative from the North Carolina Cooperative Extension Service;
- f. A representative of the Governor's Council on Physical Fitness and Health; and
- g. Two members at large.

(c) Each appointing authority shall assure insofar as possible that its appointees to the Task Force reflect the composition of the North Carolina population with regard to ethnic, racial, age, gender, and religious composition.

(d) The General Assembly and the Governor shall make their appointments to the Task Force not later than 30 days after the adjournment of the 1995 General Assembly, Regular Session 1995. A vacancy on the Task Force shall be filled by the original appointing authority, using the criteria set out in this section for the original appointment.

(e) The Task Force shall meet at least quarterly or more frequently at the call of the Chair.

(f) The Task Force Chair may establish committees for the purpose of making special studies pursuant to its duties, and may appoint non-Task Force members to serve on each committee as resource persons. Resource persons shall be voting members of the committees and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to accomplish the purposes of this section.

(g) Members of the Task Force shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 120-3.1, 138-5 and 138-6, as applicable.

(h) A majority of the Task Force shall constitute a quorum for the transaction of its business.

(i) The Task Force may use funds allocated to it to establish two positions and for other expenditures needed to assist the Task Force in carrying out its duties.

(j) ~~The Heart Disease and Stroke Prevention~~ Task Force has the following duties:

- (1) To undertake a statistical and qualitative examination of the incidence of and causes of heart disease and stroke deaths and risks, including identification of subpopulations at highest risk for developing heart disease and stroke, and establish a profile of the heart disease and stroke burden in North Carolina.
- (2) To publicize the profile of the heart disease and stroke burden and its preventability in North Carolina.
- (3) To identify priority strategies which are effective in preventing and controlling risks for heart disease and stroke.
- (4) To identify, examine limitations of, and recommend to the Governor and the General Assembly changes to existing laws, regulations, programs, services, and policies to enhance heart disease and stroke prevention by and for the people of North Carolina.
- (5) To determine and recommend to the Governor and the General Assembly the funding and strategies needed to enact new or to modify existing laws, regulations, programs, services, and policies to enhance heart disease and stroke prevention by and for the people of North Carolina.
- (6) To adopt and promote a statewide comprehensive Heart Disease and Stroke Prevention Plan to the general public, State and local elected officials, various public and private organizations and associations, businesses and industries, agencies, potential funders, and other community resources.



- (7) To identify and facilitate specific commitments to help implement the Plan from the entities listed in subdivision (6) above.
- (8) To facilitate coordination of and communication among State and local agencies and organizations regarding current or future involvement in achieving the aims of the Heart Disease and Stroke Prevention Plan.
- (9) To receive and consider reports and testimony from individuals, local health departments, community-based organizations, voluntary health organizations, and other public and private organizations statewide, to learn more about their contributions to heart disease and stroke prevention, and their ideas for improving heart disease and stroke prevention in North Carolina.

(k) Notwithstanding Section 11.57 of S.L. 1999-237, the Task Force shall submit a final report to the Governor and the General Assembly by June 30, 2003, and a report to each subsequent regular legislative session within one week of its convening."

## **LOCAL HEALTH DIRECTOR PILOT**

**SECTION 10.33C.** Article 2 of Chapter 130A of the General Statutes is amended by adding a new section to read:

### **"§ 130A-40.1. Pilot program for nurse as health director.**

(a) Notwithstanding G.S. 130A-40, a local board of health, after consulting with the appropriate county board of commissioners, and with the approval of the Secretary of Health and Human Services, may appoint a local health director who meets the following education and experience requirements for that position:

- (1) Graduation from a four-year college or university with a Bachelor of Science in Nursing degree that includes a public health nursing rotation; or
- (2) A candidate with an RN but not a bachelors degree if the candidate has at least 10 years' experience, at least seven years of which must be in an administrative or supervisory role, and of this seven years, at least five years must be at the agency at which the candidate is an applicant for employment as local health director.

(b) The Secretary of Health and Human Services may approve only one request under subsection (a) of this section, this section being designed as a pilot program concerning alternative qualifications for a local health director. The Secretary of Health and Human Services shall report any approval under this section to the Public Health Study Commission.

(c) All bachelors level candidates appointed under this section shall have a total of 10 years' public health experience, at least five years of which must be in a supervisory capacity at the agency at which the candidate is an applicant for employment as a local health director. Bachelor of Science in Nursing candidates with a public health rotation may use this BSN degree as credit for one year's public health experience.

(d) In addition to possessing the qualifications required in this section, all Bachelor of Science, Bachelor of Arts, or Registered Nurse candidates must complete at least six contact hours of continuing education annually on the subject of local and State government finance, organization, or budgeting. The training must be in a formal setting offered through the State or local government or through an accredited educational institution. This training is in addition to any other required training for local health director or other continuing education required to maintain other professional credentials. If during the course of employment as local health director the employee meets the requirements of this subsection, the additional training requirements of this section are waived.

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

## **CHILD CARE FUNDS MATCHING REQUIREMENT**

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

## **CHILD CARE SUBSIDY RATES**

**SECTION 10.35.(a)** The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

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

<b>FAMILY SIZE</b>	<b>PERCENT OF GROSS FAMILY INCOME</b>
1-3	10%
4-5	9%
6 or more	8%.

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

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

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

- (1) Except as applicable in subdivision (2) of this subsection, payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.
- (2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

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

**SECTION 10.35.(f)** Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate

in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

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

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

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

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

#### **CHILD CARE ALLOCATION FORMULA**

**SECTION 10.36.(a)** The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- (1) Funds shall be allocated based upon the projected cost of serving children in a county under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.
- (2) No county's allocation shall be less than ninety percent (90%) of its State Fiscal Year 2001-2002 initial child care subsidy allocation.

**SECTION 10.36.(b)** The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

#### **CHILD CARE REVOLVING LOAN**

**SECTION 10.37.** Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

#### **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS**

**SECTION 10.38.(a)** Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

**SECTION 10.38.(b)** The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

- (1) For amounts of five thousand dollars (\$5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.
- (2) For amounts greater than five thousand dollars (\$5,000), but less than fifteen thousand dollars (\$15,000), three written quotes.
- (3) For amounts of fifteen thousand dollars (\$15,000) or more, but less than forty thousand dollars (\$40,000), a request for proposal process.
- (4) For amounts of forty thousand dollars (\$40,000) or more, a request for proposal process and advertising in a major newspaper.

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

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

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

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

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

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

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

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

**SECTION 10.38.(g)** For the 2003-2004 fiscal year, the local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars (\$52,000,000) for the TANF maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement.

**SECTION 10.38.(h)** A county may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the North Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110 of the General Statutes.

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

**SECTION 10.38.(j)** The North Carolina Partnership for Children, Inc., shall develop a plan to incorporate a penalty into a local partnership's allocation when the local partnership's audit is classified as a "needs improvement performance assessment".

**SECTION 10.38.(k)** The North Carolina Partnership for Children, Inc., shall report on activities and directives of this act by March 1, 2004, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the

Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**SECTION 10.38.(I)** G.S. 143B-168.12(a)(1) reads as rewritten:

"(1) The North Carolina Partnership shall have a Board of Directors consisting of the following 25 members:

- a. The Secretary of Health and Human Services, ex officio, or the Secretary's designee;
- b. Repealed by Session Laws 1997, c. 443, s. 11A.105.
- c. The Superintendent of Public Instruction, ex officio, or the Superintendent's designee;
- d. The President of the Community Colleges System, ex officio, or the President's designee;
- e. Three members of the public, including one child care provider, one other who is a parent, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate;
- f. Three members of the public, including one who is a parent, one other who is a representative of the faith community, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives;
- g. Twelve members, appointed by the Governor. Three of these 12 members shall be members of the party other than the Governor's party, appointed by the Governor. Seven of these 12 members shall be appointed as follows: one who is a child care provider, one other who is a pediatrician, one other who is a health care provider, one other who is a parent, one other who is a member of the business community, one other who is a member representing a philanthropic agency, and one other who is an early childhood educator;
- h. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.
- h1. The Chair of the North Carolina Partnership Board shall be appointed by the Governor;
- i. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.
- j. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the Senate;
- k. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the House of Representatives;
- l. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the Senate; and
- m. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the House of Representatives.

All members appointed to succeed the initial members and members appointed thereafter shall be appointed for three-year terms. Members may succeed themselves.

All appointed board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the North Carolina Partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the North Carolina Partnership regarding the disbursement of funds.

All ex officio members are voting members. Each ex officio member may be represented by a designee. These designees shall be voting members. No members of the General Assembly shall serve as members.

The North Carolina Partnership may establish a nominating committee and, in making their recommendations of members to be appointed by the General Assembly or by the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Majority Leader of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the Governor shall consult with and consider the recommendations of this nominating committee.

The North Carolina Partnership may establish a policy on members' attendance, which policy shall include provisions for reporting absences of at least three meetings immediately to the appropriate appointing authority.

Members who miss more than three consecutive meetings without excuse or members who vacate their membership shall be replaced by the appropriate appointing authority, and the replacing member shall serve either until the General Assembly and the Governor can appoint a successor or until the replaced member's term expires, whichever is earlier.

The North Carolina Partnership shall establish a policy on membership of the local board, ~~which policy shall include the requirement that all local board members, other than any member appointed because of a position held by that individual, be residents of the county or the partnership region they are representing boards.~~ No member of the General Assembly shall serve as a member of a local board. Within these requirements for local board membership, the North Carolina Partnership shall allow local partnerships that are regional to have flexibility in the composition of their boards so that all counties in the region have adequate representation.

All appointed local board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the partnership regarding the disbursement of funds."

**SECTION 10.38.(m)** G.S. 143B-168.12(a)(8) reads as rewritten:

- "...
- (8) The North Carolina Partnership shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be chosen from past board chairs or duly elected officers currently serving on local partnerships' board of directors, and seven directors at the time of appointment and shall serve three-year terms. Seven of the members shall be staff of local partnerships. Members shall be chosen by the Chair of the North Carolina Partnership from a pool of candidates nominated by their respective boards of directors.

The local partnership advisory committee shall serve in an advisory capacity to the North Carolina Partnership and shall establish a schedule of regular meetings. Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.

....."  
**SECTION 10.38.(n)** G.S. 143B-168.12 is amended by adding a new subsection to read:

"(f) The North Carolina Partnership for Children, Inc., shall establish uniform guidelines and a reporting format for local partnerships to document the qualifying expenses occurring at the contractor level. Local partnerships shall monitor qualifying expenses to ensure they have occurred and meet the requirements prescribed in this subsection."

## **EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES EVALUATION**

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

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

## **DEPARTMENT PLAN FOR FAMILY CHILD CARE HOME FEES**

**SECTION 10.39A.** The Department of Health and Human Services, Division of Child Development, shall develop a plan proposing fees for the licensing of family child care homes. The Department shall report on the plan to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004.

## **MORE AT FOUR PROGRAM**

**SECTION 10.40.(a)** Of the funds appropriated to the Department of Health and Human Services, the sum of forty-three million one hundred twenty-one thousand eight hundred dollars (\$43,121,800) in the 2003-2004 fiscal year and the sum of forty-one million nine hundred twenty-one thousand eight hundred dollars (\$41,921,800) in the 2004-2005 fiscal year shall be used to implement "More At Four", a voluntary prekindergarten program for at-risk four-year-olds.

**SECTION 10.40.(b)** The Department of Health and Human Services and the Department of Public Instruction shall establish the "More At Four" Pre-K Task Force to oversee development and implementation of the pilot program. The membership shall include:

- (1) Parents of at-risk children.
- (2) Representatives with expertise in early childhood development.
- (3) Classroom teachers who are certified in early childhood education.
- (4) Representatives of the private not-for-profit and for-profit child care providers in North Carolina.
- (5) Employees of the Department of Health and Human Services who are knowledgeable in the areas of early childhood development, current State and federally funded efforts in child development, and providing child care.
- (6) Representatives of local Smart Start partnerships.



- (7) Representatives of local school administrative units.
- (8) Representatives of Head Start prekindergarten programs in North Carolina.
- (9) Employees of the Department of Public Instruction.

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

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

- (12) Collaboration with State agencies and other organizations. The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall collaborate with State agencies and other organizations such as the North Carolina Partnership for Children, Inc., in the design and implementation of the program.
- (13) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall consider the reallocation of existing funds from State and local programs that provide prekindergarten related care and services.
- (14) Recommendations for long-term organizational placement and administration of the program.

**SECTION 10.40.(d)** During the 2003-2004 fiscal year, the Department of Health and Human Services shall plan for expansion of the "More At Four" program within existing resources to include four and five star rated centers and schools serving four-year-olds and develop guidelines for these programs. The Department shall analyze guidelines for use of the "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a complementary plan for administration of funds for all four-year-old classrooms. The four and five star centers that choose to become a "More at Four" program shall, at a minimum, receive curricula and access to training and workshops for "More at Four" programs and be considered along with other "More at Four" programs for T.E.A.C.H. funding. The Department shall ensure that no individual receives funding from more than one source for the same purpose or activity during the same funding period. For purposes of this subsection, sources shall include T.E.A.C.H., W.A.G.E.\$., and T.E.A.C.H. Health Insurance programs for individual recipients.

The Department may use nonobligated "More At Four" funds for the 2003-2004 fiscal year to reduce the waiting list for subsidy, with priority given to four-year-olds attending three star or better centers. If there are funds remaining after the waiting list for four-year-olds has been satisfied, then the waiting list for other children may be addressed with the remaining funds.

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

- (1) The number of children participating in the program.
- (2) The number of children participating in the program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.
- (3) The expected expenditures for the programs and the source of the local match for each grantee.
- (4) The location of program sites and the corresponding number of children participating in the program at each site.
- (5) Activities involving Child Find in counties.
- (6) A comprehensive cost analysis of the program, including the cost per child served by the program.
- (7) The plan for expansion of "More At Four" through existing resources as outlined in this section.

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

### **RESIDENTIAL SCHOOLS REPORTING**

**SECTION 10.41.** The Office of Education Services shall report not later than December 1, 2003, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities of the Eastern North Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at Morganton, and the Governor Morehead School for the Blind. The report shall include enrollment numbers at the schools, the budgets, and the academic status of the schools as defined under the ABCs program.

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

### **SENIOR CENTER OUTREACH**

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

- (1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or
- (2) To provide start-up funds for new senior centers.

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

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

- (1) Formally endorse the need for such a center;
- (2) Formally agree on the sponsoring agency for the center; and
- (3) Make a formal commitment to use local funds to support the ongoing operation of the center.

**SECTION 10.42.(c)** State funding shall not exceed seventy-five percent (75%) of reimbursable costs.

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

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

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

- (1) Services that will be provided by the facility or under contract with the facility, including assistance with daily medication.
- (2) Access of clients to mental health, developmental disabilities, and substance abuse services provided in the community, including transportation to services outside of the client's residence in the adult care home facility.
- (3) Physical plant additions or changes necessary to provide for independent living of residents.
- (4) Methods for assuring quality of services, resident safety, and cost-effectiveness.
- (5) Consistency with the Department's Olmstead plan, other policies on community-integration, and disability plans adopted by the State.

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

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

- (1) Proposed time and location for implementation of the pilot.
- (2) Proposed number of residents to be placed and services to be provided directly by the facility or under contract with the facility.
- (3) Method for evaluating the pilot, including services provided, on a regular basis.
- (4) A description of the living environment for each resident and a comparison of how the living environment compares to that of other residents in the adult care home.
- (5) Changes to State law necessary to implement the pilot.
- (6) Projected cost to the State for pilot and statewide implementation.

### **CHILD SUPPORT PROGRAM/ENHANCED STANDARDS**

**SECTION 10.44.(a)** It is the intent of the General Assembly to increase the productivity and enhance the performance of child support enforcement offices statewide.

**SECTION 10.44.(b)** The Department of Health and Human Services shall develop and implement performance standards for each of the State and county child support enforcement offices across the State. To develop these performance standards, the Department of Health and Human Services shall evaluate other private and public child support models and national standards as well as other successful collections models. These performance standards shall include the following:

- (1) Cost per collections.
- (2) Consumer satisfaction.
- (3) Paternity establishments.
- (4) Administrative costs.
- (5) Orders established.
- (6) Collections on arrearages.
- (7) Location of absent parents.
- (8) Other related performance measures.

The Department of Health and Human Services shall monitor the performance of each office and shall implement a system of reporting that allows each local office to review its performance as well as the performance of other local offices. The Department of Health and Human Services shall publish an annual performance report that shall include the statewide and local office performance of each child support office.

**SECTION 10.44.(c)** The Department of Health and Human Services shall report on its progress, in compliance with this section, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by May 1, 2005.

### **SPECIAL NEEDS ADOPTIONS INCENTIVE FUND**

**SECTION 10.45.** Part 4 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

**"§ 108A-50A. Special Needs Adoptions Incentive Fund.**

(a) There is created a Special Needs Adoptions Incentive Fund to provide financial assistance to facilitate the adoption of certain children residing in licensed foster care homes. These funds shall be used to remove financial barriers to the adoption of these children and shall be available to foster care families who adopt children with special needs, as defined by the Social Services Commission. These funds shall be matched by county funds.

(b) This program shall not constitute an entitlement and is subject to the availability of funds.

(c) The Social Services Commission shall adopt rules to implement the provisions of this section."

### **FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS**

**SECTION 10.46.(a)** The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

- (1) \$365.00 per child per month for children aged birth through 5;
- (2) \$415.00 per child per month for children aged 6 through 12; and
- (3) \$465.00 per child per month for children aged 13 through 18.

Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the child.

**SECTION 10.46.(b)** The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

- (1) \$365.00 per child per month for children aged birth through 5;
- (2) \$415.00 per child per month for children aged 6 through 12; and
- (3) \$465.00 per child per month for children aged 13 through 18.

**SECTION 10.46.(c)** In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

**SECTION 10.46.(d)** The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

- (1) \$800.00 per child per month with indeterminate HIV status;
- (2) \$1,000 per child per month confirmed HIV-infected, asymptomatic;
- (3) \$1,200 per child per month confirmed HIV-infected, symptomatic; and
- (4) \$1,600 per child per month terminally ill with complex care needs.

### **SPECIAL CHILDREN ADOPTION FUND**

**SECTION 10.47.(a)** Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million one hundred thousand dollars (\$1,100,000) shall be used to support the Special Children Adoption Fund for each year of the 2003-2005 fiscal biennium. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special Children Adoption Fund may be used for post-adoption services for families whose income exceed two hundred percent (200%) of the federal poverty level.

**SECTION 10.47.(b)** Of the total funds appropriated for the Special Children Adoption Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31, 2004, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

### **INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS**

**SECTION 10.48.(a)** The Department of Health and Human Services shall review the Intensive Family Preservation Services Program (IFPS) to enhance and implement initiatives that focus on increasing the sustainability and effectiveness of the Program.

**SECTION 10.48.(b)** Notwithstanding the provisions of G.S. 143B-150.6, the Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The revised IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

**SECTION 10.48.(c)** The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of Intensive Family Preservation Services shall provide information and data that allows for:

- (1) An established follow-up system with a minimum of six months of follow-up services.
- (2) Detailed information on the specific interventions applied including utilization indicators and performance measurement.
- (3) Cost-benefit data.
- (4) Data on long-term benefits associated with Intensive Family Preservation Services. This data shall be obtained by tracking families through the intervention process.
- (5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
- (6) The number and percentage by race of children who received Intensive Family Preservation Services compared to the ratio of their distribution in the general population involved with Child Protective Services.

**SECTION 10.48.(d)** The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (c) of this section. The amount of funding shall be based on the individual performance of each program.

**SECTION 10.48.(e)** The Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004. The report shall include information and data collected pursuant to subsection (c) of this section.

## **TANF STATE PLAN**

**SECTION 10.49.(a)** The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005", prepared by the Department of Health and Human Services and presented to the General Assembly on April 28, 2003, as revised in accordance with subsection (b) of this section. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2003, through September 30, 2005. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services as amended by this act or any other act of the 2003 General Assembly.

**SECTION 10.49.(b)** The Department of Health and Human Services shall revise the North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005, submitted to the General Assembly for approval on April 28, 2003. The revisions shall be made to the following Plan components:

- (1) Enhanced Employee Assistance Program to reflect changes in funding.
- (2) Services for Families to remove reference to start-up activities.
- (3) Work Responsibility to remove reference to start-up activities.
- (4) Cabarrus County Waiver to reflect changes in the law made by the 2003 General Assembly.
- (5) Goal number eight to provide that caseload reduction goals are subject to economic conditions in the county.

**SECTION 10.49.(c)** The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 2003-2005 as approved by this section are: Beaufort, Caldwell, Iredell, Lenoir, Lincoln, Macon, McDowell, Sampson, and Wilkes.

**SECTION 10.49.(d)** Counties designated as Electing Counties pursuant to G.S. 108A-27(d) and who submitted the letter of intent to be redesignated as a standard county and the accompanying county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall operate under the standard county budget requirements effective July 1, 2003. Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, 2003. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2003.

### **ELECTING COUNTY TANF FUNDS REVERT**

**SECTION 10.50.** G.S. 108A-27.11(c) reads as rewritten:

"(c) Each Electing County's allocation for Work First Family Assistance shall be computed based on the percentage of each Electing County's total expenditures for cash assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting percentage shall be applied to the federal TANF block grant funds appropriated for cash assistance by the General Assembly each fiscal year. The Department shall transmit the federal funds contained in the county block grants to Electing Counties as soon as practicable after they become available to the State and in accordance with federal cash management laws and regulations. ~~The Department shall transmit one fourth of the State funds contained in county block grants to Electing Counties at the beginning of each quarter.~~"

### **SPECIAL ASSISTANCE IN-HOME PROGRAM**

**SECTION 10.51.(a)** The Department of Health and Human Services may use funds from the existing State-County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to 800 individuals during the 2003-2004 fiscal year and the 2004-2005 fiscal year. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be fifty percent (50%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. For State fiscal year 2003-2004, qualified individuals shall not receive payments at rates less than they would have been eligible to receive in State fiscal year 2002-2003. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment. The Department shall make this in-home option available to all counties on a voluntary basis. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State.

**SECTION 10.51.(b)** The Department shall report on or before January 1, 2004, and on or before January 1, 2005, to the cochairs of the House of Representatives Appropriations Committee, the House of Representatives Appropriations Subcommittee on Health and Human Services, the cochairs of the Senate Appropriations Committee, and the cochairs of the Senate Appropriations Committee on Health and Human Services. This report shall include the following information:

- (1) A description of cost savings that result from allowing individuals eligible for State-County Special Assistance the option of remaining in the home.
- (2) A complete fiscal analysis of the in-home option to include all federal, State, and local funds expended.
- (3) How much case management is needed and which types of individuals are most in need of case management.
- (4) The geographic location of individuals receiving payments under this section.
- (5) A description of the services purchased with these payments.
- (6) A description of the income levels of individuals who receive payments under this section and the impact on the Medicaid program.
- (7) Findings and recommendations as to the feasibility of continuing or expanding the in-home program.
- (8) The level and quantity of services (including personal care services) provided to the demonstration project participants compared to the level and quantity of services for residents in adult care homes.

**SECTION 10.51.(c)** The Department shall incorporate data collection tools designed to compare quality of life among institutionalized versus noninstitutionalized populations (i.e., an individual's perception of his or her own health and well-being, years of healthy life, and activity limitations). To the extent national standards are available, the Department shall utilize those standards.

#### **STATE/COUNTY SPECIAL ASSISTANCE**

**SECTION 10.52.(a)** The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

**SECTION 10.52.(b)** The maximum monthly rate for residents in adult care home facilities shall be one thousand ninety-one dollars (\$1,091) per month per resident through September 30, 2003.

**SECTION 10.52.(c)** Effective October 1, 2003, the maximum monthly rate for residents in adult care home facilities shall be one thousand sixty-six dollars (\$1,066) per month per resident unless adjusted by the Department in accordance with subsection (f) of this section.

**SECTION 10.52.(d)** It is the intent of the General Assembly to protect individuals who meet current eligibility standards for State/County Special Assistance from becoming disenfranchised from the program as a result of any changes proposed in this section. Therefore, subject to any necessary approvals by the Center for Medicare & Medicaid Services (CMS):

- (1) The eligibility of Special Assistance recipients who reside in adult care homes on September 30, 2003, and remain continuously eligible shall not be affected by an income reduction in the Special Assistance eligibility criteria, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand ninety-one dollars (\$1,091) per month per resident; and
- (2) The standard of need level for coverage eligibility under State/County Special Assistance, for individuals not enrolled or recipients of the program on September 30, 2003, shall be not less than one thousand ninety-one dollars (\$1,091) per month per individual, but the monthly reimbursement rate for such individuals shall be the amount established under subsections (c) and (f) of this section. However, the



Department of Health and Human Services, in its determination of reimbursement rates, may establish a minimum monthly reimbursement rate of not more than five dollars (\$5.00) per month for any resident of an adult care home facility meeting the established standard of need level for coverage.

**SECTION 10.52.(e)** The sum of three million one hundred eighty-nine thousand six hundred seventy-five dollars (\$3,189,675) for the 2003-2004 fiscal year and the sum of four million four hundred thirty-one thousand eight hundred forty-six dollars (\$4,431,846) for the 2004-2005 fiscal year appropriated to the Department of Health and Human Services shall be transferred from the Division of Social Services to the Division of Medical Assistance and used as State match to draw down federal matching funds to help pay for Medicaid's personal care services for adult care homes (ACH-PCS) rather than the State/County Special Assistance Program.

**SECTION 10.52.(f)** Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State/County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for State/County Special Assistance set forth in subsection (c) of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance, and related transfer costs and responsibilities from State/County Special Assistance to the Medicaid personal care services for adult care homes (ACH-PCS). Such rate adjustments to the Special Assistance rate shall be effective with the effective date of increased reimbursement under ACH-PCS. In no event shall the reimbursement for services through the ACH-PCS exceed the average cost of such services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

## **STATE/COUNTY SPECIAL ASSISTANCE TRANSFER OF ASSETS**

**SECTION 10.53.(a)** G.S. 108A-46 is repealed.

**SECTION 10.53.(b)** Part 3 of Article 2 of Chapter 108A is amended by adding the following new section to read:

**"§ 108A-46A. Transfer of assets for purposes of qualifying for State-county Special Assistance for adults.**

Notwithstanding any other provision of law to the contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by federal law, shall apply to applicants for State-county Special Assistance."

**SECTION 10.53.(c)** The Department of Health and Human Services shall continue to review whether policy for State-county Special Assistance should be changed to permit an assisted living facility to accept from a family member of a resident who qualifies for State-county Special Assistance payment for the difference in the monthly rate for room, board, and services available. In reviewing current policy, the Department shall consider the following conditions on family contributions to the resident's cost of care:

- (1) Ensuring that the resident meets all income and resource eligibility requirements for State-county Special Assistance.
- (2) Not counting payments made by family members to the facility as income to the resident or as an in-kind contribution when calculating the monthly rate applicable to the resident.
- (3) Ensuring that supplemental payments are made on a voluntary basis as specified in the resident agreement.

Not later than March 1, 2004, the Department shall report on its activities under this subsection to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

#### **LIMITATION ON STATE ABORTION FUND**

**SECTION 10.54.** The limitations on funding of the performance of abortion established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2003-2004 and 2004-2005 fiscal years.

#### **FUNDS FOR FOOD BANKS**

**SECTION 10.55.(a)** Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million dollars (\$1,000,000) for the 2003-2004 fiscal year shall be allocated equally among the six Second Harvest North Carolina food banks.

**SECTION 10.55.(b)** Each organization shall report to the Department of Health and Human Services and the Fiscal Research Division on the activities performed and the impact on local communities directly associated with the funds allocated in subsection (a) of this section by April 1, 2004. Each organization shall provide to the Department of Health and Human Services and the Fiscal Research Division a copy of its annual audited financial statement within 30 days of issuance of the statement.

#### **CHILD WELFARE SYSTEM PILOTS SYSTEM**

**SECTION 10.56.(a)** The Department of Health and Human Services, Division of Social Services, shall continue working with local departments of social services to implement an alternative response system of child protection in no fewer than 10 and no more than 33 demonstration areas in this State. The Division of Social Services may exceed the maximum number of demonstration areas if a county specifically requests inclusion and the Division determines that resources are available. The demonstration projects in place in the 2003-2004 fiscal year shall continue. The alternative response system shall provide for a family-centered approach to child protective services which local departments of social services utilize family assessment tools and family support principles when responding to selected reports of suspected child neglect and dependency.

**SECTION 10.56.(b)** The Department of Health and Human Services shall evaluate the original pilot demonstration areas to determine the impact the alternative response system to child protective services has had in the following areas:

- (1) Child safety.
- (2) Timeliness of response.
- (3) Timeliness of service.
- (4) Coordination of local human services.

**SECTION 10.56.(c)** The Department of Health and Human Services shall proceed to expand this demonstration project if non-State funds are identified for this purpose.

**SECTION 10.56.(d)** The Department of Health and Human Services shall report on the outcome of the evaluation of the original pilot demonstration areas

pursuant to subsection (b) of this section and the expansion of the demonstration areas. The Department shall make recommendations for statewide implementation of an alternative response system to child protective services. The report shall include any statutory changes required for full implementation. Any recommendations for statutory changes contained in the report shall be eligible for consideration by the 2003 General Assembly in the 2004 Regular Session. The report shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004.

## **ELIMINATE REPORTING REQUIREMENTS FOR WORK FIRST PROGRAM**

**SECTION 10.57.** G.S. 108A-27.2 reads as rewritten:

### **"§ 108A-27.2. General duties of the Department.**

The Department shall have the following general duties with respect to the Work First Program:

- (1) Ensure that the specifications of the general provisions of the State Plan regarding the procedures required when recipients are sanctioned, prescribed in G.S. 108A-27.9(c), are uniformly developed and implemented across the State;
- (1a) Provide technical assistance to counties developing and implementing their County Plans, including providing information concerning applicable federal law and regulations and changes to federal law and regulations that affect the permissible use of federal funds and scope of the Work First Program in a county;
- (1b) Reserved for future codification purposes.
- (1c) Ensure that two-parent families receive cash assistance for three months after qualifying for assistance without being subject to pay for performance requirements, in order to encourage families to stay together and to overcome barriers to self-sufficiency and gainful employment. Cash assistance or diversion assistance received prior to being subject to pay for performance requirements is limited to one time within a 12-month period.
- (2) Describe authorized federal and State work activities. For up to twenty percent (20%) of Work First recipients, authorized State work activities shall include at least part-time enrollment in a postsecondary education program. In Standard Counties, recipients enrolled on at least a part-time basis in a postsecondary education program and maintaining a 2.5 grade point average or its equivalent shall have their two-year time limit suspended for up to three years.
- (3) Define requirements for assignment of child support income and compliance with child support activities;
- (4) Establish a schedule for counties to submit their County Plans to ensure that all Standard County Plans are adopted by the Standard Program Counties by January 15 of each odd-numbered year and all Electing County Plans are adopted by Electing Counties by February 1 of each odd-numbered year and review and then recommend a State Plan to the General Assembly;
- (5) Ensure that the County Plans comply with federal and State laws, rules, and regulations, are consistent with the overall purposes and goals of the Work First Program, and maximize federal receipts for the Work First Program;
- (6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal laws and regulations and submit it to the Budget Director for approval;
- (7) Submit the State Plan, as approved by the Budget Director, to the General Assembly for approval;

- ~~(8) Report monthly to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on the monthly progress reports submitted by the counties to the Department;~~
- (9) Develop and implement a system to monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Work First Program on job retention and advancement, child abuse and neglect, caseloads for child protective services and foster care, school attendance, academic and behavioral performance, and other measures of the economic security and health of children and families. The system should be developed to allow monitoring and evaluation of impact based on both aggregated and disaggregated data. State and county agencies shall cooperate in providing information needed to conduct these evaluations, sharing data and information except where prohibited specifically by federal law or regulation;
- (10) Monitor the performance of counties relative to their County Plans and the overall goals of the Work First Program and report every six months to the Director of the Budget and the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services and annually to the General Assembly on the counties' attainment of the outcomes and goals; ~~Program;~~
- ~~(11) Provide quarterly progress reports to the county departments of social services, the county boards of commissioners, and the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on the performance of counties in achieving Work First Program expectations;~~
- (12) Report to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services the counties which have requested Electing status; provide copies of the proposed Electing County Plans to ~~{C}ommission and the members of the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services~~ Services, if requested; and make recommendations to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on which of the proposed Electing County Plans ensure compliance with federal and State laws, rules, and regulations and are consistent with the overall purposes and goals for the Work First Program; and
- (13) Make recommendations to the General Assembly for approval of counties to become Electing Counties which represent, in aggregate, no more than fifteen and one-half percent (15.5%) of the total Work First caseload at September 1 of each year and, for each county submitting a plan, the reasons individual counties were or were not recommended.
- (14) Review the county Work First Program of each electing county and recommend whether the county should continue to be designated an electing county or whether it should be redesignated as a standard county. In conducting its review and making its recommendation, the Department shall:
  - a. Examine and consider the results of the Department's monitoring and evaluation of the impact of the electing county's

- Work First Program as required under subdivision (9) of this section;
- b. Determine whether the electing county's Work First Program's unique design requires implementation by an electing county or whether the Work First Program could be implemented by a county designated as a standard county;
  - c. Determine whether the electing county's Work First Program and policies are unique and innovative in meeting the purpose of the Work First Program as stated under G.S. 108A-27, and State and federal laws, rules, and regulations, as compared to other standard and electing county Work First programs.

The Department shall make its recommendation and the reasons therefor to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services not later than three months prior to submitting the State Plan to the Commission for review as required under G.S. 108A-27.9(a)."

**SOCIAL SERVICES COMMISSION RULES ON RATE-SETTING FOR ADULT DAY CENTERS AND ADULT DAY HEALTH CENTERS**

**SECTION 10.58.** The Social Services Commission shall consider adopting rules increasing the rates for adult day centers and adult day health centers. Any rate increase adopted by the Social Services Commission for adult day centers and adult day health centers shall be implemented within existing funds.

**PART X-A. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**STUDY COMMERCIAL PRODUCTION OF TURTLES**

**SECTION 10A.1.** The Department of Agriculture and Consumer Services, with the cooperation and assistance of the Agricultural Research Service at North Carolina State University, shall investigate the potential for the production of turtles for food purposes and other commercial purposes that could support turtle production as an alternative agricultural product in North Carolina. No later than April 1, 2004, the Department of Agriculture and Consumer Services shall report its findings and recommendations, including any legislative proposals, to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives and to the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources and the House of Representatives Agriculture Committee.

**PART XI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**GRASSROOTS SCIENCE PROGRAM**

**SECTION 11.1.(a)** Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of two million five hundred fifty-one thousand seven hundred sixty dollars (\$2,551,760) for fiscal year 2003-2004 and the sum of two million five hundred fifty-one thousand seven hundred sixty dollars (\$2,551,760) for fiscal year 2004-2005 are allocated as grants-in-aid for each fiscal year as follows:

	2003-2004	2004-2005
Aurora Fossil Museum	\$56,690	\$56,690
Cape Fear Museum	\$185,470	\$185,470

Catawba Science Center	\$134,913	\$134,913
Colburn Gem and Mineral Museum, Inc.	\$66,858	\$66,858
Discovery Place	\$624,407	\$624,407
Granville County Museum Commission, Inc. - Harris Gallery	\$55,885	\$55,885
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$121,115	\$121,115
Imagination Station	\$85,308	\$85,308
Iredell County Children's Museum	\$6,616	\$6,616
Museum of Coastal Carolina	\$69,311	\$69,311
Natural Science Center of Greensboro	\$183,416	\$183,416
North Carolina Museum of Life and Science	\$388,283	\$388,283
Rocky Mount Children's Museum	\$72,810	\$72,810
Schiele Museum of Natural History	\$234,524	\$234,524
Sci Works Science Center and Environmental Park of Forsyth County	\$147,578	\$147,578
Western North Carolina Nature Center	\$118,578	\$118,578
 Total	 \$2,551,760	 \$2,551,760

**SECTION 11.1.(b)** Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of two hundred fifty thousand dollars (\$250,000) for the 2003-2004 fiscal year is allocated as initial grants-in-aid of fifty thousand dollars (\$50,000) to each of the following unfunded members of the Grassroots collaborative:

- (1) Wilmington Children's Museum, Inc.
- (2) Carolina Raptor Center, Inc.
- (3) Highlands Nature Center
- (4) Fascinate-U Children's Museum
- (5) KidSenses, Inc.

**SECTION 11.1.(c)** It is the intent of the General Assembly that the museums receiving initial allocations under subsection (b) of this section shall receive recurring allocations in subsequent fiscal years based on the formula used to calculate the allocations under subsection (a) of this section.

#### **STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUND**

**SECTION 11.2.** Of the funds appropriated to the Wildlife Resources Fund in this act, the sum of four hundred forty-nine thousand dollars (\$449,000) for the 2003-2004 fiscal year and the sum of four hundred forty-nine thousand dollars (\$449,000) for the 2004-2005 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

#### **FUNDS FOR CLEANUP OF WARREN COUNTY PCB LANDFILL**

**SECTION 11.3.(a)** Notwithstanding the provisions of G.S. 143-215.3A, the Department of Environment and Natural Resources may use up to five hundred thousand dollars (\$500,000) for the 2003-2004 fiscal year from the fees collected for water quality permits under G.S. 143-215.3D and credited to the Water Permits Fund if both of the following conditions are satisfied:

- (1) The detoxification and remediation of the landfill located in Warren County cannot be completed without these additional funds.
- (2) All other funds, including all contingency funds, available to the Department for the detoxification and remediation of the landfill

located in Warren County that contains polychlorinated biphenyl (PCBs) and dioxin/furan contaminated materials have been spent or encumbered.

**SECTION 11.3.(b)** It is the intent of the General Assembly that the funds authorized under subsection (a) of this section will be sufficient to complete the detoxification and remediation of this landfill, based on representations made to the General Assembly.

## **COMMERCIAL AND NONCOMMERCIAL UNDERGROUND STORAGE TANK FUNDS**

**SECTION 11.4.(a)** Section 19 of S.L. 1989-652, Section 67 of S.L. 1991-1044, Section 15(a) and Section 15(b) of S.L. 1995-377, and Section 1 of S.L. 2001-454 are repealed, which has the effect of repealing two million six hundred twenty-five thousand dollars (\$2,625,000) in appropriations from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources and one million two hundred ninety-five thousand dollars (\$1,295,000) in appropriations from the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources.

**SECTION 11.4.(b)** There is appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of two million six hundred twenty-five thousand dollars (\$2,625,000) for the 2003-2004 fiscal year and the sum of two million six hundred twenty-five thousand dollars (\$2,625,000) for the 2004-2005 fiscal year to administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes.

**SECTION 11.4.(c)** It is the intent of the General Assembly that the funds under subsection (b) of this section are recurring funds.

**SECTION 11.4.(d)** There is appropriated from the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of one million two hundred ninety-five thousand dollars (\$1,295,000) for the 2003-2004 fiscal year and the sum of one million two hundred ninety-five thousand dollars (\$1,295,000) for the 2004-2005 fiscal year to administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes.

**SECTION 11.4.(e)** It is the intent of the General Assembly that the funds under subsection (c) of this section are recurring funds.

**SECTION 11.4.(f)** The Office of State Budget and Management shall certify the appropriations under subsections (b) and subsection (d) of this section in the budget codes for the Commercial and Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds and in the General Fund budget code for the Department of Environment and Natural Resources.

## **EXPRESS REVIEW PILOT PROGRAM**

**SECTION 11.4A.(a)** The Department of Environment and Natural Resources may develop the Express Review Pilot Program, a pilot program to provide express permit and certification reviews. Participation in the Express Review Pilot Program is voluntary, and the program is to become supported by the fees determined pursuant to subsection (b) of this section. The Department of Environment and Natural Resources shall determine the project applications to review under the Express Review Pilot Program from those who request to participate in the Pilot Program. The Express Review Pilot Program may be applied to any one or all of the permits, approvals, or certifications in the following programs: the erosion and sedimentation control program, the coastal management program, and the water quality programs, including water

quality certifications and stormwater management. The Express Review Pilot Program shall focus on the following permits or certifications:

- (1) Stormwater permits under Part 1 of Article 21 of Chapter 143 of the General Statutes.
- (2) Stream origination certifications under Article 21 of Chapter 143 of the General Statutes.
- (3) Water quality certification under Article 21 of Chapter 143 of the General Statutes.
- (4) Erosion and sedimentation control permits under Article 4 of Chapter 113A of the General Statutes.
- (5) Permits under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes.

**SECTION 11.4A.(b)** The Department of Environment and Natural Resources may establish up to eight positions to administer the Express Review Pilot Program and may determine the fees for express application review under the Pilot Program. Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged under subsection (a) of this section for the express review of a project application requiring all of the permits under subdivisions (1) through (5) of subsection (a) of this section shall not exceed five thousand five hundred dollars (\$5,500). Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be charged for the express review of a project application requiring all of the permits under subdivisions (1) through (4) of subsection (a) of this section shall not exceed four thousand five hundred dollars (\$4,500). Notwithstanding G.S. 143-215.3D, the maximum permit application fee charged for the express review of a project application for any other combination of permits under subdivisions (1) through (5) of subsection (a) of this section shall not exceed four thousand dollars (\$4,000). Express review of a project application involving additional permits or certifications issued by the Department of Environment and Natural Resources other than those under subdivisions (1) through (5) of subsection (a) of this section may be allowed by the Department, and, notwithstanding G.S. 143-215.3D or any other statute or rule that sets a permit fee, the maximum permit application fee charged for the express review of a project application shall not exceed four thousand dollars (\$4,000), plus one hundred fifty percent (150%) of the fee that would otherwise apply by statute or rule for that particular permit or certification. Additional fees, not to exceed fifty percent (50%) of the original permit application fee under this section, may be charged for subsequent reviews due to the insufficiency of the permit applications. The Department of Environment and Natural Resources may establish the procedure by which the amount of the fees under this subsection is determined, and the fees and procedures are not rules under G.S. 150B-2(8a) for the Express Review Pilot Program under this section.

**SECTION 11.4A.(c)** The funds appropriated to the Department of Environment and Natural Resources in this act for the 2003-2004 fiscal year shall be used for the costs of implementing the Express Review Pilot Program under this section during the 2003-2004 fiscal year.

**SECTION 11.4A.(d)** The Express Review Fund is created as a special nonreverting fund. The Express Review Fund shall be used for the costs of implementing the Express Review Pilot Program under this section. All fees collected under this section shall be credited to the Express Review Fund. If the Express Review Pilot Program is abolished, the funds in the Express Review Fund shall be credited to the General Fund.

**SECTION 11.4A.(e)** No later than May 1, 2004, the Department of Environment and Natural Resources shall report to the General Assembly its findings on the success of the Express Review Pilot Program and whether it recommends that the Pilot Program be continued or expanded.

## **COST SHARE FUNDS FOR LIMITED RESOURCE/NEW FARMERS**



**SECTION 11.6.** G.S. 143-215.74(b) reads as rewritten:

- "(b) The program shall be subject to the following requirements and limitations:
- (1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the water courses of the State.
  - (2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.
  - (3) Subject to subdivision (7) of this subsection, priority designations for inclusions in the program shall be under the authority of the Soil and Water Conservation Commission. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds.
  - (4) Areas shall be included in the program as the funds are appropriated and the technical assistance becomes available from the local Soil and Water Conservation District.
  - (5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sedimentation control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, closure of lagoons, emergency spillways, riparian buffers or equivalent controls, odor control best management practices, insect control best management practices, and animal waste management systems and application. Funding for animal waste management shall be allocated for practices in river basins such that the funds will have the greatest impact in improving water quality.
  - (6) Except as provided in subdivision (8) and subdivision (9) of this subsection, State funding shall be limited to seventy-five percent (75%) of the average cost for each practice with the assisted farmer providing twenty-five percent (25%) of the cost, which may include in-kind support of the practice, with a maximum of seventy-five thousand dollars (\$75,000) per year to each applicant.
  - (7) Priority designation for inclusion in the program for State funding shall be given to projects that improve water quality. To be eligible for cost share funds under this subdivision, a project shall be evaluated before funding is awarded and after the project is completed to determine the impact on water quality.
  - (8) For practices that are eligible for funding from the federal Conservation Reserve Enhancement Program, State funding from the program shall be limited to seventy-five percent (75%) of the average cost of each practice, with the remainder paid from funding from the Conservation Reserve Enhancement Program, other available federal funds, other State funds, or the assisted farmer, whose contribution may include in-kind support of the practice. This subdivision is subject to subdivision (9) of this subsection.
  - (9) When the applicant is either a limited-resource farmer or a beginning farmer, State funding shall be limited to ninety percent (90%) of the average cost for each practice with the assisted farmer providing ten percent (10%) of the cost, which may include in-kind support of the practice, with a maximum of one hundred thousand dollars (\$100,000) per year to each applicant. The following definitions apply in this subdivision:
    - a. Beginning farmer. – A farmer who has not operated a farm or who has operated a farm for not more than 10 years and who will materially and substantially participate in the operation of the farm.

- b. Limited-resource farmer. – A farmer with direct and indirect gross farm sales that do not exceed one hundred thousand dollars (\$100,000).
- c. Materially and substantially participate. –
  - 1. In the case of an individual, for the individual, including members of the immediate family of the individual, to provide substantial day-to-day labor and management of the farm, consistent with the practices in the county in which the farm is located.
  - 2. In the case of an entity, for all members of the entity, to participate in the operation of the farm, with some members providing management and some members providing labor and management necessary for day-to-day activities such that if the members did not provide the management and labor, the operation of the farm would be seriously impaired."

**STUDY/IMPACT OF ACQUISITION OF LAND FOR CONSERVATION PURPOSES ON LOCAL GOVERNMENT AD VALOREM TAX REVENUES**

**SECTION 11.7.(a)** The Property Tax Subcommittee of the Revenue Laws Study Committee shall study the positive and negative impacts of the acquisition of land by the State and non-profit organizations using money from the Clean Water Management Trust Fund and other State funds for conservation purposes on local government ad valorem tax revenues. In conducting this study, the Subcommittee may consider efforts by other states and the federal government to mitigate the negative impacts of acquisition of land by government or non-profit organizations for conservation purposes on local government ad valorem tax revenues.

**SECTION 11.7.(b)** The Subcommittee shall, by January 15, 2004, and more frequently as requested report its findings to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, and the Fiscal Research Division.

**CLEAN WATER MANAGEMENT TRUST FUND APPROPRIATION/FARMLAND PRESERVATION PROJECTS**

**SECTION 11.8.(a)** Notwithstanding G.S. 143-15.3B(a), for the 2003-2005 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for the 2003-2004 fiscal year is only sixty-two million dollars (\$62,000,000) as provided by this act and is only sixty-two million dollars (\$62,000,000) for the 2004-2005 fiscal year as provided by this act. The funds appropriated by this act to the Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

**SECTION 11.8.(b)** Notwithstanding G.S. 113-145.3, for the 2003-2004 fiscal year only, the Clean Water Management Trust Fund Board of Trustees may allocate up to four million one hundred thousand dollars (\$4,100,000) to match federal, State, local, and private farmland preservation and forestland preservation funds and to acquire permanent conservation easements on working farms and forests.

**STATE MATCH FOR FEDERAL SAFE DRINKING WATER ACT FUNDS**

**SECTION 11.10.** Notwithstanding the provisions of Chapter 159G of the General Statutes, the Department of Environment and Natural Resources may transfer and use up to one million seven hundred thousand dollars (\$1,700,000) of the funds available in the General Water Supply Revolving Loan Account for the 2003-2004 fiscal year to match the federal grant moneys authorized by section 1452 of the federal Safe Drinking Water Act Amendments of 1996 for the 2003-2004 fiscal year. The General Water Supply Revolving Loan Account is an account under the Clean Water

Revolving Loan and Grant Fund and is established under G.S. 159G-4. The Clean Water Revolving Loan and Grant Fund is established by G.S. 159G-5.

## **PART XII. DEPARTMENT OF COMMERCE**

### **WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS**

**SECTION 12.1.(a)** Of the funds appropriated in this act to the Department of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2003-2004 fiscal year and the sum of one hundred twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2004-2005 fiscal year may be expended by the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes, in addition to funds available to the Authority for these purposes.

**SECTION 12.1.(b)** Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department for legal costs associated with the Project. This section becomes effective June 30, 2003.

### **COUNCIL OF GOVERNMENT FUNDS**

**SECTION 12.2.(a)** Of the funds appropriated in this act to the Department of Commerce, eight hundred thirty-two thousand one hundred fifty dollars (\$832,150) for the 2003-2004 fiscal year and eight hundred thirty-two thousand one hundred fifty dollars (\$832,150) for the 2004-2005 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-eight thousand nine hundred fifty dollars (\$48,950) for the 2003-2004 and the 2004-2005 fiscal years.

**SECTION 12.2.(b)** A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

**SECTION 12.2.(c)** Funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than September 1, 2003, and the second subsequent to acceptable submission of the annual report due to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2005, as specified in subdivision (e)(2) of this section.

**SECTION 12.2.(d)** Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

**SECTION 12.2.(e)** Each council of government or lead regional organization shall do the following:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments, including actual results through December 31, 2003; and

- d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2003;
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
  - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments, including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2004; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**TOURISM PROMOTION FUNDS**

**SECTION 12.3.** Funds appropriated in this act to the Department of Commerce for tourism promotion grants shall be allocated to counties in an effort to direct funds to counties most in need. Determinations of which counties are most in need shall focus on those with the lowest per capita income, highest unemployment, and slowest population growth in the following manner:

- (1) Counties 1 through 20 are each eligible to receive a maximum grant of seven thousand five hundred dollars (\$7,500) for each fiscal year, provided these funds are matched on the basis of one non-State dollar for every four State dollars.
- (2) Counties 21 through 50 are each eligible to receive a maximum grant of three thousand five hundred dollars (\$3,500) for two of the next three fiscal years, provided these funds are matched on the basis of one non-State dollar for every three State dollars.
- (3) Counties 51 through 100 are each eligible to receive a maximum grant of three thousand five hundred dollars (\$3,500) for alternating fiscal years, beginning with the 1991-1992 fiscal year, provided these funds are matched on the basis of four non-State dollars for every State dollar.

**ONE NORTH CAROLINA – INDUSTRIAL RECRUITMENT COMPETITIVE FUND**

**SECTION 12.4.(a)** Funds appropriated to the Department of Commerce for the One North Carolina - Industrial Recruitment Competitive Fund, unless specifically allocated in this act for another purpose, shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina.

**SECTION 12.4.(b)** Moneys allocated from the One North Carolina - Industrial Recruitment Competitive Fund shall be used for the following purposes:

- (1) Installation or purchase of equipment.
- (2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion.
- (3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines or equipment for existing buildings.

- (4) Any other purposes specifically provided by an act of the General Assembly.

Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of moneys from the Fund.

**SECTION 12.4.(c)** The Department of Commerce shall report on or before September 30, 2003, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment, allocation, and use of funds allocated from the One North Carolina - Industrial Recruitment Competitive Fund.

**SECTION 12.4.(d)** Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the One North Carolina - Industrial Recruitment Competitive Fund that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department for providing financial assistance to those businesses and industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina.

**SECTION 12.4.(e)** This section becomes effective June 30, 2003.

## **NORTH CAROLINA EDUCATIONAL DEVELOPMENT**

**SECTION 12.4A.(a)** The General Assembly finds that institutions of higher education play an essential role in maintaining and strengthening the economic health of the State. As our economy evolves from its traditional manufacturing and agricultural base to a diverse structure, including many technology, information, and service-based businesses, innovative educational institutions are essential to providing appropriate workforce preparation and training to maintain the State's viability as an attractive location for new and expanding businesses. Recruiting new educational institutions to the State to fulfill this role also benefits the State and local governments by providing new jobs, a stronger tax base, support for satellite businesses, and investment that will permanently enhance the infrastructure necessary to support long-term growth and prosperity. The General Assembly recognizes that the significant efforts by Johnson and Wales University to establish and expand in North Carolina are vital to a healthy and growing State economy. Providing incentives to support these activities is a critical opportunity for our State to address the possibly irreversible damage from the current economic recession and restructuring.

**SECTION 12.4A.(b)** To carry out the purposes provided in this section, the Department of Commerce shall allocate from funds appropriated in the 2001-2003 fiscal biennium to the One North Carolina - Industrial Recruitment Competitive Fund one million dollars (\$1,000,000) for the 2003-2004 fiscal year to provide financial assistance to Johnson and Wales University. In addition, funds are appropriated in this act to the One North Carolina - Industrial Recruitment Competitive Fund for the 2004-2005 fiscal year. From these funds, the Department of Commerce shall allocate one million dollars (\$1,000,000) for the 2004-2005 fiscal year to provide financial assistance to Johnson and Wales University. Funds allocated under this subsection shall be used only for one or more of the following capital expenditures:

- (1) Installation or purchase of equipment for educational facilities in this State.
- (2) Structural repairs, improvements, or renovations of existing academic buildings in this State to be used for expansion.
- (3) Construction of or improvements to new or existing water, sewer, gas, or electric utility distribution lines or equipment for new or existing academic facilities in this State.
- (4) Construction of new academic facilities in this State.

## **INDUSTRIAL DEVELOPMENT FUND**

**SECTION 12.5.(a)** The Department of Commerce shall reduce the cash balance of the Industrial Development Fund by one million one hundred sixty-nine thousand four hundred thirty-eight dollars (\$1,169,438).

**SECTION 12.5.(b)** This section becomes effective June 30, 2003.

## **WORKER TRAINING TRUST FUND**

**SECTION 12.6.(a)** There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of five million dollars (\$5,000,000) for the 2003-2004 fiscal year for the operation of local offices.

**SECTION 12.6.(b)** Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 2003-2004 fiscal year for the following purposes:

- (1) One hundred ninety-three thousand eight hundred seventy-nine dollars (\$193,879) for the 2003-2004 fiscal year to the Employment Security Commission for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs;
- (2) Fifty-three thousand eight hundred fifty-six dollars (\$53,856) for the 2003-2004 fiscal year to the Employment Security Commission to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs;
- (3) Eight hundred sixty-one thousand six hundred eighty-four dollars (\$861,684) for the 2003-2004 fiscal year to the Department of Labor to continue the Apprenticeship Program; and
- (4) One hundred twenty thousand dollars (\$120,000) for the 2003-2004 fiscal year to the Community Colleges System Office for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises.
- (5) One hundred twenty thousand dollars (\$120,000) for the 2003-2004 fiscal year to the Community Colleges System Office for the operation of the Hosiery Technology Center.

**SECTION 12.6.(c)** The agencies listed in subsections (a) and (b) of this section shall, by January 15, 2004, and more frequently as requested, for the programs for which funds are appropriated in this section, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- (1) State fiscal year 2003-2004 program activities, objectives, and accomplishments;
- (2) State fiscal year 2003-2004 itemized expenditures and fund sources;
- (3) State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
- (4) State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.

**SECTION 12.6.(d)** Notwithstanding the provisions of G.S. 96-5(f), funds appropriated for 2002-2003 from the Worker Training Trust Fund to the Community Colleges System Office for both the Focused Industrial Training Program and the Training Initiatives shall not revert but shall remain available to the System Office for personnel and non-personnel support of each program in fiscal year 2003-2004.

## FILM INDUSTRY DEVELOPMENT ACCOUNT

**SECTION 12.6A.(a)** G.S. 143B-434.3 is repealed.

**SECTION 12.6A.(b)** Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding the following new section to read:

### **"§ 143B-434.4. Film Industry Development Account.**

(a) Legislative Findings and Purpose. – The General Assembly finds that:

- (1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the growth and expansion of businesses and industries within the State.
- (2) The North Carolina film production industry barely existed in the late 1970s.
- (3) Since that time, the North Carolina film production industry has grown to employ thousands of North Carolinians and to support seven studio complexes, hundreds of production service and support companies, and a substantial permanent resident crew base of film professionals, all of which contribute to the economy of the State and are a source of tax revenue for the State and local governments.
- (4) North Carolina, through its film industry, has hosted over 600 productions over the past 20 years, is regarded as the country's third largest film-making state behind California and New York, and has hosted productions in at least 75 out of North Carolina's 100 counties.
- (5) Because of the nature of the national film production industry, the success and economic viability of North Carolina's film production industry depend in many respects on the State's ability to attract productions originating from other states such as California and New York to undertake production activity in North Carolina utilizing the State's existing film industry infrastructure.
- (6) The national film production industry is a highly creative industry in which decisions to film productions in North Carolina are typically made outside of the State and are frequently based upon factors such as cost of production.
- (7) However, current trends in the industry, including trends in foreign countries such as Canada, to develop new and creative means to attract, and to cut production costs for, the type of productions that, in the past, have sustained North Carolina's film industry, threaten the viability of the State's investments in its film industry and film production infrastructure.
- (8) Recent changes in the State's economic condition have created a level of economic distress that requires a reevaluation of certain existing State programs, and the enactment and funding of programs such as the Film Industry Development Account are designed to stimulate new economic activity and to create new jobs and opportunities for employment within the State.
- (9) The enactment, funding, and administration of this program are necessary to stimulate the economy, facilitate economic recovery, create new jobs in North Carolina, and help sustain and preserve the State's investments in the film production industry and will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs and opportunities for employment, an enlargement of the overall tax base, an expansion and diversification of the State's industrial base, and an increase in revenue to the State and its political subdivisions, in accord with the policies declared in G.S. 143B-428.

(10) The purpose of the Film Industry Development Account is to stimulate economic activity and to create jobs and employment opportunities within the State.

(b) Creation of Account. – There is created in the Department of Commerce, Division of Tourism, Film, and Sports Development, the Film Industry Development Account to provide annual grants as incentives to production companies that engage in production activities in this State. The Division of Tourism, Film, and Sports Development shall administer this program in accordance with the following provisions:

(1) To be eligible for a grant, a production company must engage in production activities in this State with expenditures in this State of at least one million dollars (\$1,000,000). A grant may not be used for political or issue advertising.

(2) A grant may not exceed fifteen percent (15%) of the amount the production company spends for goods and services in this State during the calendar year.

(3) A grant may not exceed two hundred thousand dollars (\$200,000) per production.

(4) Grants shall be awarded to productions that substantially utilize North Carolina's film industry infrastructure and workforce, that stimulate economic activity within the State, and that create employment opportunities within the State.

(c) Production Company Defined. – As used in this section, the term "production company" has the meaning provided in G.S. 105-164.3.

(d) Limitation on Eligibility. – No production company shall be eligible for a grant under this section if an original motion picture, television, or radio image for theatrical, commercial, advertising, or educational purposes made by that company contains material that is considered obscene, as defined by G.S. 14-190.1(b).

(e) Reports. – The Department of Commerce shall report annually to the General Assembly concerning the applications made to the account, the payments made from the account, and the effect of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the account, including information regarding to whom payments were made and in what amounts."

**SECTION 12.6A.(c)** G.S. 143B-430 is amended by adding a new subsection to read:

"(c) The Secretary of Commerce may adopt rules to administer a program or fulfill a duty assigned to the Department of Commerce or the Secretary of Commerce."

**SECTION 12.6A.(d)** This section becomes effective on and after August 2, 2000.

## **INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

**SECTION 12.6C.(a)** The North Carolina Industrial Commission may retain the additional revenue generated by raising the fee charged to parties for the filing of compromised settlements from two hundred dollars (\$200.00) to an amount that does not exceed two hundred fifty dollars (\$250.00) for the purpose of replacing existing computer hardware and software used for the operations of the Commission. These funds may also be used to prepare any assessment of hardware and software needs prior to purchase. The Commission may not retain any fees under this section unless they are in excess of the current two-hundred-dollar (\$200.00) fee charged by the Commission for filing a compromise settlement.

**SECTION 12.6C.(b)** Nothing in this section shall be deemed to limit or restrict the Commission's authority to increase fees for purposes other than those indicated in subsection (a) of this section.



**SECTION 12.6C.(c)** Unexpended and unencumbered fees retained by the Industrial Commission under subsection (a) of this section shall not revert to the General Fund on June 30 of each fiscal year, but shall remain available to the Commission for the purposes stated in subsection (a) of this section.

**SECTION 12.6C.(d)** All plans and purchases by the Commission utilizing fees retained under subsection (a) of this section are subject to project certification by the Information Resources Management Commission, and the Commission in making purchases under subsection (a) of this section must follow the procurement process outlined in accordance with the provisions of 09 NCAC 06B. 0300. The Commission shall report its plans to replace existing computer hardware and software to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division prior to issuing any requests for proposals.

**SECTION 12.6C.(e)** The Commission may retain additional fees as authorized by subsection (a) of this section only in the 2003-2005 fiscal biennium and shall not retain any additional fees after the 2003-2005 fiscal biennium.

### **FILM INDUSTRY DEVELOPMENT FUNDS**

**SECTION 12.6D.(a)** Of the funds in the Film Industry Development Account created in Part 2 of Article 10 of Chapter 143B of the General Statutes, the sum of five hundred thousand dollars (\$500,000) is reallocated to the Wilmington Regional Film Commission, Inc., a nonprofit corporation, for economic development services to develop and provide financial assistance and support necessary to attract to North Carolina a major television production that meets all of the following conditions:

- (1) The production will include at least 12 episodes.
- (2) The production will provide a gross payroll of over seven million dollars (\$7,000,000) and involve over four million dollars (\$4,000,000) in goods and services a year.
- (3) The production will provide well-paying employment, including over 100 full-time jobs and several thousand part-time jobs, resulting in estimated State payroll taxes of more than five hundred thousand dollars (\$500,000) a year.
- (4) The estimated sales taxes, accommodations taxes, and rental car taxes from the production will be more than thirty-five thousand dollars (\$35,000) a year.
- (5) The production will utilize existing film production facilities and benefit the State through the tourism, marketing, and recognition effects it will have.

**SECTION 12.6D.(b)** The Wilmington Regional Film Commission, Inc., shall administer the funds in accordance with a contract that conditions expenditure of the funds on completion of 12 full episodes of the production.

**SECTION 12.6D.(c)** The General Assembly finds that this allocation is for the purposes provided in Section 12.6A of this act.

### **FILM DEVELOPMENT ACCOUNT FUNDS DO NOT REVERT**

**SECTION 12.6E.** Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the Film Industry Development Account that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department of Commerce to fund the Film Industry Development Account.

### **REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS**

**SECTION 12.7.(a)** Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following Commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle

Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

**SECTION 12.7.(b)** Funds appropriated pursuant to subsection (a) of this section shall be allocated to each Regional Economic Development Commission as follows:

- (1) First, the Department shall establish each Commission's allocation by determining the sum of allocations to each county that is a member of that Commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3; and
- (2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Commission the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in each fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and
- (3) Next, the Department shall redistribute the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars (\$171,979) in each fiscal year to the seven Regional Economic Development Commissions named in subsection (a) of this section. Each Commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each Commission's allocation determined under subdivision (1) of this subsection.

## **REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS**

**SECTION 12.8.(a)** By February 15 of each fiscal year, beginning in 2004, the seven regional economic development commissions shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- (1) The preceding fiscal year's program activities, objectives, and accomplishments.
- (2) The preceding fiscal year's itemized expenditures and fund sources.
- (3) Demonstration of how the commission's regional economic development and marketing strategy aligns with the State's overall economic development and marketing strategies.
- (4) To the extent they are involved in promotion activities such as trade shows, visits to prospects and consultants, advertising and media placement, the commissions shall demonstrate how they have generated qualified leads.

**SECTION 12.8.(b)** Each of the commissions shall provide to the Fiscal Research Division a copy of their annual audited financial statement within 30 days of issuance of the statement.

**SECTION 12.8.(c)** The reporting requirements for regional economic development commissions, as provided in subsection (a) of this section, shall be reviewed annually by the North Carolina Partnership for Economic Development and recommendations for changes to the reporting requirements shall be made to the Fiscal

Research Division, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

**SECTION 12.8.(d)** Regional economic development commissions shall receive quarterly allocations of the funds appropriated in this act to the Department of Commerce for regional economic development commissions.

**SECTION 12.8.(e)** Regional economic development commissions shall remain in the Department of Commerce's Budget Code 14601 with other State-aided nonprofit entities.

**SECTION 12.8.(f)** The Board Structure of the Global TransPark Development Commission shall be studied in accordance with the recommendations found in the UNC Kenan-Flagler study, to determine if the board structure should be reconstituted and made similar to the boards of the Northeastern or Southeastern North Carolina Regional Economic Development Commissions. In conducting the study, the following conditions shall be met:

- (1) The Global TransPark Development Commission shall contribute to the cost of the study by retaining a consultant familiar with the partnership.
- (2) The Study shall be conducted by a designee of the North Carolina Partnership for Economic Development determined by the Partnership Presidents, a designee of the UNC Kenan-Flagler School of Business, and the consultant retained by the Global TransPark Development Commission.
- (3) None of the eastern regional commissions shall be consolidated.
- (4) The results of the study shall be submitted to the Fiscal Research Division and members of the North Carolina Partnership for Economic Development prior to the beginning of the 2004 Regular Session of the 2003 General Assembly.

## **NONPROFIT REPORTING REQUIREMENTS**

**SECTION 12.9.(a)** The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., Coalition of Farm and Rural Families, and Partnership for the Sounds, Inc., shall do the following:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003;
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;

- c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 12.9.(b)** No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2003. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements by January 15, 2004, or January 15, 2005.

## **BIOTECHNOLOGY CENTER**

**SECTION 12.10.(a)** The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

**SECTION 12.10.(b)** The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

**SECTION 12.10.(c)** The North Carolina Biotechnology Center shall:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003;
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
  - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 12.10.(d)** The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the

Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

**RURAL ECONOMIC DEVELOPMENT CENTER**

**SECTION 12.11.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million eight hundred forty-one thousand six hundred ninety-seven dollars (\$1,881,697) for the 2003-2004 fiscal year and the sum of one million eight hundred eighty-one thousand six hundred ninety-seven dollars (\$1,881,697) for the 2004-2005 fiscal year shall be allocated as follows:

	2003-2004 FY	2004-2005 FY
Research and Demonstration Grants	\$370,000	\$370,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,399	444,399
Center Administration, Oversight, and Other Programs	604,298	604,298
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	199,722	199,722
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000.

**SECTION 12.11.(b)** The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

**SECTION 12.11.(c)** For purposes of this section, the term "community development corporation" means a nonprofit corporation:

- (1) Chartered pursuant to Chapter 55A of the General Statutes;
- (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
- (3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;
- (4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
- (5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

**SECTION 12.11.(d)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910) for the 2003-2004 fiscal year and the sum of two million four hundred fifteen thousand nine hundred ten dollars (\$2,415,910) for the 2004-2005 fiscal year shall be allocated as follows:

- (1) \$1,047,410 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:

- a. \$800,000 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;
  - b. \$197,410 in each fiscal year for direct grants to local community development corporations that have not previously received State funds; and
  - c. \$50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.
- (2) \$195,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and
- (3) \$983,000 in each fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subsection. The Center shall allocate these funds as follows:
- a. \$675,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:
    - 1. Necessary economic development projects and activities in economically distressed areas;
    - 2. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low-pressure pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar-for-dollar basis in the amount of the grant awarded; or
    - 3. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.
  - b. \$208,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants related to water, sewer, or business development projects.
  - c. \$100,000 in each fiscal year to support the update of the statewide water and sewer database and to support the development of a statewide water management plan.
- (4) \$190,500 in each fiscal year for the Agricultural Advancement Consortium. These funds shall be placed in a reserve and allocated as follows:
- a. \$75,000 in each fiscal year for operating expenses associated with the Consortium; and
  - b. \$115,500 in each fiscal year for research initiatives funded by the Consortium.

The Consortium shall facilitate discussions among interested parties and shall develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this subsection shall be selected on the basis of need.  
**SECTION 12.11.(e)** The Rural Economic Development Center, Inc., shall:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
  - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004.
- (3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 12.11.(f)** No funds appropriated under this act shall be released to a community development corporation, as defined in this act, unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

### **OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS**

**SECTION 12.12.(a)** Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three hundred sixty-one thousand dollars (\$361,000) for the 2003-2004 fiscal year and the sum of three hundred sixty-one thousand dollars (\$361,000) for the 2004-2005 fiscal year shall be allocated as follows:

- (1) \$90,250 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;
- (2) \$90,250 in each fiscal year to the Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;
- (3) \$90,250 in each fiscal year to the Opportunities Industrialization Centers Kinston and Lenoir County, North Carolina, Inc.; and
- (4) \$90,250 in each fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc.

**SECTION 12.12.(b)** For each of the Opportunities Industrialization Centers receiving funds pursuant to subsection (a) of this section, the Rural Economic Development Center, Inc., shall:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments, including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2003.
- (2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
- a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
  - b. State fiscal year 2003-2004 itemized expenditures and fund sources;
  - c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments, including actual results through December 31, 2004; and
  - d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2004.
- (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statements must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.
- (4) Provide to the Fiscal Research Division a copy of the annual audited financial statement required in subdivision (3) of this subsection within 30 days of issuance of the statement.

**SECTION 12.12.(c)** No funds appropriated under this act shall be released to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a) of this section unless the Center can demonstrate that there are no outstanding or proposed assessments or other collection actions against the Center for any State or federal taxes, including related penalties, interest, and fees.

## **PART XIII. JUDICIAL DEPARTMENT**

### **OPERATIONAL SAVINGS/FUNDING RESERVES**

**SECTION 13.1.(a)** The Judicial Department shall report by September 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the positions identified in the Administrative Office of the Courts in order to implement operational savings.

**SECTION 13.1.(b)** The Judicial Department, the Department of Correction, the Department of Crime Control and Public Safety, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Justice shall report quarterly to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the implementation of management flexibility reserves authorized for each agency in this budget. The departments shall report to the Joint Legislative Commission on Governmental Operations before implementing management flexibility reserves by eliminating positions or abolishing programs.



## **COLLECTION OF WORTHLESS CHECK FUNDS**

**SECTION 13.2.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2003, for the purchase or repair of office or information technology equipment during the 2003-2004 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

## **OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

**SECTION 13.3.** The Office of Indigent Defense Services shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

- (1) The volume and cost of cases handled in each district by assigned counsel or public defenders;
- (2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;
- (3) Plans for changes in rules, standards, or regulations in the upcoming year; and
- (4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services.

## **DRUG TREATMENT COURT PROGRAM**

**SECTION 13.4.(a)** It is the intent of the General Assembly that, allowing for established local differences in implementation, State Drug Treatment Court funds not be used to fund case manager positions when the services provided by those positions can be reasonably provided by the Treatment Alternatives to Street Crime (TASC) program in the Department of Health and Human Services or by other existing resources. The Drug Treatment Court Program shall identify areas of potential cost savings in the local programs that would result from reducing the number of case manager positions. The Program shall also identify areas in which federal funding might absorb administrative costs.

The Drug Treatment Court Program shall report by February 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the savings identified. The report shall include a transition plan for sustaining any local program that is currently receiving federal grant funding.

**SECTION 13.4.(b)** Prior to the establishment of any new local drug treatment court programs, the local drug treatment court management committee shall consult with the TASC program as to the availability of case management services in that community.

## **FEDERAL GRANT FUNDS**

**SECTION 13.5.** The Judicial Department shall use up to the sum of one million two hundred fifty thousand dollars (\$1,250,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds. The Judicial Department may also use proceeds from the Court Information Technology Fund to fulfill prior obligations to criminal justice information projects receiving federal funds.

**PUBLIC DEFENDER STUDY**

**SECTION 13.6.** The Office of Indigent Defense Services shall study the establishment of additional public defender districts in the State, identifying the areas of the State in which savings could be realized by the establishment of such districts and the projected savings in each area. The Office of Indigent Defense Services shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2004, on the results of its study.

**TRANSFER OF EQUIPMENT AND SUPPLY FUNDS**

**SECTION 13.7.** Funds appropriated to the Judicial Department in the 2003-2005 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

**ADJUST MAGISTRATE AUTHORIZATIONS**

**SECTION 13.8.** G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min. – Max.		Additional Seats of Court
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	4	
Martin	<del>5</del> 4	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden Havelock
Craven	7	10	
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	<del>9</del> 8	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	7	

Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	5	
Franklin	3	7	
Person	3	4	
Caswell	2	5	
Wake	12	21	Apex, Wendell, Fuquay- Varina, Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson, Clayton, Selma
Lee	4	6	
Cumberland	10	19	
Bladen	4	6	
Brunswick	4	9	
Columbus	6	10	Tabor City
Durham	8	13	
Alamance	7	11	Burlington
Orange	4	11	Chapel Hill
Chatham	3	9	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	27	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2	4	
Randolph	5	10	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	7	
Anson	4	6	
Richmond	5	6	Hamlet
Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville

Alexander	2	4	
Davidson	7	10	Thomasville
Davie	2	3	
Iredell	4	9	Mooreville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	5	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	28	
Gaston	11	22	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	6	
Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	5	
Macon	3	4	
Swain	2	34"	

## NORTH CAROLINA STATE BAR FUNDS

**SECTION 13.10.** Of the funds appropriated in the continuation budget as a grant-in-aid to the North Carolina State Bar for the 2003-2005 biennium, the North Carolina State Bar may in its discretion use up to the sum of five hundred ninety thousand dollars (\$590,000) for the 2003-2004 fiscal year and up to the sum of five hundred ninety thousand dollars (\$590,000) for the 2004-2005 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants. The Office of Indigent Defense Services shall report by February 1, 2004, to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the activities funded by the grant-in-aid authorized by this section.

## CLARIFY PARTIAL PAYMENT OF APPOINTMENT FEE FOR CRIMINAL DEFENDANTS

**SECTION 13.11.** G.S. 7A-455.1 reads as rewritten:

### "§ 7A-455.1. Appointment fee in criminal cases.

(a) Each person who requests the appointment of counsel in a criminal case shall pay to the clerk of court a nonrefundable appointment fee of fifty dollars (\$50.00) at the time of appointment. ~~Partial payments shall be credited against the amount of the fifty dollar (\$50.00) fee due.~~ No fee shall be due if the court finds that the person is not entitled to the appointment of counsel.

(b) The appointment fee in this section is due regardless of the outcome of the proceedings. ~~If paid before the final determination of the action at the trial level, the amount of the fee paid in full at the time of appointment, the fifty dollars (\$50.00) paid shall be credited against any amounts the court determines to be owed for the value of legal services rendered to the defendant. If not paid before the final determination of the action at the trial level, the unpaid amount of the in full at the time of appointment, the fifty-dollar (\$50.00) fee shall be added to any amounts the court determines to be owed for the value of legal services rendered to the defendant and shall be collected in the same manner as attorneys' fees are collected for such representation. If the fee is not paid in full at the time of appointment, and~~ no attorneys' fees are found due when the action is finally determined at the trial level, a judgment shall be entered, docketed, and indexed pursuant to G.S. 1-233 in the amount of ~~the unpaid fee~~ fifty dollars (\$50.00) and shall constitute a lien as prescribed by the general law of the State applicable to judgments.

(c) The attorney representing the defendant when the action is finally determined at the trial level shall advise the court whether the appointment fee required by this section has been paid.

(d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for denying appointment of counsel, for withdrawal of counsel, or for contempt.

(e) The appointment fee required by this section shall be assessed only once for each affidavit of indigency submitted by a defendant or other determination of indigency by the court, regardless of the number of cases for which an attorney is appointed. An additional appointment fee shall not be assessed for any additional cases thereafter assigned to an attorney if any cases for which a defendant was previously assessed an appointment fee are still pending. Nor shall an additional appointment fee be assessed if the charges for which an attorney was appointed are dismissed and subsequently refiled or if the defendant is appointed an attorney on appeal on a matter for which the defendant was assessed an appointment fee at the trial level.

(f) Of each appointment fee collected under this section, the sum of forty-five dollars (\$45.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund under G.S. 7A-343.2. These fees shall not revert.

(g) The Office of Indigent Defense Services shall adopt rules and develop forms to govern implementation of this section."

## **PILOT PROJECT ON ASSIGNMENT OF CIVIL CASES**

**SECTION 13.12.(a)** The Administrative Office of the Courts may conduct a pilot project in up to four judicial districts to assess a system for the assignment and processing of general civil cases filed in the General Court of Justice. No district may be selected without the concurrence of the senior resident superior court judge and the chief district court judge, and no more than one pilot project site may be established within a judicial division.

The project shall evaluate methods of assigning cases to individual judges or sessions of court in the district court division or the superior court division, considering the nature of the case, the amount in controversy, the complexity of the issues, the likelihood of settlement, the availability and suitability of alternative dispute resolution programs, and any other appropriate factors relevant to just resolution of the cases and efficient use of court resources. In pilot districts designated by the Administrative Office of the Courts under this section, general civil cases may be assigned or transferred to alternative dispute resolution programs used within the district court or superior court, notwithstanding the provisions of G.S. 7A-37.1, G.S. 7A-38.1, or Articles 20 and 21 of Chapter 7A of the General Statutes.

**SECTION 13.12.(b)** This section expires June 30, 2005.

## **DISPUTE RESOLUTION FEE CLARIFICATION**

**SECTION 13.13.** G.S. 7A-38.7 reads as rewritten:

**"§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.**

(a) In each criminal case filed in the General Court of Justice that is resolved through referral to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars (\$60.00) per mediation for the support of the General Court of Justice. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the State Treasurer.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this ~~section~~ section and shall attach the receipt to the dismissal form."

**DIVIDE SUPERIOR COURT DISTRICT 19B**

**SECTION 13.14.(a)** G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	2
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	1
Second	5A	(part of New Hanover, part of Pender see subsection (b))	1
	5B	(part of New Hanover, part of Pender see subsection (b))	1
	5C	(part of New Hanover, see subsection (b))	1
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
First	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
Third	9	Franklin, Granville, Vance, Warren	2
Third	9A	Person, Caswell	1
Third	10A	(part of Wake, see subsection (b))	2
Third	10B	(part of Wake, see subsection (b))	2
Third	10C	(part of Wake, see subsection (b))	1
Third	10D	(part of Wake, see subsection (b))	1
Fourth	11A	Harnett, Lee	1
Fourth	11B	Johnston	1
Fourth	12A	(part of Cumberland, see subsection (b))	1
Fourth	12B	(part of Cumberland, see subsection (b))	1
Fourth	12C	(part of Cumberland, see subsection (b))	2

Fourth	13	Bladen, Brunswick, Columbus	2
Third	14A	(part of Durham, see subsection (b))	1
Third	14B	(part of Durham, see subsection (b))	3
Third	15A	Alamance	2
Third	15B	Orange, Chatham	1
Fourth	16A	Scotland, Hoke	1
Fourth	16B	Robeson	2
Fifth	17A	Rockingham	2
Fifth	17B	Stokes, Surry	2
Fifth	18A	(part of Guilford, see subsection (b))	1
Fifth	18B	(part of Guilford, see subsection (b))	1
Fifth	18C	(part of Guilford, see subsection (b))	1
Fifth	18D	(part of Guilford, see subsection (b))	1
Fifth	18E	(part of Guilford, see subsection (b))	1
Sixth	19A	Cabarrus	1
Fifth	<del>19B1</del>	<del>(part of Montgomery, part of Moore, part of Randolph see subsection (b))</del>	<del>4</del>
	<del>19B2</del>	<del>(part of Montgomery, part of Moore, part of Randolph see subsection (b))</del>	<del>4</del>
	<u>19B</u>	<u>Montgomery, Randolph</u>	<u>1</u>
Sixth	19C	Rowan	1
<u>Fifth</u>	<u>19D</u>	<u>Moore</u>	<u>1</u>
Sixth	20A	Anson, Richmond	1
Sixth	20B	Stanly, Union	2
Fifth	21A	(part of Forsyth, see subsection (b))	1
Fifth	21B	(part of Forsyth, see subsection (b))	1
Fifth	21C	(part of Forsyth, see subsection (b))	1
Fifth	21D	(part of Forsyth, see subsection (b))	1
Sixth	22	Alexander, Davidson, Davie, Iredell	3
Fifth	23	Alleghany, Ashe, Wilkes, Yadkin	1
Eighth	24	Avery, Madison, Mitchell, Watauga, Yancey	2
Seventh	25A	Burke, Caldwell	2
Seventh	25B	Catawba	2
Seventh	26A	(part of Mecklenburg, see subsection (b))	2
Seventh	26B	(part of Mecklenburg, see subsection (b))	3
Seventh	26C	(part of Mecklenburg, see subsection (b))	2
Seventh	27A	Gaston	2
Seventh	27B	Cleveland, Lincoln	2
Eighth	28	Buncombe	2
Eighth	29	Henderson, McDowell, Polk, Rutherford, Transylvania	2
Eighth	30A	Cherokee, Clay, Graham, Macon, Swain	1
Eighth	30B	Haywood, Jackson	1."

**SECTION 13.14.(b)** G.S. 7A-41(b)(24) and G.S. 7A-41(b)(25) are repealed.

**SECTION 13.14.(c)** The superior court judgeship established for District 19B by subsection (a) of this section shall be filled by the superior court judge from current District 19B who resides in Randolph County. That judge's term expires on December 31, 2008. The successor to that judge shall be elected in the 2008 general election to serve an eight-year term.

**SECTION 13.14.(d)** The superior court judgeship established for District 19D by subsection (a) of this section shall be filled by the superior court judge from current District 19B who resides in Moore County. That judge's term expires on

December 31, 2008. The successor to that judge shall be elected in the 2008 general election to serve an eight-year term.

**SECTION 13.14.(e)** The Judicial Department may use funds appropriated up to the sum of thirty-five thousand five hundred forty-nine dollars (\$35,549) for the 2003-2004 fiscal year and up to the sum of fifty-three thousand six hundred ninety-eight dollars (\$53,698) for the 2004-2005 fiscal year to upgrade an existing superior court judgeship to a senior resident superior court judgeship for District 19D and to add an official court reporter for District 19D.

**SECTION 13.14.(f)** This section becomes effective December 1, 2003.

## **DISPUTE SETTLEMENT CENTERS STUDY/REPORTING OF CASES MEDIATED**

**SECTION 13.15.(a)** The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall:

- (1) Review the funding provided by the General Assembly to community mediation centers, also known as dispute settlement centers or dispute resolution centers.
- (2) Study the use of that funding by the recipient centers.
- (3) Determine whether the language of G.S. 7A-38.5 adequately and accurately states the General Assembly's priorities for dispute settlement centers and for the spending of the State funds received by those centers.
- (4) Recommend whether the match requirements set forth in G.S. 7A-38.6 should be varied according to each dispute settlement center's ability to obtain funding from non-State sources.
- (5) Study any other factors it deems relevant related to State funding of dispute settlement centers.

**SECTION 13.15.(b)** The Committee shall report its findings and recommendations by May 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

**SECTION 13.15.(c)** G.S. 7A-38.6(a) reads as rewritten:

"(a) All community mediation centers currently receiving State funds shall report annually to the Mediation Network of North Carolina on the program's funding and activities, including:

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

The Mediation Network of North Carolina shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year."

## **PART XIV. DEPARTMENT OF JUSTICE**



**USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE  
LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

**SECTION 14.1.(a)** Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2003-2005 biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

**SECTION 14.1.(b)** The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

**SECTION 14.1.(c)** Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

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

**SECTION 14.2.** The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those Boards by the State.

**CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

**SECTION 14.3.** Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

**REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL  
REPRESENTATION**

**SECTION 14.4.** The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina System.

**REPORT ON CRIMINAL RECORDS CHECKS CONDUCTED FOR  
CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR  
CRIMINAL RECORDS CHECKS**

**SECTION 14.5.(a)** The Department of Justice shall report by January 15 each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the receipts, costs for, and number of criminal records checks performed in connection with applications for concealed weapons permits. The report by the Department of Justice shall also include information on the number of applications received and approved for firearms safety courses.

**SECTION 14.5.(b)** The Office of State Budget and Management, in consultation with the Department of Justice, shall study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal

Information of the Department of Justice as a result of the increase in receipts from criminal records checks. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to providing criminal records checks and how those costs have changed since the prior fiscal year. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division on or before March 1, 2004.

#### **NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS DISBURSED**

**SECTION 14.6.** The North Carolina Legal Education Assistance Foundation shall report by March 1, 2004, to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Justice and Public Safety Subcommittees on its internal controls and procedures for ensuring that all funds designated for payoff of education loans are used for that purpose. The Foundation shall report by March 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds, the number of attorneys receiving funds, the average award amount, the average student loan amount, the number of attorneys on the waiting list, and the average number of years for which attorneys receive loan assistance.

#### **RAPE KITS A PRIORITY**

**SECTION 14.7.** The Department shall develop and implement a plan to process rape kits as expeditiously as possible, with a special emphasis on processing kits from cases that have been outstanding for the longest period of time. In developing the plan, the Department shall work with local law enforcement to determine how many untested or unanalyzed rape kits exist and how many rape kits are collected as evidence each year.

#### **COMPUTER CRIMES GRANT FUNDS**

**SECTION 14.8.** On or after July 1, 2004, the Department of Justice may transfer the seven State Bureau of Investigation agents funded in the 2003-2004 fiscal year with federal funds from Computer Crimes grants to agent positions in the State Bureau of Investigation that are (i) vacant, (ii) funded through the General Fund, and (iii) in existence on July 1, 2003.

#### **RAPE KIT ANALYSES BY PRIVATE VENDORS**

**SECTION 14.9.** The Department of Justice shall issue a Request for Information to determine (i) the interest of private vendors in providing analyses of forensic samples of DNA from rape kits in which there is no suspect, (ii) the qualifications of any private vendors who demonstrate such an interest, and (iii) the estimated costs of contracting with private vendors to provide analyses of forensic DNA samples.

### **PART XV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION**

#### **S.O.S. ADMINISTRATIVE COST LIMITS**

**SECTION 15.1.** Of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention in this act, not more than four hundred fifty thousand dollars (\$450,000) for the 2003-2004 fiscal year and not more than four hundred fifty thousand dollars (\$450,000) for the 2004-2005 fiscal year may be used to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may

contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

## **JUVENILE CRIME PREVENTION COUNCIL GRANT REPORTING AND CERTIFICATION**

**SECTION 15.2.(a)** On or before May 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Department of Juvenile Justice and Delinquency Prevention. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

**SECTION 15.2.(b)** Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Department of Juvenile Justice and Delinquency Prevention shall certify annually through its local council to the Department that funds received are not used to duplicate or supplant other programs within the county.

## **REPORTS ON CERTAIN PROGRAMS**

**SECTION 15.3.(a)** Project Challenge North Carolina, Inc., shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on the source of referrals for juveniles, the types of offenses committed by juveniles participating in the program, the amount of time those juveniles spend in the program, the number of juveniles who successfully complete the program, and the number of juveniles who commit additional offenses after completing the program.

**SECTION 15.3.(b)** The Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the Juvenile Assessment Center by April 1 each year. The report on the Juvenile Assessment Center shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans.

**SECTION 15.3.(c)** Communities in Schools shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Joint Legislative Education Oversight Committee by April 1 each year on the operation and the effectiveness of its program. The report shall include information on the number of children served, the number of volunteers used, the impact on the children who have received services from Communities in Schools, and the operating budget of Communities in Schools.

## **STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

**SECTION 15.4.** Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2003-2004 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North

Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2003-2004 fiscal year, the amount of funds anticipated for the 2004-2005 fiscal year, and the allocation of funds by program and purpose.

## **ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

**SECTION 15.5.** The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs, the teen court programs, the program that grants funds to the local organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L. 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and multipurpose group homes. The teen court report shall include statistical information on the number of juveniles served, the number and type of offenses considered by teen courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts. The report on the Boys and Girls Clubs program shall include information on:

- (1) The expenditure of State appropriations on the program;
- (2) The operations and the effectiveness of the program; and
- (3) The number of juveniles served under the program.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Subcommittees of Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by March 1 of each year.

## **USE OF FUNDS FOR YOUTH DEVELOPMENT CENTER BEDS**

**SECTION 15.6.(a)** The Department of Juvenile Justice and Delinquency Prevention may use funds available during the 2003-2004 fiscal year to (i) establish or reestablish youth development center beds, (ii) establish up to 16 new sex offender beds, and (iii) convert up to 50 beds in one Eckerd Wilderness Camp for use as a Youth Development Center, as defined in G.S. 7B-1501. Any conversion shall be effectuated with existing contract funds. If the Department of Juvenile Justice and Delinquency Prevention determines it needs additional youth development center beds during the 2003-2004 fiscal year, it shall consider reestablishing beds at Samarkand Manor Youth Development Center.

**SECTION 15.6.(b)** The Department shall report to the Chairs of the Justice and Public Safety Subcommittees of the House of Representatives and the Senate and the Joint Legislative Commission on Governmental Operations and the Corrections, Crime Control, and Juvenile Justice Oversight Committee prior to:

- (1) Converting any Eckerd Wilderness Camp beds to secure confinement beds during the 2003-2004 fiscal year;
- (2) Establishing bed capacity greater than 740 total beds, including beds converted at Eckerd Wilderness Camps, during the 2003-2004 fiscal year; or
- (3) Establishing new sex offender beds.

The report shall include the sources of funding for any additional beds.

## **PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS**

**SECTION 15.7.(a)** The Department of Juvenile Justice and Delinquency Prevention and the Department of Administration, State Construction Office, shall continue the planning and design of new youth development centers with up to 500 total beds. It is the intent that the design of these facilities ensure improved security, programming, and staffing efficiencies.

The Department of Juvenile Justice and Delinquency Prevention shall provide a quarterly report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the status of the planning and design of the new facilities and preliminary planning for site work. The first status report shall address (i) the number of youth development centers to be designed, (ii) the number of beds at each facility, (iii) the rationale for the number of beds to be built at each facility, and (iv) an analysis of all proposed sites for the facilities. The Department shall assess all existing youth development center sites in this analysis and discuss any alternative sites.

At the completion of the predesign and schematic design development phase of the plan for the new youth development centers, or no later than April 15, 2004, the Department shall consult with the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and with the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on:

- (1) Whether the plan and design meet the mandate of ensuring effective security and programming while improving staff efficiencies.
- (2) The Department's long-range plan for closing other youth development centers or individual cottages at selected youth development centers or revising the mission or objective of individual youth development centers.
- (3) The anticipated total cost of each youth development center proposed, including the cost per bed and per square foot, as well as the rationale for the proposed projected cost.
- (4) Final site recommendations.

The Department of Administration, State Construction Office, shall assist the Department of Juvenile Justice and Delinquency Prevention with all reports and consultations required by this subsection.

**SECTION 15.7.(b)** Effective July 1, 2003, the Department of Juvenile Justice and Delinquency Prevention shall transfer to the Department of Administration, State Construction Office, the sum of the one million six hundred forty-one thousand five hundred eighty-nine dollars (\$1,641,589), minus the amount paid to the design firm as of June 30, 2003. These funds shall be used for the planning and design of youth development centers.

## **OPERATION OF BUNCOMBE YOUTH DETENTION CENTER**

**SECTION 15.8.** The Department of Juvenile Justice and Delinquency Prevention shall continue to operate the Buncombe Youth Detention Center at its current site during the 2003-2004 fiscal year. To the extent practicable during the 2003-2004 fiscal year, the Department shall operate the Buncombe Youth Detention Center at the same average population and staffing levels and at the same budget as the 2002-2003 fiscal year.

## **JUVENILE JUSTICE COMPLIANCE WITH AUDIT REPORT**

**SECTION 15.9.** The Department of Juvenile Justice and Delinquency Prevention shall develop and implement a plan to address the findings and recommendations in the performance audit of the youth development centers and juvenile detention centers within the Department of Juvenile Justice and Delinquency Prevention, dated May 2003, by the Office of the State Auditor. The plan shall include proposed changes in organization and management, policies and procedures, and programs in order to address problems identified in the report. The plan shall also identify and document any funding needs for consideration by the 2004 Regular Session of the 2003 General Assembly.

The Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the progress of the development of the plan and initial steps taken to address the issues raised in the audit report by November 1, 2003, and shall report on the final plan by March 1, 2004.

### **SAMARKAND TIMBER SALE**

**SECTION 15.10.(a)** The Department of Juvenile Justice and Delinquency Prevention shall harvest and sell a portion of the timber on the real property at Samarkand Youth Academy. Notwithstanding Chapter 146 of the General Statutes, G.S. 66-58, and any other provision of law, the net proceeds derived from the sale of the timber in an amount not to exceed two hundred fifty thousand dollars (\$250,000) shall be deposited with the State Treasurer in a capital improvement and repair and renovation account to the credit of the Department of Juvenile Justice and Delinquency Prevention. The Department shall use the funds for major repair to the streets and parking lots at the Samarkand Youth Academy and for additional street lighting and repairs of buildings at the Academy.

**SECTION 15.10.(b)** The Department of Juvenile Justice and Delinquency Prevention shall report to the Joint Legislative Commission on Governmental Operations by December 1, 2003, on the progress of the harvest and sale of the timber at Samarkand Youth Academy pursuant to subsection (a) of this section.

**SECTION 15.10.(c)** The remainder of the net proceeds from the sale of the timber at Samarkand Youth Academy, if any, shall revert to the General Fund.

## **PART XVI. DEPARTMENT OF CORRECTION**

### **FEDERAL GRANT REPORTING**

**SECTION 16.1.** The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

## **REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

**SECTION 16.2.** The Department of Correction may use funds available to the Department for the 2003-2005 biennium to pay the sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

## **SHIFT PAY FOR SECURITY STAFF**

**SECTION 16.3.** The Department of Correction may use funds available for the 2003-2004 fiscal year for the payment to security staff of special supplemental weekend shift premium pay that exceeds standard weekend shift pay by up to ten percent (10%). The Department shall also continue to take steps to hold down the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour shifts whenever practical.

The Department of Correction shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004, on its progress in converting prison work shifts from eight hours to 12 hours. The report shall include information on savings generated to date and potential future savings, as well as any changes in employee morale and leave usage, as a result of converting to 12-hour shifts.

## **DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS**

**SECTION 16.4.(a)** The Department of Correction shall conduct annual security staffing postaudits of each prison.

**SECTION 16.4.(b)** The Department of Correction shall annually update the security staffing relief formula. Each update shall include a review of all annual training requirements for security staff to determine which of these requirements should be mandatory and the appropriate frequency of the training.

**SECTION 16.4.(c)** The Department of Correction shall report on its progress in implementing the staffing recommendations of the National Institute of Corrections to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by February 1, 2004. The report shall include a status report on the implementation of a centralized postaudit control system and the automation of leave records.

## **USE OF CLOSED PRISON FACILITIES**

**SECTION 16.5.** In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to

convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

## **INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS AND INMATE CLOTHING AND LAUNDRY SERVICES**

**SECTION 16.6.(a)** If the cost of providing food and health care to inmates housed in the Division of Prisons is anticipated to exceed the continuation budget amounts provided for that purpose in this act, the Department of Correction shall report the reasons for the anticipated cost increase and the source of funds the Department intends to use to cover those additional needs to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

**SECTION 16.6.(b)** Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2005 biennium for the purchase of prescription drugs for inmates if expenditures are projected to exceed the Department's inmate medical continuation budget for prescription drugs. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

**SECTION 16.6.(c)** Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2004 fiscal year for the purchase of clothing and laundry services for inmates if expenditures are projected to exceed the Department's budget for clothing and laundry services. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

## **MOBILE MEDICAL OPERATING ROOM**

**SECTION 16.7.** The Department of Correction shall continue the contract for a mobile medical operating room at Central Prison for the 2003-2004 fiscal year at a reduced fixed rate that more clearly reflects the usage. However, the Department shall use the mobile unit for additional procedures, as authorized by the terms of the agreement, whenever the Department's Utilization Review Team determines that (i) a specific procedure can be performed at a cost below that charged by a public or private hospital; and (ii) there is no compelling medical reason for performing the procedure in a hospital instead of using the mobile medical unit.

The Department shall also study the use of this mobile operating room and report by April 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety. The report shall recommend whether the mobile unit should be continued, eliminated, or expanded in terms of capacity of the current unit and the potential for establishing an additional



mobile unit. The report shall also include information on the number and type of procedures performed over and above the fixed-rate contract and the savings generated.

### **CONVERSION OF CONTRACTED MEDICAL POSITIONS**

**SECTION 16.8.(a)** The Department of Correction may convert contract medical positions to permanent State medical positions at individual correctional facilities if the Department can document that the total savings generated will exceed the total cost of the new positions for each facility. Where practical, the Department shall convert contract positions to permanent positions by using existing vacancies in medical positions.

**SECTION 16.8.(b)** The Department of Correction shall report by April 1, 2004, to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on all conversions made pursuant to this section, by type of position and location, and on the savings generated at each correctional facility.

### **LIMIT USE OF OPERATIONAL FUNDS**

**SECTION 16.9.** Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except for certain management, security, and support positions necessary to prepare the facility for opening, as authorized in the budget approved by the General Assembly.

### **FEDERAL GRANT MATCHING FUNDS**

**SECTION 16.10.** Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of nine hundred thousand dollars (\$900,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

### **COMPUTER/DATA PROCESSING SERVICES FUNDS**

**SECTION 16.11.** Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2005 biennium for expenses for computer/data processing services if expenditures exceed the Department's continuation budget amount for those services. The Department shall report to the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

### **MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK CREWS**

**SECTION 16.12.(a)** Of funds appropriated to the Department of Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be transferred by the Department of Transportation to the Department of Correction during the 2003-2005 biennium for the actual costs of highway-related labor performed by medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The Department of Transportation may use funds appropriated by this act to pay an additional amount exceeding the ten million dollars (\$10,000,000), but those payments shall be subject to negotiations among the Department of Transportation, the

Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

**SECTION 16.12.(b)** The Department of Correction may use up to 39 work crews for Department of Transportation litter control projects. The Department of Transportation shall transfer at least one million three hundred thousand dollars (\$1,300,000) per year from the Highway Fund to the Department of Correction during the 2003-2005 biennium to cover the cost of those work crews. Should the two departments determine that the actual cost of operating 39 work crews exceeds that amount, the Department of Transportation shall transfer an additional amount as agreed upon by the two departments and the Office of State Budget and Management.

#### **ENERGY COMMITTED TO OFFENDERS/CONTRACT AND REPORT**

**SECTION 16.13.** The Department of Correction may continue to contract with Energy Committed To Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2003-2005 biennium. Energy Committed To Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction. Energy Committed To Offenders, Inc., shall also provide information on the rearrest rate and the return-to-prison rate for inmates participating in the program who are paroled or released from prison.

#### **ELECTRONIC MONITORING COSTS**

**SECTION 16.14.** The Department of Correction shall issue a Request for Information to determine the interest and qualifications of private vendors to provide electronic monitoring services for the Department and the estimated costs of outsourcing those services. The Department of Correction shall report by March 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the results of the Request for Information and on efforts to increase the use of electronic monitoring of sentenced offenders in the community as an alternative to the incarceration of probation violators. The report shall also document the geographical distribution of electronic monitoring use compared to other intermediate sanctions. The Department shall also analyze the reasons for the underutilization of the electronic monitoring program and include its findings in the report.

#### **COLLECTION OF OFFENDER FEES**

**SECTION 16.15.** The Department of Correction and the Judicial Department shall report by April 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the success of their efforts to improve the collection rate of offender fees for probationers and for nonprobationers sentenced to community service and on any recommendations for statutory or procedural changes that will improve the collection of financial obligations from offenders.

The report shall include a comparison of the percentage of offender fees collected in the most recent year compared to prior years, including the percentage of offenders who were ordered to pay fees and the percentage of offenders who actually paid those fees. The report shall also include the total offender fees collected, in dollars and as a percentage of the fees ordered, and the fees that could have been ordered based on the sentence and conditions imposed by the judge. If any of this information cannot be collected, the report shall include a description of the data collection issues and a plan for addressing those issues.

## **CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

**SECTION 16.16.(a)** It is the intent of the General Assembly that State Criminal Justice Partnership Program funds not be used to fund case manager positions when those services can be reasonably provided by Division of Community Corrections personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the Department of Health and Human Services.

**SECTION 16.16.(b)** Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

**SECTION 16.16.(c)** The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully developed plan for each type of sanction.

**SECTION 16.16.(d)** The Department of Correction shall report by February 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Committees, the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice Partnership Program. The report shall include the following information:

- (1) The amount of funds carried over from the prior fiscal year;
- (2) The dollar amount and purpose of grants awarded to counties as discretionary grants for the current fiscal year;
- (3) Any counties the Department anticipates will submit requests for new implementation grants;
- (4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;
- (5) An analysis of offender participation data received, including data on each program's utilization and capacity; and
- (6) An analysis of comparable programs, prepared by the Research and Planning Division of the Department of Correction, and a summary of the reports prepared by county Criminal Justice Partnerships Advisory Boards.

## **REPORTS ON NONPROFIT PROGRAMS**

**SECTION 16.17.(a)** Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property. Harriet's House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served and the number of clients who successfully complete the Harriet's House program.

**SECTION 16.17.(b)** Summit House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who successfully complete the program while housed at Summit House, Inc.

**SECTION 16.17.(c)** Women at Risk shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the

number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

### **PROBATION AND PAROLE CASELOADS**

**SECTION 16.18.(a)** The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

- (1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions;
- (2) An analysis of the optimal caseloads for these officer classifications; and
- (3) An assessment of the role of surveillance officers.

**SECTION 16.18.(b)** The Department of Correction shall conduct a study of probation/parole officer workload at least biannually, the first such study to be completed during the 2003-2004 fiscal year. The initial study shall be conducted jointly by Department staff and a consultant, external to the Department, and shall include analysis of the type of offenders supervised, the distribution of the probation/parole officers' time by type of activity, the caseload carried by the officers, and comparisons to practices in other states. The study shall be used to determine whether the caseload goals established by the Structured Sentencing Act are still appropriate, based on the nature of the offenders supervised and the time required to supervise those offenders.

**SECTION 16.18.(c)** The Department of Correction shall report the results of the initial study and recommendations for any adjustments to caseload goals to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004.

### **COMMUNITY SERVICE WORK PROGRAM**

**SECTION 16.19.** The Department of Correction shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, on the integration of the Community Service Work Program into the Division of Community Corrections, including the Department's ability to monitor the collection of offender payments from unsupervised offenders sentenced to community service. The Department shall also report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, or any other agency referrals).

### **REPORT ON INMATES ELIGIBLE FOR PAROLE**

**SECTION 16.20.** The Post-Release Supervision and Parole Commission shall report by January 15 and July 15 of each year to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on inmates eligible for parole. These reports shall include at least the following:

- (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates that were parole-eligible during the current fiscal year and the total number of those inmates that were paroled. The report should group these inmates by offense type, custody classification, and type of parole. The report should also include a more specific analysis of those

- inmates who were parole-eligible and assigned to minimum custody classification but not released;
- (2) The average time served, by offense class, of Fair Sentencing and Pre-Fair Sentencing inmates compared to inmates sentenced under Structured Sentencing; and
  - (3) The projected number of parole-eligible inmates to be paroled or released by the end of the 2003-2004 fiscal year and by the end of the 2004-2005 fiscal year.

## **POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION**

**SECTION 16.21.** The Post-Release Supervision and Parole Commission shall report by October 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on a plan for restructuring the organization and operation of the Commission and implementing staff reductions to reflect both declines and changes in workload.

## **HOUSING OF INMATES**

**SECTION 16.22.** The Department of Correction shall develop an operating plan for generating the appropriate mix of close, medium, and minimum custody beds. The plan shall, at a minimum, address the future construction of new beds, including expansion of current prisons, conversion of current prisons from one custody level to another, and the housing of two inmates per cell. The starting point for this plan shall be the Sentencing and Policy Advisory Commission inmate population projections and the Department of Correction's custody population projection model.

The portion of the plan regarding the housing of two inmates per cell shall include a facility-by-facility assessment of the pros and cons of housing inmates in that manner. The Department of Correction shall identify those facilities that would be most conducive to housing two inmates per cell. The Department of Correction should focus its review particularly on the potential to house two inmates per cell at Pamlico, Mountain View, Eastern, Southern, Pasquotank, and Marion. The Department should also review the potential to house two inmates per cell in at least one of any new prisons authorized by the 2003 General Assembly.

The overall operating plan should address budgetary, security, and other operational needs and, in particular, should note how the plan adheres to or deviates from the Department of Correction's custody population projection model.

The Department of Correction shall report by February 1, 2004, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the plan developed pursuant to this section.

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

### **TRANSFER CJIN TO THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

**SECTION 17.1.(a)** G.S. 143-661(a) reads as rewritten:

"(a) The Criminal Justice Information Network Governing Board is established within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and Public Safety, to operate the State's Criminal Justice Information Network, the purpose of which shall be to provide the governmental and technical information systems infrastructure necessary for accomplishing State and local governmental public safety and justice functions in the most effective manner by appropriately and efficiently sharing criminal justice and juvenile justice information among law enforcement, judicial, and corrections agencies. The Board is established within the Department of

~~Justice, State Bureau of Investigation, Crime Control and Public Safety,~~ for organizational and budgetary purposes only and the Board shall exercise all of its statutory powers in this Article independent of control by the Department of ~~Justice-Crime Control and Public Safety.~~"

**SECTION 17.1.(b)** G.S. 143-664(b) reads as rewritten:

"(b) Pending permanent staffing, the Department shall provide the Board with professional and clerical staff and any additional support the Board needs to fulfill its mandate. The Board may meet in an area provided by the Department of ~~Justice-Crime Control and Public Safety~~ and the Board's staff shall use space provided by the Department."

**SECTION 17.1.(c)** The Criminal Justice Information Network as provided in Article 69 of Chapter 143 of the General Statutes is hereby transferred by a Type II transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

### **THE JUVENILE JUSTICE INFORMATION SYSTEM**

**SECTION 17.2.(a)** G.S. 143B-516(b)(13) reads as rewritten:

"(13) ~~Assist the Criminal Justice Information Network Governing Board with administering~~ Develop and administer a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles."

**SECTION 17.2.(b)** G.S. 143-663(a)(1) reads as rewritten:

"(1) To establish and operate the Network as an integrated system of State and local government components for effectively and efficiently storing, communicating, and using criminal justice information at the State and local levels throughout North Carolina's law enforcement, judicial, juvenile justice, and corrections agencies, with the components of the Network to include electronic devices, programs, data, and governance and to set the Network's policies and procedures."

### **ANNUAL EVALUATION OF THE TARHEEL CHALLENGE PROGRAM**

**SECTION 17.3.** The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 of each year on the operations and effectiveness of the National Guard Tarheel Challenge Program. The report should evaluate the program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent. The report shall also evaluate the Program's role in improving individual skills and employment potential for participants and shall include:

- (1) The source of referrals for individuals participating in the Program;
- (2) The summary of types of actions or offenses committed by the participants of the Program;
- (3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants;
- (4) The number of individuals who successfully complete the Program; and
- (5) The number of participants who commit offenses after completing the Program.

## LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER GRANTS

**SECTION 17.4.(a)** Section 1303(4) of the Omnibus Crime Control and Safe Streets Act of 1968 provides that the State application for Drug Law Enforcement Grants is subject to review by the State legislature or its designated body. Therefore, the Governor's Crime Commission of the Department of Crime Control and Public Safety shall report on the State application for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety when the General Assembly is in session. When the General Assembly is not in session, the Governor's Crime Commission shall report on the State application to the Joint Legislative Commission on Governmental Operations.

**SECTION 17.4.(b)** Unless a State statute provides a different forum for review, when a federal law or regulation provides that an individual State application for a grant shall be reviewed by the State legislature or its designated body and at the time of the review the General Assembly is not in session, that application shall be reviewed by the Joint Legislative Commission on Governmental Operations.

## VICTIMS ASSISTANCE NETWORK REPORT

**SECTION 17.5.** The Department of Crime Control and Public Safety shall report on the expenditure of funds allocated pursuant to this section for the Victims Assistance Network. The Department shall also report on the Network's efforts to gather data on crime victims and their needs, act as a clearinghouse for crime victims' services, provide an automated crime victims' bulletin board for subscribers, coordinate and support activities of other crime victims' advocacy groups, identify the training needs of crime victims' services providers and criminal justice personnel, and coordinate training for these personnel. The Department shall submit its report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by December 1 of each year of the biennium.

## ALE AGENTS SUBJECT TO STATE PERSONNEL ACT

**SECTION 17.6.** Chapter 126 of the General Statutes, the State Personnel System, applies to all Alcohol Law Enforcement agents of the Department of Crime Control and Public Safety. The Office of State Personnel shall study salary classifications of Alcohol Law Enforcement agents to determine the appropriate classifications and salary ranges for those agents and shall report the results of the study, including any recommendations or legislative proposals, to the Chairs of the Senate and House of Representatives Subcommittees on Justice and Public Safety.

## PART XVIII. DEPARTMENT OF ADMINISTRATION

### AGENCIES TO USE MAIL SERVICE CENTER

**SECTION 18.1.** G.S. 143-341(8)g. reads as rewritten:

**"§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...  
(8) General Services:

...  
g. To establish and operate a ~~central mailing system~~ mail service center for that shall be used by all State agencies, agencies other than the Employment Security Commission, and in connection therewith and in the discretion of the Secretary, ~~to make application for and procure a post office substation for that~~

~~purpose, and to do all things necessary in connection with the maintenance of the central mailing system. mail service center. The Secretary may shall allocate and charge against the respective departments and agencies their proportionate parts of the cost of the maintenance of the central mailing system. mail service center. The Secretary shall develop a plan for the efficient operation of the center that meets the needs of State agencies and agencies, ensures timely delivery of mail, and shall present that plan to the Office of State Budget and Management and the General Assembly no later than the convening date of the 2003 General Assembly. mail, and ensures no loss of federal funds."~~

## **STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF ADMINISTRATION**

**SECTION 18.2.** The Secretary of the Department of Administration, in collaboration with appropriate entities which concentrate on public policy and business management, shall study the functions of the advocacy programs that are housed in the Department of Administration to determine the appropriate organizational placement of the programs within State government. The study shall also consider whether the functions of the programs could be more efficiently and effectively performed by an appropriate nonprofit organization. The Secretary shall report the findings and recommendations to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Senate and House of Representatives Appropriations Committees by May 1, 2004.

## **LOW-INCOME RESIDENTIAL ENERGY PROGRAM**

**SECTION 18.3.** G.S. 113B-6 reads as rewritten:

### **"§ 113B-6. General duties and responsibilities.**

The Energy Policy Council shall have the following general duties and responsibilities:

- (1) To develop and recommend to the Governor a comprehensive long-range State energy policy to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to an energy efficiency program, an energy management plan, an emergency energy program, and an energy research and development program;
- (2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy and to encourage the efficient use of all such energy forms in a manner consistent with State energy policy;
- (3) To continually review and coordinate all State government research, education and management programs relating to energy matters and to continually educate and inform the general public regarding such energy matters;
- (4) To recommend to the Governor and to the General Assembly needed energy legislation and to recommend for implementation such modifications of energy policy, plans and programs as the Council considers necessary and desirable.
- (5) To develop and administer the Low-Income Residential Energy Program. Nothing in this subdivision shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program."

## **PETROLEUM OVERCHARGE FUNDS ALLOCATION**



**SECTION 18.4.(a)** There is appropriated from funds and interest thereon received from the case of United States v. Exxon that remain in the Special Reserve for Oil Overcharge Funds to the Department of Administration the sum of one million dollars (\$1,000,000) for the 2003-2004 fiscal year to be allocated for the Low Income Residential Energy Program.

**SECTION 18.4.(b)** Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocation is made pursuant to subsection (a) of this section may be expended only as authorized by the General Assembly and upon recommendations of the State Energy Policy Council. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve for Oil Overcharge Funds.

## **VETERANS SCHOLARSHIPS PARTIALLY FUNDED FROM ESCHEAT FUND**

**SECTION 18.5.(a)** G.S. 165-22.1(b) reads as rewritten:

"(b) Funds for the support of this program shall be appropriated to the Department of Administration as a reserve for payment of the allocable costs for room, board, tuition, and other charges, and shall be placed in a separate budget code from which disbursements shall be made. Funds to support the program shall be supported by receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be used only for worthy and needy residents of this State who are enrolled in public institutions of higher education of this State. In the event the said appropriation for any year is insufficient to pay the full amounts allocable under the provisions of this Article, such supplemental sums as may be necessary shall be allocated from the Contingency and Emergency Fund. The method of disbursing and accounting for funds allocated for payments under the provisions of this section shall be in accordance with those standards and procedures prescribed by the Director of the Budget, pursuant to the Executive Budget Act."

**SECTION 18.5.(b)** G.S. 116B-7 reads as rewritten:

### **"§ 116B-7. Distribution of income of fund.**

(a) The income derived from the investment or deposit of the Escheat Fund shall be distributed annually on or before July 15 to the State Education Assistance Authority for grants and loans to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. Such grants and loans shall be made upon terms, consistent with the provisions of this Chapter, pursuant to which the State Education Assistance Authority makes grants and loans to other students under G.S. 116-201 to 116-209.23, Article 23 of Chapter 116 of the General Statutes, policies of the Board of Governors of The University of North Carolina regarding need-based grants for students of The University of North Carolina, and policies of the State Board of Community Colleges regarding need-based grants for students of the community colleges.

(b) An amount specified in the Current Operations Appropriations Act shall be transferred annually from the Escheat Fund to the Department of Administration to partially fund the program of Scholarships for Children of War Veterans established by Article 4 of Chapter 165 of the General Statutes. Those funds may be used only for residents of this State who (i) are worthy and needy as determined by the Department of Administration, and (ii) are enrolled in public institutions of higher education of this State."

**SECTION 18.5.(c)** In accordance with G.S. 116B-7(b) as enacted by this act, for the 2003-2004 and 2004-2005 fiscal years, there is appropriated from the Escheat Fund to the Department of Administration the amount of three million seven hundred twenty-eight thousand three hundred twenty-four dollars (\$3,728,324) for each year.

## **SELL SURPLUS/CONFISCATED PROPERTY ELECTRONICALLY**

**SECTION 18.6.(a)** G.S. 143-64.03 is amended by adding the following new subsection to read:

"(d) The State agency for surplus property may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service."

**SECTION 18.6.(b)** Article 3A of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 3. Public Agencies.

**"§ 143-64.6. Disposal of surplus property.**

A county, municipality, or other public body may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service."

**SECTION 18.6.(c)** Article 2 of Chapter 15 of the General Statutes is amended by adding a new section to read:

**"§ 15-14.1. Sale of property through electronic auction.**

In addition to selling property as authorized in G.S. 15-13, a sheriff or police department may sell property in his or its possession through an electronic auction service. The sheriff or police department shall comply with the publication and notice requirements provided in G.S. 15-12 through G.S. 15-14 prior to any sale under this section."

## **PART XIX. OFFICE OF THE STATE AUDITOR**

### **SMART START AUDITS**

**SECTION 19.1.** G.S. 143B-168.14(b) reads as rewritten:

"(b) Each local partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of ~~the~~ local partnerships-partnerships that are rated "needs improvement" in performance assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated "superior" or "satisfactory" in performance assessments authorized in G.S. 143B-168.12(a)(7) shall undergo biennial financial and compliance audits by the State Auditor."

## **PART XIX-B. GENERAL ASSEMBLY**

### **LEGISLATIVE FOOD SERVICE DONATE FOOD**

**SECTION 19B.1.** The General Assembly food service shall on a daily basis donate to a nonprofit organization food that would otherwise be discarded.

## **GENERAL ASSEMBLY/USE AND MAINTENANCE OF BUILDINGS AND GROUNDS**

**SECTION 19B.2.** G.S. 120-32.1(d)(1)b. reads as rewritten:

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

(1) At all times:

...

b. ~~The Legislative Office Building, its garden area and outer stairway, and the areas between its outer walls and the near curbline of those sections of Lane and Salisbury Streets that border the land on which it is situated;~~ which shall include the following areas:

1. The garden area and outer stairway;

2. The loading dock area bounded by the wall on the east abutting the State Government Mall, the southern edge of the southernmost exit lane on Salisbury Street for the parking deck, and the Salisbury Street sidewalk;

3. The area between its outer wall and the near curbline of that section of Lane Street that borders the land on which it is situated; and
4. The area bounded by its western outer wall, the extension of a line along its northern outer wall to the middle of Salisbury Street, following the middle line of Salisbury Street to the nearest point of the intersection of Lane and Salisbury Streets, and thence east to the near curbline of the Legislative Office Building at its southwestern corner;".

## **PART XX. OFFICE OF THE GOVERNOR**

### **HOUSING FINANCE AGENCY HOME MATCHING FUNDS**

**SECTION 20.1.(a)** Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

- (1) First priority to projects that are located in counties designated as Tier One, Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and
- (2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the United States Department of Housing and Urban Development.

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

**SECTION 20.1.(b)** If the United States Congress changes the HOME Program such that matching funds are not required for a given program year, then the Agency shall not spend the matching funds appropriated under this act for that program year.

**SECTION 20.1.(c)** Funds appropriated in this act to match federal HOME Program funds shall not revert to the General Fund on June 30, 2004, or on June 30, 2005.

## **PART XXI. INFORMATION TECHNOLOGY**

### **ITS BUDGET STRUCTURE REVIEW/REPORT**

**SECTION 21.1.** The Office of State Budget and Management (OSBM) shall conduct a study of information technology (IT) expenditures across all of State government, with focused attention to identification and elimination of duplicative IT expenditures, operations, and inventory, to identify and recommend potential cost savings and efficiencies in State agency IT operations. In this study, OSBM should address the following questions:

- (1) Is State government's IT budgeting and organizational structure the most efficient approach?
- (2) What alternative IT budgeting and organizational structures could help North Carolina realize cost savings?

OSBM shall work in conjunction with the Office of Information Technology Services (ITS) and the Information Resources Management Commission (IRMC) to study the ITS and the IRMC budget structures. As part of this study, OSBM shall

prepare at least three alternative budget transition plans for ITS and IRMC. Two of the transition plans shall, at a minimum, address the feasibility of (i) making portions or all of the ITS and the IRMC budgets General Fund appropriations and including a proposal for how a nontax revenue source to reimburse the General Fund for appropriations could be made from agency receipts for ITS services utilized and (ii) maintaining the ITS and the IRMC budgets as Internal Service Funds, but having the budgets approved by the Office of State Budget and Management and the General Assembly instead of being approved by IRMC as they are currently. By April 1, 2004, OSBM shall make reports on these matters to the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Appropriations Subcommittee on General Government, and the Fiscal Research Division.

### **ITS MAINTENANCE AGREEMENT PILOT PROJECT**

**SECTION 21.2.(a)** Notwithstanding the cash management provisions of G.S. 146-86.11, the State Controller may authorize the Office of Information Technology Services (ITS) to purchase not more than four infrastructure maintenance agreements for periods not exceeding two years where the terms of those maintenance agreements require payment of the full purchase price at the beginning of the maintenance period. The State Controller shall not authorize the agreements authorized by this section unless all of the following conditions are met:

- (1) The proposed infrastructure maintenance agreement is entered into after June 30, 2003, and before July 1, 2004.
- (2) The State Controller receives conclusive evidence that the proposed infrastructure agreement would be more cost-effective than any similar agreement that complies with G.S. 146-86.11.
- (3) The State Controller verifies that the savings resulting from the proposed infrastructure agreement will be passed on to network users in the form of lower rates for ITS services.
- (4) The purchase of the proposed maintenance agreement complies in all other respects with applicable statutes and rules.
- (5) ITS shall make adjustments of excess revenue, based on IRMC-approved rates, over allowable costs. ITS shall refund the excess to ITS' State and local government customers in the same manner as is required by the federal government in the Office of Management and Budget Circular A-87.

**SECTION 21.2.(b)** The State Controller shall provide full justification for any authorizations granted under this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly within 60 days after the authorization is granted.

## **PART XXII. DEPARTMENT OF INSURANCE**

### **INSURANCE FUND TRANSFER TO GENERAL FUND**

**SECTION 22.1.** The Commissioner of Insurance shall transfer funds quarterly from the Department of Insurance Fund to the General Fund to repay the funds appropriated to the Department of Insurance from the General Fund for each fiscal year, plus accrued interest at a rate determined by the State Treasurer.

### **EXTEND THE SUNSET FOR FUNDING CERTAIN OPERATIONS OF THE DEPARTMENT OF INSURANCE THROUGH THE INSURANCE REGULATORY FUND**

**SECTION 22.2.** Section 12 of S.L. 2002-144 reads as rewritten:

"**SECTION 12.** This act becomes effective July 1, 2002. Sections 1 through 8 of this act expire ~~June 30, 2003.~~ June 30, 2004."

## **PART XXIII. DEPARTMENT OF REVENUE**

### **DOR TAXPAYER TELECOMMUNICATIONS SERVICE**

**SECTION 23.1.** Section 22.6 of S.L. 2002-126 reads as rewritten:

~~"SECTION 22.6.(a) The Department of Revenue may draw up to seven million eight hundred forty thousand five hundred thirteen dollars (\$7,840,513) through June 30, 2004, There is appropriated from the collection assistance fee account created in G.S. 105-243.1 to the Department of Revenue the sum of one million six hundred twenty-two thousand eight hundred ninety-six dollars (\$1,622,896) for the 2003-2004 fiscal year and the sum of two million one hundred fifty-four thousand five hundred ninety-three dollars (\$2,154,593) for the 2004-2005 fiscal year in order to pay for the costs of establishing and equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center.~~

~~"SECTION 22.6.(b) The Secretary of Revenue shall consult with the Joint Legislative Commission on Governmental Operations on a detailed plan with proposed costs before any funds may be expended for these purposes. This plan must be presented by October 31, 2002.~~

"SECTION 22.6.(c) Beginning January 1, 2003, and ending on the second quarter following completion of the projects described in subsection (a) of this section, the Department of Revenue must report quarterly to the Joint Legislative Commission on Governmental Operations on the use of the funds and the progress of establishing the new center."

### **CERTAIN DOR POSITIONS FEE-SUPPORTED**

**SECTION 23.2.** There is appropriated from the collection assistance fee account created in G.S. 105-243.1 to the Department of Revenue the sum of five hundred thirty-one thousand five hundred twelve dollars (\$531,512) for the 2003-2004 fiscal year and the sum of five hundred thirty-one thousand five hundred twelve dollars (\$531,512) for the 2004-2005 fiscal year for salary and related fringe benefits for the following positions formerly supported from the General Fund:

- Position No. 4784-0000-0076-621 - Revenue Officer II
- Position No. 4784-0000-0076-622 - Revenue Officer II
- Position No. 4784-0000-0076-636 - Revenue Officer I
- Position No. 4784-0000-0076-637 - Revenue Officer I
- Position No. 4784-0000-0076-638 - Revenue Officer I
- Position No. 4784-0000-0076-639 - Revenue Officer I
- Position No. 4784-0000-0076-640 - Revenue Officer I
- Position No. 4784-0000-0076-641 - Revenue Officer I
- Position No. 4784-0000-0076-642 - Revenue Officer I
- Position No. 4784-0000-0076-643 - Revenue Officer I
- Position No. 4784-0000-0076-644 - Revenue Officer I
- Position No. 4784-0000-0076-645 - Revenue Officer I
- Position No. 4784-0000-0076-647 - Revenue Officer I

### **DOR TAXPAYER CALL CENTER FUND CODE**

**SECTION 23.3.** Funds appropriated to the Department of Revenue for a central taxpayer telecommunications service center for collections and assistance shall be transferred to a separate, receipts-supported Fund Code in the Department's budget. The Fund Code number is 1662.

### **DOR REPORT ON PROJECT COMPLIANCE**

**SECTION 23.4.** The Department of Revenue must report to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to address abuse of the voluntary tax compliance system,

including fraudulent activity, which has resulted in undercollections. Reports must be submitted quarterly beginning February 1, 2004, through July 30, 2006. Each report must include a breakdown of the Department's additional initiatives resulting directly from the Project Compliance funding provided for the 2003-2005 fiscal biennium. The report must itemize additional collections by type of tax as compared to an objectively determined baseline of collections resulting from preexisting collection activities. Each report must also include a long-term plan, a time line for implementing each step of the plan, a summary of steps taken since the last report and their results, and any other data requested by the Commission or the Committee.

## **PART XXIV. SECRETARY OF STATE**

### **TRANSFER CONSULTATION REQUIREMENT UNDER BUSINESS LICENSE INFORMATION OFFICE TO SMALL BUSINESS CENTERS**

**SECTION 24.1.(a)** The Department of the Secretary of State (Department) and the North Carolina Community College System (System) shall develop and implement a plan to transfer the consultation function of the Business License Information Office (BLIO) in the Department to the Small Business Centers that are located within each of the community colleges in the System. The plan shall provide for the following:

- (1) Establishment of a Statewide Coordinator position who will develop and maintain a web-based master application system of all State licensing and regulatory requirements.
- (2) Development and ongoing maintenance of a web-based master application system of all State licensing and regulatory requirements.
- (3) Training for the Directors of the Small Business Centers.
- (4) Phase-out of the BLIO consultant positions.

**SECTION 24.1.(b)** The Department shall use funds appropriated for the 2003-2004 fiscal year for the Business License Information Office (Fund 1240) in Budget Code 13200 to develop the web-based master application and for training.

**SECTION 24.1.(c)** The Department and the System shall present their plan to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives by October 1, 2003. After presenting the plan, the Department and the System shall report on the implementation of the plan to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives on a quarterly basis. The plan shall be fully implemented by June 30, 2004.

### **REPORT ON DISTRIBUTION AND SALE OF THE NORTH CAROLINA MANUAL**

**SECTION 24.2.** The Department of the Secretary of State shall report on the distribution and sale of the North Carolina Manual as provided in G.S. 147-54. The report shall include: (i) the number of copies that were distributed and the agencies and institutions to which they were distributed; (ii) the cost of distributing the manual; (iii) the number of copies that were sold and whether they were purchased by the general public, agencies, or institutions; and (iv) the amount of revenue realized from the sale of the manual.

The Department shall also study and report on the feasibility of making the manual available via the Internet.

The Department shall submit its report to the Appropriations Subcommittees on General Government of the Senate and House of Representatives and to the Fiscal Research Division by April 1, 2004.

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

## **HELP AMERICA VOTE ACT MATCHING FUNDS**

**SECTION 25.1.(a)** Of the funds appropriated to the State Board of Elections for the 2003-2004 fiscal year by Section 2.1 of this act:

- (1) The sum of \$1,791,936 is transferred to a Reserve Fund to meet the Maintenance of Effort requirements of section 254(a)(7) of the Help America Vote Act, Public Law 107-252.
- (2) The sum of \$1,665,650 currently appropriated to Fund 1100 Administration for the SEIMS RCC is transferred to a Reserve Fund for the State Board of Elections.
- (3) The sum of \$1,922,215 is transferred in the 2003-2004 fiscal year to the Election Fund established by S.L. 2003-12 to meet the five percent (5%) matching requirement of Title II Help America Vote Act, Public Law 107-252 for the 2003-2005 fiscal biennium. Of that amount, \$1,188,760 shall be available for expenditure in the 2003-2004 fiscal year, and the remaining \$733,455 shall be available for expenditure only during the 2004-2005 fiscal year. The money shall only be expended as federal funds are available to match, and if the amount available to the State is less than projected, the unexpended remainder of the \$1,922,215 shall revert to the General Fund on the earlier of:
  - a. June 30, 2006; or
  - b. A determination by the Office of State Budget and Management that the unexpended remainder will not be needed.

**SECTION 25.1.(b)** The 107th Congress established the Help America Vote Act (HAVA) as Public Law 107-252 establishing a program to assist in the administration of federal elections and provide assistance with the administration of certain federal elections laws and programs; establish minimum election administration standards for states and units of local government with the responsibility for the administration of federal elections. In HAVA, Congress authorized appropriations for elections assistance in the form of a matching grant program (Title II of HAVA, Requirements Payments) for which states are required as one condition of the Election Assistance Requirements Payments to match federal allocations with a five percent (5%) match of State dollars. The federal government has additional requirements, including a required state plan and a stipulation for each participating state to implement the Maintenance of Effort (MOE) requirements of Title II, section 254(a)(7) of HAVA. The MOE requires that the state maintain the expenditures of the state for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the state for the fiscal year ending prior to November 2000. Congress authorized up to \$1.4 billion for Requirements Payments, and \$810 million for Title II requirements grants was funded for fiscal year 2003. Title II requirements funding has not been passed by Congress for fiscal years 2004-2005 and 2005-2006 but is currently proposed at \$500 million for each year.

Based upon the 2003 approved funding, it is estimated that North Carolina will receive \$22.6 million of the Title II funding if North Carolina meets all the conditions of the Election Assistance program, including not only the five percent (5%) state match but also maintenance of its expenditure level on HAVA activities at the expense level the State Board of Elections had in State fiscal year 1999-2000. Actual expenditures for the State Elections Information Management System (SEIMS), which is a qualified HAVA activity, in 1999-2000 were three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents (\$3,457,585.06). The authorized expenditures on SEIMS in 2002-2003 by the State Board of Elections is one million six hundred sixty-five thousand six hundred fifty dollars (\$1,665,650). The difference in expenditure levels is one million seven hundred ninety-one thousand nine hundred thirty-five dollars and six cents (\$1,791,935.06). To meet HAVA's Title II MOE requirement, North Carolina has to appropriate from its General Fund to a Reserve on a

recurring basis (or for as long as Congress requires the MOE as a condition of states' being eligible to receive Requirements Payments), the amount of three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents (\$3,457,585.06) annually.

For the State to meet its obligatory five percent (5%) match for HAVA's Title II Requirements Payments, North Carolina has to match twenty-two million six hundred thousand dollars (\$22,600,000) estimated federal funds in 2003-2004; thirteen million nine hundred forty-four thousand dollars (\$13,944,000) estimated federal funds in 2004-2005. The State's match is one million one hundred eighty-eight thousand seven hundred sixty dollars (\$1,188,760) in 2003-2004 and seven hundred thirty-three thousand four hundred fifty-five dollars (\$733,455) in 2004-2005. The nonrecurring match total required for the 2003-2005 fiscal biennium from the General Fund is one million nine hundred twenty-two thousand two hundred fifteen dollars (\$1,922,215).

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

### **NC HUMANITIES COUNCIL**

**SECTION 26.1.** The North Carolina Humanities Council shall:

- (1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
  - a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
  - b. State fiscal year 2002-2003 itemized expenditures and fund sources;
  - c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
  - d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.
- (2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

## **PART XXVII. OFFICE OF THE STATE CONTROLLER**

### **OVERPAYMENTS AUDIT**

**SECTION 27.1.(a)** During the 2003-2004 fiscal year, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

**SECTION 27.1.(b)** For the 2003-2004 fiscal year, two hundred thousand dollars (\$200,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

**SECTION 27.1.(c)** All funds available in the Special Reserve Account 24172 on July 1, 2003, are transferred to the General Fund on that date.

**SECTION 27.1.(d)** Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2004 Regular Session of the 2003 General Assembly.

**SECTION 27.1.(e)** The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division



on the revenue deposited into the Special Reserve Account and the disbursement of that revenue.

## **PART XXVIII. DEPARTMENT OF THE STATE TREASURER**

### **STATE TREASURER SUBJECT TO EXECUTIVE BUDGET ACT**

**SECTION 28.2.(a)** G.S. 147-68(e) reads as rewritten:

"(e) The State Treasurer-Treasurer, in carrying out the responsibilities of this section, shall except as provided in G.S. 143-25 be independent of any fiscal control exercise by the Director of the Budget or the Department of Administration and shall be responsible to the Advisory Budget Commission, the General Assembly and the people of North Carolina for the efficient and faithful exercise of the responsibilities of his office. The State Treasurer, for all other purposes, is subject to Article 1 of Chapter 143 of the General Statutes."

**SECTION 28.2.(b)** Subsection (a) of this section becomes effective July 1, 2003.

### **REPORT OF THE STATUS OF THE TECHNOLOGY INFRASTRUCTURE ENHANCEMENTS**

**SECTION 28.3.** The Department of State Treasurer shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees for the Senate and the House of Representatives on the status of the replacement of the multitude of information technology systems with an integrated system for all the retirement plans and other programs administered by the Retirement Systems Division. The Department shall report semiannually by October 1 and April 1 until the enhancements are fully implemented.

### **STAFFING ANALYSIS FOLLOW-UP**

**SECTION 28.4.(a)** The Office of State Budget and Management shall conduct semiannual follow-up analyses to the Staffing Analysis that was completed in April 2003 on the Retirement Systems Division within the Department of State Treasurer by October 1 and April 1 of each year to assure that the staffing levels remain appropriate. The semiannual analyses shall be conducted throughout the implementation of the enhancements to the information technology infrastructure within the Retirement Systems Division that were authorized by this act. The follow-up analyses shall also continue for a reasonable time after the completion of the enhancements to ensure that the staffing levels are adjusted based on the increased efficiency provided by the enhancements.

**SECTION 28.4.(b)** The Retirement Systems Division shall maintain monthly workload statistics and productivity data for the various functions within the Division. The Department of State Treasurer shall report the workload statistics and productivity data to the Fiscal Research Division and to the Office of State Budget and Management on a quarterly basis.

### **AUTHORIZATION FOR TEMPORARY AND CONTRACTUAL SERVICES FOR UNCLAIMED PROPERTY PROGRAM**

**SECTION 28.5.** The Department of State Treasurer may use up to one hundred seventy-six thousand dollars (\$176,000) in additional receipts from the Escheats Fund for fiscal year 2003-2004 for contractual services for temporary personnel to process the increased volume of applications for return of money and real property and for securing data entry services necessary to keep current the information that the Department makes available to the public on unclaimed money and real property. Of this amount, up to one hundred twenty-six thousand dollars (\$126,000) may be used to employ six temporary workers through a temporary service to process claims. The remaining fifty thousand dollars (\$50,000) may be used for miscellaneous

contractual services to assist with data entry. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to incurring any expenditure of the additional receipts.

## **PART XXIX. DEPARTMENT OF TRANSPORTATION**

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

**SECTION 29.1.(a)** The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2005-2006	\$1,409.2 million
For Fiscal Year 2006-2007	\$1,458.9 million
For Fiscal Year 2007-2008	\$1,509.4 million
For Fiscal Year 2008-2009	\$1,558.8 million

**SECTION 29.1.(b)** The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2005-2006	\$1,096.3 million
For Fiscal Year 2006-2007	\$1,148.0 million
For Fiscal Year 2007-2008	\$1,202.6 million
For Fiscal Year 2008-2009	\$1,252.4 million

### **SMALL URBAN CONTINGENCY FUNDS**

**SECTION 29.2.** Of the funds appropriated in this act to the Department of Transportation:

- (1) Twenty-eight million dollars (\$28,000,000) shall be allocated in each fiscal year for small urban construction projects. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for the small urban construction program for small construction projects that are located within the area covered by a two-mile radius of the municipal corporate limits.
- (2) Fifteen million dollars (\$15,000,000) in fiscal year 2003-2004 and ten million dollars (\$10,000,000) in fiscal year 2004-2005 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects as approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

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

### **DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT PROGRAMS**

**SECTION 29.3.** The Department of Transportation may establish two pilot programs to test incentive pay for employees as a means for increasing efficiency and productivity.

One of the pilot programs shall involve the highway resurfacing program using road oil. Up to one-fourth of one percent (0.25%) of the budget allocation for this program may be used to provide employee incentive payments.

The other pilot project may be selected by the Department of Transportation, and up to twenty-five thousand dollars (\$25,000) may be used from existing budgets for incentives.

Incentive payments shall be based on quantifiable measures and production schedules determined prior to the implementation of the pilot programs that shall last no more than two years.

The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on the pilot programs at least 30 days prior to their implementation.

## **REDUCE HIGHWAY TRUST FUND ADMINISTRATION ALLOCATION**

### **SECTION 29.4.** G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed ~~four and one half percent (4.5%)~~ four percent (4%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this ~~section,~~ section for the 2003-2004 fiscal year and three and eight-tenths percent (3.8%) thereafter, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The rest of the funds in the Trust Fund shall be allocated and used as follows:

- (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.
- (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.
- (3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.
- (4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

## **USE OF EXCESS OVERWEIGHT/OVERSIZE FUNDS**

**SECTION 29.5.** Funds generated by overweight/oversize permit fees in excess of the cost of administering the program, as determined pursuant to G.S.

20-119(e), shall be used for highway and bridge maintenance required as a result of damages caused from overweight/oversize loads.

## **ENVIRONMENTAL PERMITS ON DEPARTMENT OF TRANSPORTATION CONSTRUCTION PROJECTS**

**SECTION 29.6.** Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-44.7B. Permit issuance by Department of Environment and Natural Resources transportation construction projects.**

Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has issued a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation pursuant to the Transportation Improvement Program, that permit shall remain in effect until the project is completed. The permit shall not expire and shall not be modified or canceled for any reason, including a subsequent change in federal law or regulations or in State law or rules, unless at least one of the following occurs:

- (1) The modification or cancellation is requested by the Department of Transportation.
- (2) The modification or cancellation is clearly required by a change in federal law or regulations and a failure to modify or cancel the permit by the Department of Environment and Natural Resources will or may result in a loss of federal program delegation or a significant reduction in the availability of federal funds to the Department of Environment and Natural Resources or to the Department of Transportation.
- (3) The modification or cancellation is clearly required by a change in State law as a result of an act of the General Assembly that includes a statement that the General Assembly specifically intends the change in State law to apply to ongoing transportation construction projects.
- (4) The modification or cancellation is ordered by a court of competent jurisdiction.
- (5) The nature or scope of the transportation construction project is significantly expanded or otherwise altered.
- (6) Federal law or regulation requires that the permit expire at the end of a specific term of years."

## **DRIVER EDUCATION PRIVATIZATION**

**SECTION 29.7.** The State Board of Education shall study statewide privatization of State-funded driver education programs. The State Board of Education shall report to the Joint Legislative Education Oversight Committee and the Joint Legislative Transportation Oversight Committee by November 30, 2003, on proposals for statewide privatization and cost reduction.

## **FUNDS FOR UNSAFE OR OBSOLETE FACILITIES**

**SECTION 29.10.** The Department of Transportation may use funds not to exceed seventy-five hundredths of one percent (.75%) of the funds appropriated in this act to the Department for maintenance and construction programs for major repair, renovation, or replacement of facilities that fail to meet safety standards or that are obsolete for current or future use. Prior to expending these funds, the Department shall submit its proposed budget for these expenditures to the Senate Appropriations Subcommittee on Department of Transportation, the House of Representatives Appropriations Subcommittee on Transportation, and the Joint Legislative Transportation Oversight Committee each year.

**AMEND THE HIGHWAY TRUST FUND ACT DESCRIPTIONS OF URBAN LOOPS AND OTHER INTRASTATE IMPROVEMENT PROJECTS**

**SECTION 29.11.(a)** G.S. 136-180(a) reads as rewritten:

"(a) Funds allocated from the Trust Fund for urban loops may be used only for the following urban loops:

Loop	Description	Affected Counties
Asheville Western Loop	Multilane facility on new location from I-26 west of Asheville to US-19/23 north of Asheville for the purpose of connecting these roads. The funds may be used to improve existing corridors.	Buncombe
Charlotte Outer Loop	Multilane facility on new location encircling City of Charlotte	Mecklenburg
Durham Northern Loop	<p><del>The corridor shall be identified as a part of the local long range transportation plan as mutually adopted in 2003 by the Durham Chapel Hill Carrboro metropolitan planning organization and the North Carolina Board of Transportation</del></p> <p><u>The projects listed below are eligible for funding under this section as part of the Durham Northern Loop. The priorities for planning and constructing these projects will be established by mutual agreement of the Metropolitan Planning Organization (MPO) and the Department of Transportation through the federally mandated Transportation Improvement Program development process. The cross sections for these projects will be established by mutual agreement of the MPO and the Department of Transportation through the State and federal environmental review process.</u></p> <p><u>(1) East end connector, from N.C. 147 to U.S. 70 East.</u></p>	Durham, <del>Orange</del> Wake

	<u>(2) U.S. 70, from Lynn Rd. to the Northern Durham Parkway.</u>	
	<u>(3) I-85, from U.S. 70 to Red Mill Rd.</u>	
	<u>(4) Northern Durham Parkway, Section B, from Old Oxford Rd. to I-85.</u>	
	<u>(5) Northern Durham Parkway, Section A, from I-85 to I-540.</u>	
	<u>(6) Northern Durham Parkway, Section C, from Old Oxford Rd. to Roxboro Rd.</u>	
	<u>(7) Roxboro Rd. from Duke St. to Goodwin Rd.</u>	
<u>Fayetteville Western Outer Loop</u>	<u>Multilane facility on new location from US 401 north of Fayetteville to I-95 south of Hope Mills</u>	<u>Cumberland</u>
Greensboro Loop	Multilane facility on new location encircling City of Greensboro <u>including interchanges with Cone Boulevard Extension and Lewis-Fleming Road Extension</u>	Guilford
<u>Greenville Loop</u>	<u>Multilane extension of the Greenville Loop from US 264 west of Greenville to NC-11 south of Winterville</u>	<u>Pitt</u>
Raleigh Outer Loop	Multilane facility on new location from <del>US 4</del> <u>NC 55</u> southwest of Cary northerly to US-64 in eastern Wake County	Wake
Wilmington Bypass	Multilane facility on new location from US-17 northeast of Wilmington to <del>US 17 southwest of Wilmington,</del> <u>US 421 in southern Wilmington,</u> including the Blue Clay Road interchange	New Hanover
Winston-Salem Northbelt	Multilane facility on new location from I-40 west of Winston-Salem northerly to <del>I-40</del> <u>US 311/Future I-74</u> in eastern Forsyth County."	Forsyth

**SECTION 29.11.(b)** G.S. 136-179 reads as rewritten:

**"§ 136-179. Projects of Intrastate System funded from Trust Fund.**

Funds allocated from the Trust Fund for the Intrastate System may be used only for the following projects of the Intrastate System:

Route	Improvements	Affected Counties
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I-40	Widening	Buncombe, Haywood, Guilford, Wake, Durham
I-77	Widening	Mecklenburg
I-85	Widening	Durham, Orange, Alamance, Guilford, Cabarrus, Mecklenburg, Gaston
I-95	Widening	Halifax
US-1	Complete 4-laning from Henderson to South Carolina Line (including 6-laning of Raleigh Beltline)	Vance, Franklin, Wake, Chatham, Lee, Moore, Richmond
<del>US-13</del>	<del>Connector from I-95 to NC-87</del>	<del>Cumberland</del>
US-13	Complete 4-laning from Virginia Line to US-17	Gates, Hertford, Bertie
US-17	Complete 4-laning from Virginia Line to South Carolina Line (including Washington, New Bern, and Jacksonville Bypasses)	Camden, Pasquotank, Perquimans, Chowan, Bertie, Martin, Beaufort, Craven, Jones, Onslow, Pender, New Hanover, Brunswick
US-19/ US-19E	Complete 4-laning from US-23 to NC 194 in Ingalls	Madison, Yancey, Mitchell, Avery
US-19	Complete 4-laning	Cherokee, Macon, Swain
US-23	Complete 4-laning and upgrading existing 4-lanes from Tennessee Line to I-240	Madison, Buncombe
US-23-441	Complete 4-laning from US-19/US-74 to Georgia Line	Macon
US-52	Complete 4-laning from I-77 to Lexington (including new I-77 Connector)	Surry, Davidson
US-64	Complete 4-laning from Raleigh to Coast (including freeway construction from I-95)	Edgecombe, Pitt, Martin, Washington, Tyrrell, Dare

	to US-17)	
US-64	Complete 4-laning from Lexington to Raleigh	Davidson, Randolph, Chatham, Wake
US-70	Complete 4-laning from Raleigh to Morehead City (including Clayton, Goldsboro, Kinston, Smithfield-Selma, and Havelock Bypasses predominately freeways on predominately new locations)	Wake, Johnston, Wayne, Lenoir, Craven
US-74	Complete 4-laning from Charlotte to US-17 (including multilaning of Independence Blvd. in Charlotte, and Bypasses of Monroe, Rockingham, and Hamlet)	Mecklenburg, Union, Richmond, Robeson, Columbus
US-74	Complete 4-laning from I-26 to I-85	Polk, Rutherford
US-158	Complete 4-laning from Winston-Salem to Whalebone	Forsyth, Guilford, Rockingham, Caswell, Person, Granville, Vance, Warren, Halifax, Northampton, Gates, Hertford, Pasquotank, Camden, Currituck, Dare
	New bridge over Currituck Sound	Currituck
US-221	Complete 4-laning from Linville to South Carolina	Avery, McDowell, Rutherford
US-220	Complete 4-laning from I-40 to US-1	Guilford, Randolph, Montgomery, Richmond
US-220/NC-68	Complete 4-laning from Virginia Line to I-40	Rockingham, Guilford
US-264	Complete 4-laning from US-64 to Washington (including Wilson and Greenville Bypasses) (including freeway construction from I-95	Wilson, Greene, Pitt



	to Greenville)	
US-321	Complete 4-laning from Boone to South Carolina Line	Caldwell, Catawba, Lincoln, Gaston
US-421	Complete 4-laning from Tennessee Line to I-40	Watauga, Wilkes, Yadkin
US-421	Complete 4-laning from Greensboro to Sanford (including Bypass of Sanford)	Chatham, Lee
NC-24	Complete 4-laning from Charlotte to Morehead City	Mecklenburg, Cabarrus, Stanly, Montgomery, Moore, Harnett, Cumberland, Sampson, Duplin, Onslow, Carteret
NC-87	Complete 4-laning from Sanford to US-74	Lee, Harnett, Cumberland, Bladen, Columbus
NC-105	Complete 4-laning from Boone to Linville	Watauga, Avery
NC-168	Complete multilaning from Virginia Line to US-158	Currituck
NC-194	Complete 4-laning from US-19E to US-221".	Avery

**HIGHWAY TRUST FUND STUDY COMMITTEE**

**SECTION 29.12.(a)** Study Committee Established. – There is established a Highway Trust Fund Study Committee to report to the Joint Legislative Transportation Oversight Committee.

**SECTION 29.12.(b)** Membership. – The Study Committee shall be composed of 20 members as follows:

- (1) The Chairs of the Joint Legislative Transportation Oversight Committee.
- (2) Five Representatives and four public members appointed by the Speaker of the House of Representatives.
- (3) Five Senators and four public members appointed by the President Pro Tempore of the Senate.

The appointing authorities shall make their appointments to reflect the urban-rural diversity of the population of the State.

**SECTION 29.12.(c)** Duties of the Study Committee. – The Study Committee may study all aspects of the Highway Trust Fund. The study shall include the examination of all the following:

- (1) The current status, cost estimates, and feasibility of Highway Trust Fund projects currently listed in Article 14 of Chapter 136 of the General Statutes.

- (2) Unanticipated problems with the structure of the Highway Trust Fund.
- (3) The gap between transportation funding structures and the actual transportation needs of the State.
- (4) Allocation issues raised by the structure of the transportation funding equity distribution formula in G.S. 136-17.2A.
- (5) The feasibility of altering the project eligibility requirements of the Highway Trust Fund, including permitting the Department of Transportation to add projects as long as adding those projects does not delay projects already to be funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement Program, and does not impair the cash-flow provisions of G.S. 136-176(a1).
- (6) The feasibility of altering the funding allocation structure of the Highway Trust Fund, including the possible use of the Highway Trust Fund to provide the State match for available federal aid highway funds as long as using the funds in this manner does not delay projects already funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement Program, and does not impair the cash-flow provisions of G.S. 136-176(a1).
- (7) Any other issue related to the Highway Trust Fund or transportation funding.

**SECTION 29.12.(d) Vacancies.** – The appointing authority shall fill any vacancy on the Study Committee.

**SECTION 29.12.(e) Cochairs.** – The Cochairs of the Study Committee shall be the cochairs of the Joint Legislative Transportation Oversight Committee. The Study Committee shall meet upon the call of the Cochairs. A quorum of the Study Committee shall be nine members.

**SECTION 29.12.(f) Expenses of Members.** – Members of the Study Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

**SECTION 29.12.(g) Staff.** – The Legislative Services Office shall assign professional and clerical staff to assist the Study Committee in its work.

**SECTION 29.12.(h) Consultants.** – The Study Committee may hire consultants to examine specific issues and subjects related to the study, in accordance with G.S. 120-32.02.

**SECTION 29.12.(i) Meetings During Legislative Session.** – The Study Committee may meet during a regular or extra session of the General Assembly.

**SECTION 29.12.(j) Meeting Location.** – The Study Committee may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Study Committee in the State Legislative Building or the Legislative Office Building.

**SECTION 29.12.(k) Report.** – The Study Committee may make interim reports and shall make a final report to the Joint Legislative Transportation Oversight Committee no later than November 1, 2004. Regardless of whether it has filed an interim or final report, the Committee shall terminate on November 1, 2004.

**SECTION 29.12.(l) Funding.** – The Study Committee shall be funded from funds available to the Joint Legislative Transportation Oversight Committee, in accordance with G.S. 120-70.52.

**SECTION 29.12.(m)** This section is effective when it becomes law.

## **MPO/RPO TRANSPORTATION PLANNING FUNDING**

**SECTION 29.14.(a)** Of the funds allocated for Highway Trust Fund Administration for the 2003-2004 fiscal year:

- (1) The sum of seven hundred fifty thousand dollars (\$750,000) shall be used to fund the activities of Rural Transportation Planning Organizations created pursuant to Article 17 of Chapter 136 of the General Statutes. None of these funds shall be used to pay for salaries or benefits.
- (2) The sum of two million dollars (\$2,000,000) shall be used to implement the provisions of subsection (b) of this section.
- (3) The sum of seven hundred fifty thousand dollars (\$750,000) shall be used to implement the provisions of subsection (c) of this section.

**SECTION 29.14.(b)** Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-200.5. Matching funds for Metropolitan Planning Organizations located in nonattainment areas or maintenance areas.**

(a) Application. – The lead planning agency for any Metropolitan Planning Organization located in an area designated as a nonattainment or maintenance area under the federal Clean Air Act (42 U.S.C. § 7401, et seq.) may apply to the Department of Transportation for funds to avoid a plan conformity lapse.

(b) Matching Required. – Funds provided under this section shall be matched one-for-one by the local applicant agency.

(c) Use of Funds. – Funds provided under this section shall be used by the local applicant agency only to avoid a plan conformity lapse.

(d) Limit on Funds. – The Department shall not provide more than one million dollars (\$1,000,000) per fiscal year to any lead planning organization of a Metropolitan Planning Organization pursuant to this section.

(e) Payback Required. – Any funds provided to a lead planning organization of a Metropolitan Planning Organization under this section shall be repaid within five years, either from local sources or as an offset against planning funds that might otherwise have been made available from the Department to the lead planning organization."

**SECTION 29.14.(c)** Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-200.6. Funds for local transportation planning efforts in areas designated nonattainment areas or maintenance areas.**

(a) Application. – A regional transportation planning agency in an area designated as a nonattainment or maintenance area under the federal Clean Air Act (42 U.S.C. § 7401, et seq.) that has policy-setting authority for the entire designated area and that is representative of all local governments within the area, may apply to the Department of Transportation for funds to support local transportation planning efforts in that local government's region.

(b) Matching Required. – Funds provided under this section shall be matched one-for-one by the applicant agency.

(c) Use of Funds. – Funds provided under this section shall only be used by the local applicant agency to support regional transportation planning within the designated area.

(d) Local Staff Required. – Funds shall be provided under this section only if local governments in the designated area support and supply staff to the regional transportation planning agency.

(e) Limit on Funds. – The Department shall not provide more than two hundred fifty thousand dollars (\$250,000) in any fiscal year to any agency pursuant to this section."

**FERRY EMPLOYEE POSITIONS**

**SECTION 29.15.** The Ferry Division shall use funds available from increased toll revenues to convert a maximum of 39 temporary positions to permanent positions.

## **INCIDENT MANAGEMENT ASSISTANCE PATROL PROGRAM PERSONNEL**

**SECTION 29.16.** Up to a maximum 26 full-time temporary positions of the Incident Management Assistance Patrol Program shall be designated as permanent positions.

## **TRANSPORTATION SERVICES FOR TRADE SHOWS**

**SECTION 29.17.** The Department of Transportation, from funds available for public transportation in this act, may use up to nine hundred thousand dollars (\$900,000) in each year of the biennium for transportation services for annual or semiannual trade shows of international significance. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee, annually on or before March 1, on the use of these funds.

## **VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION**

**SECTION 29.19.(a)** Section 2 of S.L. 2001-266, as amended by Section 2.22 of S.L. 2001-486, reads as rewritten:

**"SECTION 2.** In conducting its study, the Commission shall hold regularly scheduled meetings in this State and in Virginia, tours of inspection, and public hearings as appropriate to determine the desirability and feasibility of establishing high-speed passenger rail service between Virginia and North Carolina. The Commission shall also study the establishment of an interstate high-speed rail compact between North Carolina, Virginia, and other states. If it appears to the Commission that establishment of such service or compact is desirable and feasible, the Commission shall consider and recommend to the Governor and General Assembly those legislative actions necessary to do so, including the identification of the necessary levels of funding and the sources of those funds."

**SECTION 29.19.(b)** Section 4 of S.L. 2001-266, as amended by Section 2.22 of S.L. 2001-486, reads as rewritten:

**"SECTION 4.** The Commission shall report its findings and any recommendations to the Governor and the General Assembly by ~~October 20, 2002~~, November 30, 2004, and may make an interim report to the Governor and General Assembly upon the convening of the ~~2002~~ 2004 Regular Session of the ~~2004~~ 2003 General Assembly. The Commission shall terminate on November 30, 2004."

## **CURRITUCK-COROLLA FERRY SERVICE FUNDS**

**SECTION 29.20.** From funds available to the Department of Transportation in this act, the Department may use up to eight hundred thirty-four thousand dollars (\$834,000) to establish a new ferry service, on or before May 1, 2004, from the Currituck terminal of the Currituck-Knotts Island ferry to Corolla.

## **DEPARTMENT OF TRANSPORTATION PROJECT DELIVERY PROCESS STUDY**

**SECTION 29.21.** The Joint Legislative Transportation Oversight Committee shall contract with an independent consultant to study the project delivery process of the Department of Transportation. The study shall examine all aspects of the project delivery process, including (i) Department of Transportation planning, design, and contract letting procedures, and (ii) the effect of other resource and regulatory agency decisions and processes on the project delivery process. The study shall identify all significant causes of delay in the project delivery process, and suggest specific, practical solutions to decrease the time it takes to deliver a transportation project from inception to completion. The Committee shall endeavor to complete this study by April 1, 2003. The provisions of G.S. 120-32.02 shall apply to any contract with a consultant pursuant to this section.

## USE HIGHWAY TRUST FUND TO MATCH FEDERAL-AID HIGHWAY FUNDS

**SECTION 29.22.** G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed four and one-half percent (4.5%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The rest of the funds in the Trust Fund shall be allocated and used as follows:

- (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.
- (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.
- (3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.
- (4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

## RAIL CORRIDOR SUBDIVISIONS

**SECTION 29.23.(a)** G.S. 160A-376(3) reads as rewritten:

### "§ 160A-376. Definition.

For the purpose of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Part:

...

- (3) The public acquisition by purchase of strips of land for the widening or opening of ~~streets;~~ streets or for public transportation system corridors; and

....  
**SECTION 29.23.(b)** G.S. 153A-335(3) reads as rewritten:

**"§ 153A-335. "Subdivision" defined.**

For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

- (3) The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors; and

...."

**PART XXX. SALARIES AND EMPLOYEE BENEFITS**

**GOVERNOR AND COUNCIL OF STATE/NO SALARY INCREASES**

**SECTION 30.1.(a)** For the 2003-2004 and 2004-2005 fiscal years, the salary of the Governor shall remain the amount set by G.S. 147-11(a).

**SECTION 30.1.(b)** Effective July 1, 2003, the annual salaries for the members of the Council of State, payable monthly, for the 2003-2004 and 2004-2005 fiscal years are:

<b>Council of State</b>	<b>Annual Salary</b>
Lieutenant Governor	\$104,523
Attorney General	104,523
Secretary of State	104,523
State Treasurer	104,523
State Auditor	104,523
Superintendent of Public Instruction	104,523
Agriculture Commissioner	104,523
Insurance Commissioner	104,523
Labor Commissioner	104,523

**NONELECTED DEPARTMENT HEAD/NO SALARY INCREASES**

**SECTION 30.2.** In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2003-2004 and 2004-2005 fiscal years are:

<b>Nonelected Department Heads</b>	<b>Annual Salary</b>
Secretary of Administration	\$102,119
Secretary of Correction	102,119
Secretary of Crime Control and Public Safety	102,119
Secretary of Cultural Resources	102,119
Secretary of Commerce	102,119
Secretary of Environment and Natural Resources	102,119
Secretary of Health and Human Services	102,119
Secretary of Juvenile Justice and Delinquency Prevention	102,119
Secretary of Revenue	102,119
Secretary of Transportation	102,119

**CERTAIN EXECUTIVE BRANCH OFFICIALS/NO SALARY INCREASES**

**SECTION 30.3.** The annual salaries, payable monthly, for the 2003-2004 and 2004-2005 fiscal years for the following executive branch officials are:

<b>Executive Branch Officials</b>	<b>Annual Salary</b>
Chairman, Alcoholic Beverage Control Commission	\$92,946
State Controller	130,078
Commissioner of Motor Vehicles	92,946
Commissioner of Banks	104,523
Chairman, Employment Security Commission	129,913
State Personnel Director	102,119
Chairman, Parole Commission	84,871
Members of the Parole Commission	78,356
Chairman, Utilities Commission	116,405
Members of the Utilities Commission	104,523
Executive Director, Agency for Public Telecommunications	78,356
General Manager, Ports Railway Commission	70,755
Director, Museum of Art	95,240
Executive Director, North Carolina Housing Finance Agency	115,031
Executive Director, North Carolina Agricultural Finance Authority	90,470
State Chief Information Officer	130,000

### **JUDICIAL BRANCH OFFICIALS/NO SALARY INCREASES**

**SECTION 30.4.(a)** The annual salaries, payable monthly, for specified judicial branch officials for the 2003-2004 and 2004-2005 fiscal years are:

<b>Judicial Branch Officials</b>	<b>Annual Salary</b>
Chief Justice, Supreme Court	\$118,430
Associate Justice, Supreme Court	115,336
Chief Judge, Court of Appeals	112,452
Judge, Court of Appeals	110,530
Judge, Senior Regular Resident Superior Court	107,527
Judge, Superior Court	104,523
Chief Judge, District Court	94,912
Judge, District Court	91,909
Administrative Officer of the Courts	107,527
Assistant Administrative Officer of the Courts	98,216

**SECTION 30.4.(b)** The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed sixty thousand one hundred ninety-one dollars (\$60,191), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-one thousand thirty-five dollars (\$31,035), effective July 1, 2003.

**SECTION 30.4.(c)** Permanent, full-time employees of the Judicial Department, whose salaries are not itemized in this Part, shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

### **CLERK OF SUPERIOR COURT SALARY INCREASES**

**SECTION 30.5.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of clerks of superior court shall remain as set forth in G.S. 7A-101(a).

### **ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASE**

**SECTION 30.6.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of assistant and deputy clerks of superior court shall remain as set forth in G.S. 7A-102(c1), except that there shall be awarded to each clerk not receiving a statutory step increase a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

## **MAGISTRATES' SALARY INCREASES**

**SECTION 30.7.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of magistrates shall remain as set forth in G.S. 7A-171.1, except that there shall be awarded to each magistrate not receiving a statutory step increase a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

## **GENERAL ASSEMBLY PRINCIPAL CLERKS**

**SECTION 30.8.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of General Assembly principal clerks shall remain as set forth in G.S. 120-37, except that there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

## **SERGEANT-AT-ARMS AND READING CLERKS**

**SECTION 30.9.** For the 2003-2004 and 2004-2005 fiscal years, the compensation of General Assembly sergeant-at-arms and reading clerks shall remain as set forth in G.S. 120-37.

## **LEGISLATIVE EMPLOYEES**

**SECTION 30.10.** The salaries of nonelected employees of the General Assembly shall remain in effect, and the Legislative Services Officer shall award a compensation bonus for the 2003-2004 fiscal year as authorized in this Part. Nothing in this act limits any of the provisions of G.S. 120-32.

## **COMMUNITY COLLEGES PERSONNEL**

**SECTION 30.11.** The Director of the Budget shall transfer to the North Carolina Community College System Office from the Reserve for Compensation Increases created in this act for fiscal year 2003-2004 funds necessary to provide a compensation bonus as authorized by this Part for all permanent full-time community college institutional personnel supported by State funds.

## **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION**

**SECTION 30.12.(a)** The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal year 2003-2004, to fund the compensation bonus authorized by this Part for University employees, other than teachers at the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA).

**SECTION 30.12.(b)** The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005, to provide an average annual salary increase of one and eighty-one hundredths percent (1.81%), including funds for the employer's retirement and social security contributions, commencing July 1, 2003, for all teaching employees of the North Carolina School of Science and Mathematics supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

## **COMPENSATION BONUS FOR FISCAL YEAR 2003-2004**

**SECTION 30.12A.(a)** Except as provided by subsection (b) of this section, any person (i) whose salary is set pursuant to the State Personnel Act or under this Part and (ii) who is employed in a State-funded position on October 1, 2003, shall be awarded a one-time, lump-sum compensation bonus for the 2003-2004 fiscal year in the amount of five hundred fifty dollars (\$550.00). The compensation bonus shall be



adjusted pro rata for permanent part-time employees. The Director of the Budget shall transfer sufficient funds from the Reserve for Compensation Increases provided in this act to implement this section. The compensation bonus awarded by this section shall not be administered under G.S. 126-7. The compensation bonus shall be awarded to eligible employees without regard to an employee's placement within the salary range, including employees at the top of the salary range.

**SECTION 30.12A.(b)** The following persons shall not be eligible for the compensation bonus authorized by this section:

- (1) Any person whose salary is set under Sections 30.1, 30.2, 30.3, 30.4(a), 30.5, and 30.12(b) of this act.
- (2) Any public school employee or State employee paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule.
- (3) Any assistant or deputy clerks of superior court receiving a statutory step increase under G.S. 7A-102(c1) for the 2003-2004 fiscal year.
- (4) Any magistrate receiving a statutory step increase under G.S. 7A-171.1 for the 2003-2004 fiscal year.
- (5) Any person receiving automatic increases under G.S. 20-187.3 for the 2003-2004 fiscal year.

### **SPECIAL ANNUAL LEAVE BONUS**

**SECTION 30.12B.(a)** Except as provided by subsection (b) of this section, effective July 1, 2003, any person (i) who is a full-time permanent employee of the State, a community college institution, or a local board of education and (ii) who is eligible to earn annual leave shall have a one-time additional 10 days of annual leave credited on that date. The additional leave shall be accounted for either separately or together with the leave provided by Section 28.3A of S.L. 2002-126. Part-time permanent employees shall receive a pro rata amount of the 10 days.

**SECTION 30.12B.(b)** The following persons are not eligible to receive the special annual leave bonus authorized by this section:

- (1) Any employee or officer who does not earn annual leave.
- (2) Employees who receive during the 2003-2004 fiscal year an automatic or step increase under G.S. 7A-102(c), 7A-171.1, or 20-187.3.
- (3) Any public school employee or State employee paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule.

### **MOST STATE EMPLOYEES**

**SECTION 30.13.(a)** The salaries in effect June 30, 2003, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall remain in effect for the 2003-2004 and 2004-2005 fiscal years, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

**SECTION 30.13.(b)** Except as otherwise provided in this act, the compensation of permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall remain in effect, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

**SECTION 30.13.(c)** The salaries of all permanent part-time State employees shall remain in effect, and there shall be awarded a compensation bonus for the 2003-2004 fiscal year as authorized in this Part.

**SECTION 30.13.(d)** The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds for salaries in accordance with subsection (a), (b), or (c) of this section including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

## **ALL STATE-SUPPORTED PERSONNEL**

**SECTION 30.14.(a)** Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall remain in effect and be paid from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

**SECTION 30.14.(b)** The salaries authorized under this act do not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

**SECTION 30.14.(c)** The compensation bonuses do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to October 1, 2003. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

**SECTION 30.14.(d)** The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2003-2004 all funds necessary for the compensation increases provided by this act, including funds for the employer's retirement and social security contributions.

**SECTION 30.14.(e)** Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

## **EMPLOYEES MAY VOLUNTARILY SHARE LEAVE WITH A COWORKER'S IMMEDIATE FAMILY MEMBER**

**SECTION 30.14A.(a)** Effective July 1, 2003, G.S. 126-8.3, as amended by S.L. 2003-9, reads as rewritten:

### **"§ 126-8.3. Voluntary shared leave.**

The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

**SECTION 30.14A.(b)** Effective July 1, 2003, G.S. 115C-12.2, as amended by S.L. 2003-9, reads as rewritten:

### **"§ 115C-12.2. Voluntary shared leave.**

The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

**SECTION 30.14A.(c)** Effective July 1, 2003, G.S. 115D-25.3, as enacted by S.L. 2003-9, reads as rewritten:

**"§ 115D-25.3. Voluntary shared leave.**

The State Board of Community Colleges, in cooperation with the State Board of Education and the State Personnel Commission, shall adopt rules and policies to allow any employee at a community college to share leave voluntarily with an immediate family member who is an employee of a community college, public school, or State ~~agency~~ agency; and with a coworker's immediate family member who is an employee of a community college, public school, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave."

**CLERK OF COURT PERSONNEL FLEXIBILITY**

**SECTION 30.14B.** G.S. 7A-102 reads as rewritten:

**"§ 7A-102. Assistant and deputy clerks; appointment; number; salaries; duties.**

(a) The numbers and salaries of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court shall be determined by the Administrative Officer of the Courts after consultation with the clerk concerned. All personnel in the clerk's office are employees of the State. The clerk appoints the assistants, deputies, and other employees in ~~his~~ the clerk's office to serve at his or her pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks of superior court, conformed to the office of assistant or deputy clerk, as the case may be. ~~The~~ Except as provided by subsection (c2) of this section, the job classifications and related salaries of each employee within the office of each superior court clerk shall be subject to the approval of the Administrative Officer of the Courts after consultation with each clerk concerned and shall be subject to the availability of funds appropriated for that purpose by the General Assembly.

(b) An assistant clerk is authorized to perform all the duties and functions of the office of clerk of superior court, and any act of an assistant clerk is entitled to the same faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence and correctness of any record in the clerk's office, to take the proofs and examinations of the witnesses touching the execution of a will as required by G.S. 31-17, and to perform any other ministerial act which the clerk may be authorized and empowered to do, in his own name and without reciting the name of his principal. The clerk is responsible for the acts of his assistants and deputies. With the consent of the clerk of superior court of each county and the consent of the presiding judge in any proceeding, an assistant or deputy clerk is authorized to perform all the duties and functions of the office of the clerk of superior court in another county in any proceeding in the district or superior court that has been transferred to that county from the county in which the assistant or deputy clerk is employed.

(c) Notwithstanding the provisions of subsection (a), the Administrative Officer of the Courts shall establish an incremental salary plan for assistant clerks and for deputy clerks based on a series of salary steps corresponding to the steps contained in the Salary Plan for State Employees adopted by the Office of State Personnel, subject to a minimum and a maximum annual salary as set forth below. On and after July 1, 1985, each assistant clerk and each deputy clerk shall be eligible for an annual step increase in his salary plan based on satisfactory job performance as determined by each clerk. Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the office of superior court clerk would warrant an annual salary greater than the salary first established under this section, that assistant or deputy clerk shall be eligible on and after July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after

July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps in his salary plan, and shall remain eligible for a two-step increase each year as recommended by each clerk until that assistant or deputy clerk's annual salary corresponds to his number of years of service. Any person covered by this subsection who would not receive a step increase in fiscal year 1995-96 because that person is at the top of the salary range as it existed for fiscal year 1994-95 shall receive a salary increase to the maximum annual salary provided by subsection (c1) of this section.

(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	\$26,515
Maximum	46,464
Deputy Clerks	Annual Salary
Minimum	\$22,565
Maximum	35,934.

(c2) The clerk of superior court may appoint assistant clerks, deputy clerks, and a head bookkeeper and set their salaries above the minimum rate established for the positions by subsection (c1) of this section if, in the clerk's discretion, (i) the needs of the clerk's office would be best served by an appointment above the minimum rate, (ii) the appointee's skills and experience support the higher rate, and (iii) the Administrative Office of the Courts certifies that there are sufficient funds available.

(d) Full-time assistant clerks, licensed to practice law in North Carolina, who are employed in the office of superior court clerk on and after July 1, 1984, and full-time assistant clerks possessing a masters degree in business administration, public administration, accounting, or other similar discipline from an accredited college or university who are employed in the office of superior court clerk on and after July 1, 1997, are authorized an annual salary of not less than three-fourths of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary but that salary shall not be higher than the maximum annual salary established for assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law school, who are employed in the office of superior court clerk on and after July 1, 1984, are authorized an annual salary of not less than two-thirds of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary, but the entry-level salary may not be more than three-fourths of the maximum annual salary established for assistant clerks, and in no event may be higher than the maximum annual salary established for assistant clerks. The-Except as provided by subsection (c2) of this section, the entry-level annual salary for all other assistant and deputy clerks employed on and after July 1, 1984, shall be at the minimum rates as herein established.

(e) A clerk of superior court may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(f) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (e) of this section only upon a showing by the senior resident superior court judge, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(g) The terms of any contract entered into with local governments pursuant to subsection (e) of this section shall be fixed by the Director of the Administrative Office

of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

## **STATE AGENCY TEACHERS' COMPENSATION**

**SECTION 30.14C.** Funds in the Reserve for Compensation Increases shall be used for experience step increases for employees of schools operated by the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention, who are paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule.

## **STUDY COMPENSATION OF CERTAIN HIGH-LEVEL OFFICERS**

**SECTION 30.15.** The Office of State Personnel (OSP) and the Office of State Budget and Management (OSBM) shall study jointly the relative compensation of members of the Council of State, State department heads, and other high-ranking elected and nonelected public officials whose salaries are set by the General Assembly to determine whether the officers are being compensated at rates in accordance with:

- (1) The officer's scope of responsibilities and span of control.
- (2) The critical nature of the officer's department, agency, institution, or function.
- (3) The relative size of the operations and budget under the officer's direct control.
- (4) The required credentials, knowledge, and experience necessary to competently manage the officer's organization or function.

In conducting this study, the OSP and OSBM shall focus on the relative compensation among these various officers to determine the appropriate salary levels for the officers given the factors identified in this section. By April 1, 2004, OSP and OSBM shall report their findings and recommendations to the Joint Legislative Commission on Governmental Operations.

## **TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION COMPENSATION BONUS**

**SECTION 30.15A.** For the 2003-2004 fiscal year only, the Secretary of Revenue shall transfer at the end of the first quarter from the State sales and use tax collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost of a one-time, lump sum compensation bonus in the amount of five hundred fifty dollars (\$550.00) for employees of the Wildlife Resources Commission, as authorized in this Part.

## **SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

**SECTION 30.16.(a)** Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the

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

**SECTION 30.16.(b)** Effective July 1, 2003, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2003-2004 fiscal year are (i) three and forty-two hundredths percent (3.42%) - Teachers and State Employees; (ii) eight and forty-two hundredths percent (8.42%) - State Law Enforcement Officers; (iii) ten and four hundredths percent (10.04%) - University Employees' Optional Retirement System; (iv) ten and four hundredths percent (10.04%) - Community College Optional Retirement Program; (v) fifteen and twelve hundredths percent (15.12%) - Consolidated Judicial Retirement System; and (vi) three and twenty hundredths percent (3.20%) - Legislative Retirement System. Each of the foregoing contribution rates includes three and twenty hundredths percent (3.20%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

**SECTION 30.16.(c)** Effective July 1, 2004, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2004-2005 fiscal year are (i) five and seventy-seven hundredths percent (5.77%) - Teachers and State Employees; (ii) ten and seventy-seven hundredths percent (10.77%) - State Law Enforcement Officers; (iii) ten and fifty-six hundredths percent (10.56%) - University Employees' Optional Retirement System; (iv) ten and fifty-six hundredths percent (10.56%) - Community College Optional Retirement Program; (v) fifteen and twelve hundredths percent (15.12%) - Consolidated Judicial Retirement System; and (vi) three and twenty hundredths percent (3.20%) - Legislative Retirement System. Each of the foregoing contribution rates includes three and twenty hundredths percent (3.20%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, the Community College Optional Retirement Program, and the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

**SECTION 30.16.(d)** The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2003-2004 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand five hundred eighteen dollars (\$2,518) and (ii) non-Medicare-eligible employees and retirees - three thousand three hundred seven dollars (\$3,307).

**SECTION 30.16.(e)** The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2004-2005 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand six hundred twelve dollars (\$2,612) and (ii) non-Medicare-eligible employees and retirees - three thousand four hundred thirty-two dollars (\$3,432).

## **RETIREMENT COLAS**

**SECTION 30.17.(a)** G.S. 135-5 is amended by adding a new subsection to read:

"(III) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) of the allowance payable as

determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2002, and June 30, 2003."

**SECTION 30.17.(b)** G.S. 135-65 is amended by adding a new subsection to read:

"(x) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2002, and June 30, 2003."

**SECTION 30.17.(c)** G.S. 120-4.22A is amended by adding a new subsection to read:

"(r) In accordance with subsection (a) of this section, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2003, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2003, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2003, and June 30, 2003."

## **TRANSFER OF SERVICE IN THE LEGISLATIVE RETIREMENT SYSTEM TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE JUDICIAL RETIREMENT SYSTEM**

**SECTION 30.18.(a)** G.S. 120-4.13 reads as rewritten:

### **"§ 120-4.13. Transfer of membership and benefits.**

(a) The Board of Trustees shall set up procedures to transfer membership from the Legislative Retirement Fund to the Retirement System and to recompute benefits paid to retirees of the Legislative Retirement Fund who elect to transfer to the Retirement System.

(b) The accumulated contributions and creditable service of any member whose service as a member of the General Assembly has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System to the Teachers' and State Employees' Retirement System, there shall be transferred from the Legislative Retirement System to the Teachers' and State Employees' Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Legislative Retirement System as a result of previous contributions by the employer on behalf of the transferring member.

(c) The accumulated contributions and creditable service of any member whose service as a member of the General Assembly has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-53(11), of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from

the Legislative Retirement System to the Consolidated Judicial Retirement System, there shall be transferred from the Legislative Retirement System to the Consolidated Judicial Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Legislative Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

**SECTION 30.18.(b)** G.S. 135-4 is amended by adding a new subsection to read:

"(j2) The creditable service of a member who was a member of the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

**SECTION 30.18.(c)** Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-18.9. Transfer of members from the Legislative Retirement System or the Consolidated Judicial Retirement System.**

(a) The accumulated contributions, creditable service, and reserves, if any, of a member of the Legislative Retirement System, as provided for in Article 1A of G.S. 120, or the Consolidated Judicial Retirement System, as provided for in Article 4 of G.S. 135, who later becomes a member of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from the Legislative Retirement System or the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a member of the Legislative Retirement System or the Consolidated Judicial Retirement System is terminated other than by retirement or death and who later becomes a member of the Teachers' and State Employees' Retirement System may, upon application of the member, be transferred from the Legislative Retirement System or the Consolidated Judicial Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System or the Consolidated Judicial Retirement System to the Teachers' and State Employees' Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Legislative Retirement System or the Consolidated Judicial Retirement System shall be transferred and credited to the annuity savings fund in the Teachers' and State Employees' Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer subsection (a) of this section and to prevent any duplication of service credits or benefits that might otherwise occur."

**SECTION 30.18.(d)** G.S. 135-70 is amended by adding a new subsection to read:

"(a1) The accumulated contributions and creditable service of any member whose service as a member of this Retirement System has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from this Retirement System to the Teachers' and State Employees' Retirement System, there shall be transferred from this Retirement System to the Teachers' and State Employees' Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in this



Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

**SECTION 30.18.(e)** G.S. 135-70.1 reads as rewritten:

**"§ 135-70.1. Transfer of members from the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or the Legislative Retirement System.**

"(a) The accumulated contributions, creditable service, and reserves, if any, of a former teacher or employee, as defined in G.S. 135-1(25), 135-1(10), and 128-21(10), respectively, or a former member of the General Assembly who is a member of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or the Legislative Retirement System to the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a teacher or employee or member of the General Assembly is terminated other than by retirement or death and who becomes a member of the Consolidated Judicial Retirement System may, upon application of the member, be transferred from the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or the Legislative Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Local Governmental Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or the Legislative Retirement System, to the Consolidated Judicial Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or the Legislative Retirement System shall be transferred and credited to the annuity savings fund in the Consolidated Judicial Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer the preceding subsection and to prevent any duplication of service credits or benefits that might otherwise occur."

**SECTION 30.18.(f)** G.S. 135-56(f) reads as rewritten:

"(f) The creditable service of a member who was a member of the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System ~~System~~, or the Legislative Retirement System and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement System ~~or System~~, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

**SECTION 30.18.(g)** G.S. 135-58(a3) reads as rewritten:

"(a3) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2001, but before January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

- (1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;
- (3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;
- (4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and
- (5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56."

**SECTION 30.18.(h)** G.S. 135-58 is amended by adding a new subsection to

read:

"(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

- (1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;
- (3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, or clerk of superior court;
- (4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the

General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

- (5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

**SECTION 30.18.(i)** The Retirement Systems Division of the Department of State Treasurer and the Board of Trustees of the Teachers' and State Employees' Retirement System shall study the feasibility and cost implications of applying the provisions of this section to present retirees of the Legislative Retirement System. The Retirement Systems Division of the Department of State Treasurer and the Board of Trustees of the Teachers' and State Employees' Retirement System shall submit a report to the General Assembly no later than April 1, 2004, on their findings and recommendations.

**SECTION 30.18.(j)** This section becomes effective January 1, 2004.

**INCREASE THE AMOUNT OF THE DEATH BENEFIT PAID WHEN A LAW ENFORCEMENT OFFICER, FIREFIGHTER, RESCUE SQUAD WORKER, OR SENIOR CIVIL AIR PATROL MEMBER IS KILLED IN THE LINE OF DUTY AND PROVIDE THAT THE DEATH OF A FIREMAN BY HEART ATTACK WHILE ON DUTY OR WITHIN TWENTY-FOUR HOURS AFTER PARTICIPATING IN A TRAINING EXERCISE OR RESPONDING TO AN EMERGENCY SITUATION IS A QUALIFYING EVENT**

**SECTION 30.18A.(a)** G.S. 143-166.3 reads as rewritten:

**"§ 143-166.3. Payments; determination.**

(a) When any law-enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member shall be killed in the line of duty, the Industrial Commission shall award a death benefit to be paid in the amounts set forth in subsection (b) to the following:

- (1) The spouse of such officer, fireman, rescue squad worker or senior Civil Air Patrol member if there be a surviving spouse; or
- (2) If there be no spouse qualifying under the provisions of this Article, then payments shall be made to any surviving dependent child of such officer, fireman, rescue squad worker or senior Civil Air Patrol member and if there be more than one surviving dependent child, then said payment shall be made to and equally divided among all surviving dependent children; or
- (3) If there be no spouse and no dependent child or children qualifying under the provisions of this Article, then payments shall be made to the surviving dependent parent of such officer, fireman, rescue squad worker or senior Civil Air Patrol member and if there be more than one surviving dependent parent then said payments shall be made to and equally divided between the surviving dependent parents of said officer, fireman, rescue squad worker or senior Civil Air Patrol member.

(b) Payment shall be made to the person or persons qualifying therefor under subsection (a) in the following amounts:

- (1) At the time of the death of an officer, fireman, rescue squad worker or senior Civil Air Patrol member, ~~ten thousand dollars (\$10,000)~~ twenty thousand dollars (\$20,000) shall be paid to the person or persons entitled thereto.
- (2) Thereafter, ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) shall be paid annually to the person or persons entitled thereto until the sum of the initial payment and each annual payment reaches ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000).
- (3) In the event there is no person qualifying under subsection (a) of this section, ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) shall be paid to the estate of the deceased officer, fireman, rescue squad worker or senior Civil Air Patrol member at the time of death.

(c) In the event that any person or persons eligible for payments under subsection (a) of this section shall become ineligible, and other eligible person or persons qualify for said death benefit payments under subsection (a), then they shall receive the remainder of any payments up to the limit of ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) in the manner set forth in subsection (b) of this section.

(d) In the event any person or persons eligible for payments under subsection (a) of this section shall become ineligible and no other person or persons qualify for payments under that subsection and where the sum of the initial payment of ~~ten thousand dollars (\$10,000)~~ twenty thousand dollars (\$20,000) and each subsequent annual payment of ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) does not total ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000), then the difference between the total of the payments made and ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) shall immediately be payable to the estate of the deceased officer, fireman, rescue squad worker, or senior Civil Air Patrol member."

**SECTION 30.18A.(b)** G.S. 143-166.2(c) reads as rewritten:

"(c) The term 'killed in the line of duty' shall apply to any law-enforcement officer, fireman, rescue squad worker who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while in the discharge of his official duty or duties. When applied to a senior member of the Civil Air Patrol as defined in this Article, 'killed in the line of duty' shall mean any such senior member of the North Carolina Wing-Civil Air Patrol who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while engaged in a State requested and approved mission pursuant to Article 11 of Chapter 143B of the General Statutes. For purposes of this Article, when a fireman dies as the direct and proximate result of a myocardial infarction suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, the fireman is presumed to have been killed in the line of duty."

## **INCREASE MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND**

**SECTION 30.19.** G.S. 58-86-55 reads as rewritten:

### **"§ 58-86-55. Monthly pensions upon retirement.**

Any member who has served 20 years as an "eligible fireman" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month. Any retired fireman receiving a pension shall, effective ~~July 1, 2002~~, July 1, 2003, receive a pension of ~~one hundred fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month.

Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred fifty six dollars (\$156.00)~~ one hundred fifty-eight dollars (\$158.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose volunteer department is taken over by a city or county, and because of such annexation or takeover is unable to perform as a fireman or rescue squad worker of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

**EQUALIZE LONGEVITY SERVICE FOR DISTRICT ATTORNEYS,  
ASSISTANT DISTRICT ATTORNEYS, PUBLIC DEFENDERS, AND  
ASSISTANT PUBLIC DEFENDERS**

**SECTION 30.19A.(a)** G.S. 7A-65(c) reads as rewritten:

"(c) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. Service shall mean service in the elective position of a district attorney and shall not include service as a deputy or acting district attorney. Service shall also mean service as a

justice or judge of the General Court of Justice, ~~as a clerk of superior court, or as an assistant district attorney.~~ attorney, public defender, appellate defender, or assistant public or appellate defender."

**SECTION 30.19A.(b)** G.S. 7A-65(d) reads as rewritten:

"(d) In lieu of merit and other increment raises paid to regular State employees, an assistant district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. "Service" means service as an assistant district ~~attorney or as a district attorney.~~ attorney, district attorney, public defender, appellate defender, assistant public or appellate defender, justice or judge of the General Court of Justice, or clerk of superior court."

**SECTION 30.19A.(c)** G.S. 7A-498.7(c) reads as rewritten:

"(c) A public defender shall be an attorney licensed to practice law in North Carolina and shall devote full time to the duties of the office. In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court."

**SECTION 30.19A.(d)** G.S. 7A-498.7(g) reads as rewritten:

"(g) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court."

## **REDIRECTION OF COURT FEES**

**SECTION 30.19B.(a)** G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

- (1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.
- (2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all

cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

- (3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of ~~seven dollars and twenty five cents (\$7.25)~~, six dollars and twenty-five cents (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents (\$1.25) being administered in accordance with the provisions of G.S. 143-166.50(e). ~~One dollar (\$1.00) of this sum shall be administered as is provided in Article 12F of Chapter 143 of the General Statutes.~~
- (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-five cents (75¢) to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.
- (4) For support of the General Court of Justice, the sum of ~~seventy five dollars (\$75.00)~~ seventy-six dollars (\$76.00) in the district court, including cases before a magistrate, and the sum of ~~eighty two dollars (\$82.00)~~ eighty-three dollars (\$83.00) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.
- (5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.
- (6) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2, the sum of fifty dollars (\$50.00), to be remitted to the State

- Treasurer. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee.
- (7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars (\$300.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction."

**SECTION 30.19B.(b)** G.S. 143-166.60(a) reads as rewritten:

"(a) ~~Of the sum derived from the cost of court provided for in G.S. 7A-304(a)(3), the amount designated for this Article shall be set aside and held in a separate fund to create a~~ A Separate Insurance Benefits Plan, hereinafter called the "Plan", is to be an employee welfare benefit plan, established for the benefit of (i) all law enforcement officers, as defined in G.S. 135-1(11b) and G.S. 128-21(11b) employed by the State and local governments and (ii) all former law-enforcement officers previously employed by the State and local governments, who had 20 or more years of service as an officer or are in receipt of a disability retirement allowance from any State-administered retirement system or are in receipt of a benefit from the Disability Income Plan of North Carolina, who shall be participants."

**STATE EMPLOYEE HEALTH BENEFIT PLAN/BENEFIT CHANGES**

**SECTION 30.19C.(a)** G.S. 135-40.8(d) reads as rewritten:

"(d) Where a network of qualified preferred providers of inpatient and outpatient hospital care is reasonably available for use by those individuals covered by the Plan, use of providers outside of the preferred network shall be subject to a twenty percent (20%) coinsurance rate up to five thousand dollars (\$5,000) per fiscal year per covered individual up to an aggregate of fifteen thousand dollars (\$15,000) per employee and child(ren) or employee and family coverage contract per fiscal year in addition to the general coinsurance percentage and maximum fiscal year amount specified by G.S. 135-40.4 and G.S. 135-40.6. The Plan then pays one hundred percent (100%) of the remaining covered expenses."

**SECTION 30.19C.(b)** G.S. 135-40.8 is amended by adding a new subsection to read:

"(e) Where qualified out-of-state preferred providers of medical care are not reasonably available in medical emergencies, the Plan pays the amounts covered by subsection (a) of this section. Any amount of charges for services under this section that exceeds the amount allowed by the Plan for the services of qualified preferred providers under this section shall be negotiated between the Plan and the provider of medical services, and the Plan shall ensure that the Plan member is not held financially responsible for the amount of these excess charges. If a Plan member is not capable of making a decision about choosing an in-State qualified preferred provider and emergency services personnel transport the Plan member to a provider outside of the Plan network, then the coverage under this subsection shall apply. As used in this section, a 'medical emergency' is the sudden and unexpected onset of a condition manifesting itself by acute symptoms of sufficient severity that, in the absence of immediate medical care, could imminently result in injury or danger to self or others."



**STUDY COMMISSION ON STATE DISABILITY INCOME PLAN, THE DEATH BENEFIT PLAN, AND SEPARATE INSURANCE BENEFITS PLAN FOR LAW ENFORCEMENT OFFICERS/AMEND DEFINITION OF DISABILITY APPLICABLE TO THE STATE DISABILITY INCOME PLAN**

**SECTION 30.20.(a)** There is established a Study Commission on the State Disability Income Plan, the State Death Benefit Plan, and the Separate Insurance Benefits Plan for Law Enforcement Officers.

**SECTION 30.20.(b)** The Commission shall be comprised of seven members as follows:

- (1) Two persons appointed by the President Pro Tempore of the Senate. One of these appointees shall be a State employee.
- (2) Two persons appointed by the Speaker of the House of Representatives. One of these appointees shall be a State employee.
- (3) The State Treasurer, or the Treasurer's designee.
- (4) The Executive Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan.
- (5) The President of the North Carolina Association of Educators, or the President's designee.

Any vacancy shall be filled by the officer who made the original appointment.

**SECTION 30.20.(c)** The Commission shall study the plan design, funding, and administration of the Disability Income Plan of North Carolina established pursuant to Article 6 of Chapter 135 of the General Statutes, the Death Benefit Plan established pursuant to G.S. 135-5(l), and the Separate Insurance Benefits Plan for State and Local Governmental Law Enforcement Officers established pursuant to G.S. 143-166.60 to determine what changes, if any, should be made to those Plans. The Commission shall consider what changes could be made to the Plans that would enhance the efficiency of and reduce the cost of the Plans to the State and its employees.

**SECTION 30.20.(d)** The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall designate cochairs of the Commission from among their respective appointees. The Commission shall meet upon the call of the cochairs. Members of the Commission shall receive per diem, subsistence, and travel allowance in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission, while in the discharge of official duties, may exercise all powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission shall terminate the earlier of the delivery of its final report or December 31, 2004.

**SECTION 30.20.(e)** The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building.

**SECTION 30.20.(f)** The Commission shall employ an actuary with expertise in the areas of disability income insurance and group life insurance to assist the Commission in its work pursuant to the procedure set forth in G.S. 120-32.02. This actuary shall not be a State employee or a person currently under contract with the State to provide services. If necessary, the Commission may hire other employees as provided in G.S. 120-32.02.

**SECTION 30.20.(g)** The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

**SECTION 30.20.(h)** The Commission shall submit a report of the results of its study, including any legislative recommendations, to the General Assembly not later than January 1, 2005.

**SECTION 30.20.(i)** Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds to implement the provisions of subsections (a) through (i) of this section.

**SECTION 30.20.(j)** G.S. 135-101(6) reads as rewritten:

"(6) "Disability" or "Disabled" shall mean the ~~mental or physical incapacity for the further performance of duty of a participant or beneficiary;~~ physical or cognitive limitations that prevent working as determined by the Department of State Treasurer and the Board of Trustees; provided that such incapacity was not the result of terrorist activity, active participation in a riot, committing or attempting to commit a felony, or intentionally self-inflicted injury.

**SECTION 30.20.(k)** G.S. 135-105(a) reads as rewritten:

"(a) Any participant who becomes disabled and ~~is no longer able to perform his usual occupation~~ is unable to perform the duties of the participant's job or any other available jobs with the State may, after at least 365 calendar days succeeding his date of initial employment as a teacher or employee and at least one year of contributing membership service, receive a benefit commencing on the first day succeeding the waiting period; provided that the participant's employer and attending physician shall certify that such participant ~~is mentally or physically incapacitated for the further performance of duty,~~ cannot perform the duties of the participant's job or any other jobs available with the State, that such incapacity was incurred at the time of active employment and has been continuous thereafter; provided further that the requirement for one year of contributing membership service must have been earned within 36 calendar months immediately preceding the date of disability and further, salary continuation used during the period as provided in G.S. 135-104 shall count toward the aforementioned one year requirement.

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article."

**SECTION 30.20.(l)** G.S. 135-106(a) reads as rewritten:

"(a) Upon the application of a beneficiary or participant or of his legal representative or any person deemed by the Board of Trustees to represent the participant or beneficiary, any beneficiary or participant who has had five or more years of membership service may receive long-term disability benefits from the Plan upon approval by the Board of Trustees, commencing on the first day succeeding the conclusion of the short-term disability period provided for in G.S. 135-105, provided the beneficiary or participant makes application for such benefit within 180 days after the short-term disability period ceases, after salary continuation payments cease, or after monthly payments for Workers' Compensation cease, whichever is later; Provided, that the beneficiary or participant withdraws from active service by terminating employment as a teacher or State employee; Provided, that the Medical Board shall certify that such beneficiary or participant ~~is mentally or physically incapacitated for the further performance of duty,~~ unable to perform any occupation for which the beneficiary or participant is reasonably qualified for by training or experience, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent; Provided further that the Medical Board shall not certify any beneficiary or participant as disabled who is in receipt of any payments on account of the same incapacity which existed when the beneficiary first established membership in the Retirement System. The Board of Trustees may extend this 180-day filing requirement upon receipt of clear and convincing evidence that application was

delayed through no fault of the disabled beneficiary or participant and was delayed due to the employers' miscalculation of the end of the 180-day filing period. However, in no instance shall the filing period be extended beyond an additional 180 days.

The Board of Trustees may require each beneficiary who becomes eligible to receive a long-term disability benefit to have an annual medical review or examination for the first five years and thereafter once every three years after the commencement of benefits under this section. However, the Board of Trustees may require more frequent examinations and upon the advice of the Medical Board shall determine which cases require such examination. Should any beneficiary refuse to submit to any examination required by this subsection or by the Medical Board, his long-term disability benefit shall be suspended until he submits to an examination, and should his refusal last for one year, his benefit may be terminated by the Board of Trustees. If the Medical Board finds that a beneficiary is no longer ~~mentally or physically incapacitated for the further performance of duty, the Medical Board shall so certify this finding to the Board of Trustees, and~~ unable to perform any occupation for which the beneficiary or participant is reasonably qualified for by training or experience, the Department of State Treasurer and the Board of Trustees may terminate the beneficiary's long-term disability benefits effective on the last day of the month in which the Medical Board certifies that the beneficiary is no longer disabled.

As to the requirement of five years of membership service, any participant or beneficiary who does not have five years of membership service within the 96 calendar months prior to conclusion of the short-term disability period or cessation of salary continuation payments, whichever is later, shall not be eligible for long-term disability benefits.

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article."

**SECTION 30.20.(m)** Subsections (j) though (l) of this section apply only to persons who are not vested in the disability plan in question on July 1, 2003.

## **STUDY ESTABLISHMENT OF STATEWIDE BENEFIT COMMITTEE TO PROVIDE A MENU OF PORTABLE SUPPLEMENTAL BENEFITS FOR ALL STATE EMPLOYEES**

**SECTION 30.21.(a)** There is established a Study Commission on Establishment of a Statewide Benefit Committee to Provide a Menu of Portable Supplemental Benefits for all State Employees.

**SECTION 30.21.(b)** The Commission shall be comprised of nine members as follows:

- (1) Four persons appointed by the President Pro Tempore of the Senate. At least one of these appointees shall be a State employee.
- (2) Four persons appointed by the Speaker of the House of Representatives. At least one of these appointees shall be a State employee.
- (3) The Director of the Office of State Personnel.

Any vacancy shall be filled by the officer who made the original appointment.

**SECTION 30.21.(c)** The Commission shall study whether there should be established a Statewide Benefit Committee to provide a menu of portable supplemental benefits for all State employees, rather than the current system of a committee in each payroll unit.

**SECTION 30.21.(d)** The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall designate cochairs of the Commission from among their respective appointees. The Commission shall meet upon the call of

the cochairs. Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission, while in the discharge of official duties, may exercise all powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission shall terminate the earlier of the delivery of its final report or December 31, 2004.

**SECTION 30.21.(e)** The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building.

**SECTION 30.21.(f)** The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

**SECTION 30.21.(g)** The Commission shall submit a report of the results of its study, including any legislative recommendations, to the General Assembly not later than January 1, 2005.

**SECTION 30.21.(h)** Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds to implement the provisions of subsections (a) through (g) of this section.

**PART XXXI. CAPITAL APPROPRIATIONS**

**CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 31.1.** There is appropriated from the General Fund for the 2003-2004 fiscal year the following amount for capital improvements:

	<b>2003-2004</b>
Department of Environment and Natural Resources	
Water Resources Development Projects	\$27,601,000
<b>TOTAL CAPITAL APPROPRIATION</b>	<b>\$27,601,000</b>

**WATER RESOURCES DEVELOPMENT PROJECT FUNDS**

**SECTION 31.2.(a)** The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

<b>Name of Project</b>	<b>2003-2004</b>
(1) Wilmington Harbor Deepening	\$6,800,000
(2) Morehead City Harbor Maintenance	100,000
(3) Morehead City Harbor Section 933 Nourishment	4,661,000
(4) Wilmington Harbor Maintenance	2,700,000
(5) Manteo (Shallowbag) Bay Channel Maintenance	3,500,000
(6) John H. Kerr Reservoir Operations Evaluation	200,000
(7) Beaufort Harbor Maintenance Dredging	80,000
(8) Carolina Beach Renourishment (New Hanover County)	1,125,000
(9) Kure Beach Renourishment (New Hanover County)	1,177,000
(10) Ocean Isle Beach Renourishment (Brunswick County)	813,000
(11) Bogue Banks Shore Protection Study (Carteret County)	200,000
(12) Surf City/North Topsail Beach Protection Study	150,000
(13) Princeville Flood Control Study	400,000
(14) West Onslow Beach (Topsail)	75,000

(15)	Deep Creek (Yadkin County) Watershed Management	1,500,000
(16)	State Local Projects	2,500,000
(17)	Currituck Sound Water Management Study	150,000
(18)	Aquatic Weed Control, Lake Gaston and Statewide	300,000
(19)	Swan Quarter (Hyde County) Flood Control Dikes	100,000
(20)	Little Sugar Creek Restoration (Mecklenburg County)	20,000
(21)	Neuse River Basin Feasibility Study	100,000
(22)	Environmental Restoration Projects	700,000
(23)	Projected Feasibility Studies	100,000
(24)	Planning Assistance to Communities	150,000

**TOTAL**

**\$27,601,000**

**SECTION 31.2.(b)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2003-2004 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) Corps of Engineers project feasibility studies.
- (2) Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2003-2004.
- (3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2004-2005 fiscal year.

**SECTION 31.2.(c)** The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

**SECTION 31.2.(d)** Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach renourishment projects for the 2003-2004 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from General Fund appropriations to match the federal funds.

**PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

**SECTION 31.3.** The appropriations made by the 2003 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation

period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2003 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2003 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

### **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS**

**SECTION 31.4.** When each capital improvement project appropriated by the 2003 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under a construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

### **EXPENDITURES OF FUNDS FROM THE RESERVE FOR REPAIRS AND RENOVATIONS**

**SECTION 31.5.** Of the funds in the Reserve for Repairs and Renovations for the 2003-2004 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

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

Notwithstanding G.S. 143-15.3A, the Office of State Budget and Management shall allocate funds from the Reserve to complete the construction of State-owned facilities that are partially completed; the remainder of funds shall be allocated for other repairs and renovations projects.

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

#### **PROJECT COST INCREASE**

**SECTION 31.7.** Upon the request of the administration of a State agency, department, or institution, the Director of the Budget may, when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

#### **NEW PROJECT AUTHORIZATION**

**SECTION 31.8.** Upon the request of the administration of any State agency, department, or institution, the Director of the Budget may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the construction of a capital improvement project pursuant to this section, the Director shall consult with the Joint Legislative Commission on Governmental Operations.

#### **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

**SECTION 31.9.** Funds that become available by gifts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly, or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

#### **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

**SECTION 31.10.** Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 2003 General Assembly may be expended only for specific projects set out by the 2003 General Assembly and for no other purpose. Construction of all capital improvement projects enumerated by the 2003 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund as authorized in this act. This deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the

Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

## **INTENT TO FUND PARTIALLY COMPLETED CAPITAL PROJECTS**

**SECTION 31.11.** It is the intent of the General Assembly that future appropriations for capital improvements shall include funding for new projects only after full funding for partially completed projects has been restored.

## **PART XXXII. REGULATORY FEE FOR UTILITIES COMMISSION**

### **REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 32.1.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2003.

**SECTION 32.1.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2003-2004 fiscal year is two hundred thousand dollars (\$200,000).

**SECTION 32.1.(c)** This section becomes effective July 1, 2003.

## **PART XXXIII. INSURANCE REGULATORY CHARGE**

### **INSURANCE REGULATORY CHARGE**

**SECTION 33.1.(a)** The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five percent (5%) for the 2003 calendar year.

**SECTION 33.1.(b)** This section is effective when it becomes law.

## **PART XXXIV. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES**

### **DIVISION OF FACILITIES SERVICES FEES**

**SECTION 34.1.(a)** G.S. 131D-2(b)(1) reads as rewritten:

"(b) Licensure; inspections. –

(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of one hundred twenty-five dollars (\$125.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual license fee in the amount of one hundred seventy-five dollars (\$175.00) plus a nonrefundable annual per-bed fee of six dollars and twenty-five cents (\$6.25). A license shall not be renewed if outstanding ~~fees-fees, fines,~~ fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional



license for a period of not more than 90 days whenever the Department finds that:

- a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;
- b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

- a. The Department finds that:
  1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
  2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- b. The Department finds that:
  1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
  2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or
- c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

**SECTION 34.1.(b)** This section becomes effective October 1, 2003.

**SECTION 34.2.(a)** G.S. 131E-77(d) reads as rewritten:

"(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a

nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

<u>Facility Type</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
<u>General Acute Hospitals:</u>	<u>1-49 beds</u>	<u>\$125.00</u>	<u>\$6.25</u>
	<u>50-99 beds</u>	<u>\$175.00</u>	<u>\$6.25</u>
	<u>100-199 beds</u>	<u>\$225.00</u>	<u>\$6.25</u>
	<u>200-399 beds</u>	<u>\$275.00</u>	<u>\$6.25</u>
	<u>400-699 beds</u>	<u>\$375.00</u>	<u>\$6.25</u>
	<u>700+ beds</u>	<u>\$475.00</u>	<u>\$6.25</u>
<u>Other Hospitals:</u>		<u>\$250.00</u>	<u>\$6.25"</u>

**SECTION 34.2.(b)** This section becomes effective October 1, 2003.

**SECTION 34.3.(a)** G.S. 131E-102(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of two hundred twenty-five dollars (\$225.00) plus a nonrefundable annual per-bed fee of six dollars and twenty-five cents (\$6.25)."

**SECTION 34.3.(b)** This section becomes effective October 1, 2003.

**SECTION 34.4.(a)** G.S. 131E-138(c) reads as rewritten:

"(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of one hundred seventy-five dollars (\$175.00)."

**SECTION 34.4.(b)** This section becomes effective October 1, 2003.

**SECTION 34.5.(a)** G.S. 131E-147(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of three hundred fifty dollars (\$350.00) plus a nonrefundable annual per-operating room fee in the amount of twenty-five dollars (\$25.00)."

**SECTION 34.5.(b)** This section becomes effective October 1, 2003.

**SECTION 34.6.(a)** G.S. 131E-167(a) reads as rewritten:

"(a) Applications for certification shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A certificate shall be granted to the applicant for a period not to exceed ~~two years~~ one year upon a determination by the Department that the applicant has substantially complied with the provisions of this Article and the rules promulgated by the Department under this Article. The Department shall charge the applicant a nonrefundable annual certification fee in the amount of one hundred twenty-five dollars (\$125.00)."

**SECTION 34.6.(b)** This section becomes effective October 1, 2003.

**SECTION 34.7.(a)** Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform abortions.**

The Department of Health and Human Services shall charge each hospital or clinic certified by the Department as a facility suitable for the performance of abortions, as authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of three hundred fifty dollars (\$350.00)."

**SECTION 34.7.(b)** This section becomes effective October 1, 2003.

**SECTION 34.8.(a)** G.S. 122C-23 is amended by adding the following new subsection to read:

"(h) The Department shall charge facilities licensed under this Chapter that have licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

<u>Type of Facility</u>	<u>Number of Beds</u>	<u>Base Fee</u>	<u>Per-Bed Fee</u>
<u>Facilities (non-ICF/MR):</u>	<u>6 or fewer beds</u>	<u>\$125.00</u>	<u>\$0</u>
	<u>More than 6 beds</u>	<u>\$175.00</u>	<u>\$6.25</u>
<u>ICF/MR Only:</u>	<u>6 or fewer beds</u>	<u>\$325.00</u>	<u>\$0</u>
	<u>More than 6 beds</u>	<u>\$325.00</u>	<u>\$6.25"</u>

**SECTION 34.8.(b)** This section becomes effective October 1, 2003.

**SECTION 34.9.(a)** Part 3 of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in continuing care retirement communities.**

The Department shall charge continuing care retirement communities licensed under Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult care home beds licensed by the Department a nonrefundable annual base license fee in the amount of two hundred twenty-five dollars (\$225.00) plus a nonrefundable annual per-bed fee in the amount of six dollars and twenty-five cents (\$6.25)."

**SECTION 34.9.(b)** This section becomes effective October 1, 2003.

**SECTION 34.10.** Reserved.

**SECTION 34.11.(a)** Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

**"§ 131E-267. Fees for departmental review of health care facility construction projects.**

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed twelve thousand five hundred dollars (\$12,500) for any single project:

<u>Institutional Project</u>	<u>Project Fee</u>
<u>Hospitals</u>	<u>\$150.00 plus \$0.10/square foot of project space</u>
<u>Nursing Homes</u>	<u>\$125.00 plus \$0.08/square foot of project space</u>
<u>Ambulatory Surgical Facility</u>	<u>\$100.00 plus \$0.08/square foot of project space</u>
<u>Psychiatric Hospital</u>	<u>\$100.00 plus \$0.08/square foot of project space</u>
<u>Adult Care Home more than 7 beds</u>	<u>\$87.00 plus \$0.05/square foot of project space</u>

<u>Residential Project</u>	<u>Project Fee</u>
<u>Family Care Homes</u>	<u>\$87.00 flat fee</u>
<u>ICF/MR Group Homes</u>	<u>\$137.00 flat fee</u>
<u>Group Homes: 1-3 beds</u>	<u>\$50.00 flat fee</u>
<u>Group Homes: 4-6 beds</u>	<u>\$87.00 flat fee</u>
<u>Group Homes: 7-9 beds</u>	<u>\$112.00 flat fee</u>
<u>Other residential:</u>	
<u>More than 9 beds</u>	<u>\$112.00 plus \$0.038/square foot of project space."</u>

**SECTION 34.11.(b)** This section becomes effective October 1, 2003.

## **DIVISION OF CHILD DEVELOPMENT FEES**

**SECTION 34.12.(a)** G.S. 110-90 reads as rewritten:

**"§ 110-90. Powers and duties of Secretary of Health and Human Services.**

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

- (1) To administer the licensing program for child care facilities.
- (1a) To establish a fee for the licensing of child care centers. The fee does not apply to a religious-sponsored child care center operated pursuant to a letter of compliance. The amount of the fee may not exceed the amount listed in this subdivision.

<u>Capacity of Center</u>	<u>Maximum Fee</u>
<u>12 or fewer children</u>	<u>\$ 35.00</u>
<u>13-50 children</u>	<u>\$125.00</u>
<u>51-100 children</u>	<u>\$250.00</u>
<u>101 or more children</u>	<u>\$400.00</u>

- (2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.
- (3) To employ the administrative personnel and staff as may be necessary to implement this Article where required services, inspections or reports are not available from existing State agencies and units of local government.
- (4) To issue a rated license to any child care facility which meets the standards established by this Article. The rating shall be based on program standards, education levels of staff, and compliance history of the child care facility.
- (5) To revoke the license of any child care facility that ceases to meet the standards established by this Article and rules on these standards adopted by the Commission, or that demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.
- (7) To promote and coordinate educational programs and materials for operators of child care facilities which are designed to improve the quality of child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.
- (8) Repealed by Session Laws 1997-506, s. 5.
- (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation, or suspension of a license or the levying of a civil or administrative penalty.
- (11) To issue a license to any child care arrangement that does not meet the definition of child care facility in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission and voluntarily

applies for a child care facility license. The Commission shall adopt rules for the issuance or removal of the licenses."

**SECTION 34.12.(b)** This section becomes effective October 1, 2003.

#### **DIVISION OF PUBLIC HEALTH FEE**

**SECTION 34.13.(a)** G.S. 130A-5 is amended by adding the following new subdivision to read:

"(15) To establish a fee not to exceed the cost of analyzing clinical Pap smear specimens sent to the State Laboratory by local health departments and State-owned facilities and for reporting the results of the analysis. This fee shall be in addition to the charge for the Pap smear test kit."

**SECTION 34.13.(b)** This section becomes effective July 1, 2003.

#### **PART XXXV. FEES FOR DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

##### **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FEES**

**SECTION 35.1.(a)** G.S. 113-34 reads as rewritten:

"§ 113-34. **Power to acquire lands as State forests, parks, etc.; ~~and other recreational areas; donations or leases by United States; leases for recreational purposes; rules governing public use purposes.~~**

(a) ~~The Governor of the State is authorized to may, upon recommendation of the Department Department, accept gifts of land to the State, the same State to be held, protected, and administered by the Department as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as refuges for game. The gifts of land must be absolute except in cases where the mineral interest on the land has previously been sold. The Department shall have the power to may purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, for experimental, demonstration, educational, park, and protection purposes, using for such these purposes any special appropriations or funds available. The Department shall also have the power to may acquire by condemnation under the provisions of Chapter 40A of the General Statutes, areas of land in different sections of the State as that may in the opinion of the Department be necessary for the purpose of establishing or developing, or both, developing State forests, State parks parks, and other areas and developments essential to the effective operation of the State forestry and State park activities with which the Department has been or may be entrusted under its charge. Condemnation proceedings shall be instituted and prosecuted in the name of the State of North Carolina, State, and any property so acquired shall be administered, developed developed, and used for experiment and demonstration in forest management, for public recreation recreation, and for other purposes authorized or required by law: Provided, that before law. Before any action or proceeding under this section can be exercised, the approval of the Governor and Council of State shall be obtained and filed with the clerk of the superior court in the county or counties where the property may be situated, and until approval is obtained, the rights and powers conferred by this section shall not be exercised. is located. The Attorney General of the State is directed to see shall ensure that all deeds to the State for land mentioned in acquired under this section are properly executed before the gift is accepted or payment of the purchase money is made.~~

(b) The Department may accept as gifts to the State of North Carolina any forest and submarginal farmland acquired by the federal government as may be that is suitable for the purpose of creating and maintaining State controlled State forests, game refuges, public shooting grounds, State parks, State lakes, and other recreational areas, or to enter into longtime leases with the federal government for such the areas and administer

them with funds as ~~may be~~ secured from their administration in the best interest of longtime public use, supplemented by any ~~necessary~~ appropriations as ~~may be~~ made by the General Assembly. The Department may segregate revenue derived from State hunting and fishing licenses, use permits, and concessions and other proper revenue secured through the administration of such State forests, game refuges, public shooting grounds, State parks, State lakes, and other recreational areas to be deposited in the State treasury to the credit of the Department to be used for the administration of these areas.

(c) The Department, with the approval of the Governor and Council of State, may enter into leases of lands and waters for State parks, State ~~lakes~~ lakes, and recreational purposes; ~~and the Department may construct, operate, and maintain on the lands and waters suitable public service facilities and conveniences and may charge and collect reasonable fees for each of the following:~~

- (1) ~~The erection, maintenance and use of docks, piers and other structures as may be permitted in or on the waters under its own rules.~~
- (2) ~~Fishing privileges in the waters, provided that the privileges shall be extended only to holders of bona fide North Carolina fishing licenses, and provided further that all State fishing laws and rules are complied with purposes.~~

(d) ~~The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the waters but shall not charge or collect fees for the operation or use of boats or other craft.~~

(e) ~~The Department may make reasonable rules for the regulation of the public use of the lands and waters and of public service facilities and conveniences constructed thereon, and the rules shall have the force and effect of law and any violation of the rules shall constitute a Class 3 misdemeanor.~~

(f) ~~The authority herein granted to the Department under this section is in addition to other any authority now held and exercised by granted to the Department.~~ Department under any other provision of law."

**SECTION 35.1.(b)** G.S. 113-35 reads as rewritten:

**"§ 113-35. State timber may be sold by ~~Department of Environment and Natural Resources; Department;~~ forest nurseries; control over parks, etc.; parks; operation of public service facilities; concessions to private concerns.~~concerns; authority to charge fees and adopt rules.~~**

(a) Timber and other products of ~~such State forestlands~~ forests may be sold, ~~cut,~~ and removed under rules of the Department. The Department ~~shall have authority to~~ may establish and operate forest tree nurseries and forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards may be sold to landowners of the State for purposes of forestation under rules ~~of adopted by the~~ Department. When the Secretary determines that a surplus of seedlings or seed exists, this surplus may be sold, and ~~such the~~ sale shall be in conformity with the following priority of sale: first, to agencies of the federal government for planting in the State of North Carolina; second, to commercial nurseries and nurserymen within this State; and third, without distinction, to federal agencies, to other states, and to recognized research organizations for planting either within or outside of this State. The Department shall make reasonable rules ~~for the regulation of governing~~ the use by the public of ~~such and all~~ State forests, State parks, State lakes, game ~~refuges~~ refuges, and public shooting grounds under its ~~charge, which rules, after having been charge.~~ charge. These rules shall be posted in conspicuous places on and adjacent to ~~such the~~ properties of the State and at the courthouse of the county or counties in which ~~such the~~ properties are ~~situated~~ located. A violation of ~~such these~~ these rules shall ~~constitute~~ is punishable as a Class 3 misdemeanor.

(a1) The Department may adopt rules under which the Secretary may issue a special-use permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions. The rules shall require that experts supervise the use of pyrotechnics

and that written authorization for the use of pyrotechnics be obtained from the board of commissioners of the county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may impose any conditions on a permit that the Secretary determines to be necessary to protect public health, safety, and welfare. These conditions ~~include, but are not limited to,~~ shall include a requirement that the permittee execute an indemnification agreement with the Department and obtain general liability insurance covering personal injury and property damage that may result from the use of pyrotechnics with policy limits ~~as determined by the Secretary.~~

(b) The Department may ~~construct and operate~~ construct, operate, and maintain within the State forests, State parks, State lakes ~~lakes,~~ and ~~any~~ other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of ~~same;~~ it these facilities and conveniences. The Department may also charge and collect reasonable fees for: for each of the following:

- (1) The erection, ~~maintenance~~ maintenance, and use of docks, piers ~~piers,~~ and ~~such any~~ other structures ~~as may be permitted in or on State lakes under its own rules;~~ rules adopted by the Department.
- (2) Hunting privileges on State forests and fishing privileges in State forests, State parks ~~parks,~~ and State lakes, provided that ~~such these~~ privileges shall be extended only to holders of ~~bona fide North Carolina State~~ hunting and fishing licenses, ~~and provided further that licenses who comply with~~ all State game and fish ~~laws are complied with laws.~~ licenses who comply with all State game and fish laws.
- (3) Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.

(c) The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the ~~said waters~~ under its charge but shall not be ~~authorized to charge or collect fees for such their~~ operation or use.

(d) The Department may ~~also grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department shall deem~~ deems to be in the public interest. The Department may ~~make adopt~~ reasonable rules for the regulation of the use by the public of the lands and waters under its charge and of the public service facilities and conveniences herein authorized, which rules shall have the force and effect of law, and any authorized under this section. A violation of such these rules shall constitute is punishable as a Class 3 misdemeanor.

(e) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law."

**SECTION 35.1.(c)** Notwithstanding G.S. 150B-21.1, the Department of Environment and Natural Resources may adopt temporary rules to establish fees under G.S. 113-35(b)(3), as amended by subsection (b) of this section, within six months after the effective date of this section.

**SECTION 35.1.(d)** This section becomes effective July 1, 2003.

**SECTION 35.1A.(a)** G.S. 113-35(b), as amended in Section 35.1(b) of this act, reads as rewritten:

"(b) The Department may construct, operate, and maintain within the State forests, State parks, State lakes, and other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of these facilities and conveniences. The Department may also charge and collect reasonable fees for each of the following:

- (1) The erection, maintenance, and use of docks, piers, and any other structures permitted in or on State lakes under rules adopted by the Department.
- (2) Hunting privileges on State forests and fishing privileges in State forests, State parks, and State lakes, provided that these privileges shall

be extended only to holders of State hunting and fishing licenses that comply with all State game and fish laws.

(3) Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.

(4) The erection, maintenance, and use of a marina at Carolina Beach."

**SECTION 35.1A.(b)** G.S. 113-35(c), as amended in Section 35.1(b) of this act, reads as rewritten:

"(c) The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the waters under its charge, ~~but shall not charge or collect fees for their operation or use.~~charge. The Department may charge and collect reasonable fees for the use of boats and other watercraft that are purchased and maintained by the Department; however, the Department shall not charge a fee for the use or operation of any other boat or watercraft on these waters."

**SECTION 35.1A.(c)** The Department of Environment and Natural Resources may adopt temporary rules to increase fees under G.S. 113-35, as amended by subsections (a) and (b) of this section, for the use of public service facilities and conveniences located in State forests, State parks, State lakes, and other areas under the charge of the Division of Parks and Recreation.

**SECTION 35.1A.(d)** This section becomes effective July 1, 2003.

**SECTION 35.2.(a)** G.S. 130A-294.1(e) reads as rewritten:

"(e) A person who generates either one kilogram or more of any acute hazardous waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) as revised 1 July 1987, or 1000 kilograms or more of hazardous waste, in any calendar month during the year beginning 1 July and ending 30 June shall pay an annual fee of ~~five hundred dollars (\$500.00).~~one thousand dollars (\$1,000)."

**SECTION 35.2.(b)** G.S. 130A-294.1(f) reads as rewritten:

"(f) A person who generates 100 kilograms or more of hazardous waste in any calendar month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of hazardous waste in each calendar month during that year shall pay an annual fee of ~~twenty five dollars (\$25.00).~~one hundred twenty-five dollars (\$125.00)."

**SECTION 35.2.(c)** This section becomes effective July 15, 2003.

## **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES FEES**

**SECTION 35.3.(a)** The budget for the Department of Agriculture and Consumer Services reflects increases made by the Department to fees established under G.S. 106-6.1 for animal disease diagnostic tests and services.

**SECTION 35.3.(b)** The Board of Agriculture may adopt temporary rules to increase the fee to be collected under G.S. 106-420 for nursery dealer certification.

**SECTION 35.3.(c)** This section becomes effective July 1, 2003.

## **PESTICIDE FEES**

**SECTION 35.4.(a)** G.S. 143-452(b) reads as rewritten:

"(b) Applications for pesticide applicator license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a non-refundable fee of ~~thirty dollars (\$30.00)~~fifty dollars (\$50.00) for each pesticide applicator's license. In addition, an annual inspection fee of ~~ten dollars (\$10.00)~~twenty-five dollars (\$25.00) shall be submitted for each aircraft to be licensed. Should any aircraft fail to pass inspection, making it necessary for a second inspection to be made, the Board shall require an additional ~~ten dollar (\$10.00)~~twenty-five dollar (\$25.00) inspection fee. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with the laws and regulations. All aircraft licensed to apply pesticides shall be identified by a license plate or decal furnished by the Board at no cost to the licensee, which plate or decal shall be affixed on the aircraft in a location and manner prescribed by the Board. No applicator inspection or license fee, original or



renewal, shall be charged to State agencies or local governments or their employees. Inspections of ground pesticide application equipment may be made. Any such equipment determined to be faulty or unsafe shall not be used for the purpose of applying a pesticide(s) until such time as proper repairs and/or alterations are made."

**SECTION 35.4.(b)** G.S. 143-448(b) reads as rewritten:

"(b) Applications for a pesticide dealer license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a non-refundable fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00). All licenses issued under this Part shall expire on December 31 of the year for which they are issued."

**SECTION 35.4.(c)** G.S. 143-448(c) reads as rewritten:

"(c) The license for a pesticide dealer may be renewed annually upon application to the Board, accompanied by a fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00) for each license, on or before the first day of January of the calendar year for which the license is issued."

**SECTION 35.4.(d)** G.S. 143-455(a) reads as rewritten:

"(a) No person shall perform services as a pest control consultant without first procuring from the Board a license. Applications for a consultant license shall be in the form and shall contain the information prescribed by the Board. The application for a license shall be accompanied by a non-refundable annual fee of ~~thirty dollars (\$30.00)~~ fifty dollars (\$50.00)."

**SECTION 35.4.(e)** G.S. 143-442(b) reads as rewritten:

"(b) The applicant shall pay an annual registration fee of ~~thirty dollars (\$30.00)~~ one hundred dollars (\$100.00) plus an additional annual assessment for each brand or grade of pesticide registered. The annual assessment shall be fifty dollars (\$50.00) if the applicant's gross sales of the pesticide in this State for the preceding 12 months for the period ending September 30th were more than five thousand dollars (\$5,000.00) and twenty-five dollars (\$25.00) if gross sales were less than five thousand dollars (\$5,000.00). An additional two hundred dollars (\$200.00) delinquent registration penalty shall be assessed against the registrant for each brand or grade of pesticide which is marketed in North Carolina prior to registration as required by this Article. In the case of multi-year registration, the annual fee and additional assessment for each year shall be paid at the time of the initial registration. The Board shall give a pro rata refund of the registration fee and additional assessment to the registrant in the event that registration is canceled by the Board or by the United States Environmental Protection Agency."

**SECTION 35.4.(f)** This section becomes effective July 15, 2003.

## **PART XXXV-A. DEPARTMENT OF CULTURAL RESOURCES FEES**

### **DEPARTMENT OF CULTURAL RESOURCES FEES**

**SECTION 35A.1.** G.S. 105-129.35 reads as rewritten:

**"§ 105-129.35. Credit for rehabilitating income-producing historic structure.**

(a) Credit. – A taxpayer who is allowed a federal income tax credit under section 47 of the Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed a credit equal to twenty percent (20%) of the expenditures that qualify for the federal credit. To claim the credit allowed by this subsection, the taxpayer must provide a copy of the certification obtained from the State Historic Preservation Officer verifying that the historic structure has been rehabilitated in accordance with this subsection.

(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as the amount of credit allocated to an owner does not exceed the owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in

which the certified historic structure is placed in service. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15.

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

- (1) Certified historic structure. – Defined in section 47 of the Code.
- (2) Pass-through entity. – An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.
- (3) Qualified rehabilitation expenditures. – Defined in section 47 of the Code.
- (4) State Historic Preservation Officer. – Defined in G.S. 105-129.6."

**SECTION 35A.2.** G.S. 105-129.36(c) is recodified as G.S. 105-129.36A and reads as rewritten:

**"§ 105-129.36A. Rules.** ~~Rules; fees.~~

(a) Rules. – The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt rules needed to administer the certification process required by this section.

(b) Fees. – The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt a schedule of fees for providing certifications required by this Article. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department of Cultural Resources. An application fee may not exceed one percent (1%) of the completed qualifying rehabilitation expenditures. The proceeds of the fees are receipts of the Department of Cultural Resources and must be used for performing its duties under this Article.

**SECTION 35A.3.** G.S. 105-129.36(a) reads as rewritten:

"(a) Credit. – A taxpayer who is not allowed a federal income tax credit under section 47 of the Code and who makes rehabilitation expenses for a State-certified historic structure located in this State is allowed a credit equal to thirty percent (30%) of the rehabilitation expenses. To qualify for the credit, the taxpayer's rehabilitation expenses must exceed twenty-five thousand dollars (\$25,000) within a 24-month period. To claim the credit allowed by this subsection, the taxpayer must ~~attach to the return~~ provide a copy of the certification obtained from the State Historic Preservation Officer verifying that the historic structure has been rehabilitated in accordance with this subsection."

**SECTION 35A.4.** Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

**"§ 121-7.3. Admission fees.**

The Department of Cultural Resources may charge a reasonable admission fee to any museum administered by the Department. Admission fees collected under this section are receipts of the Department and shall be deposited in a nonreverting account. The Department shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 2004, and shall deposit these receipts into the account. Funds in the account shall be used to support a portion of each museum's operation. The Secretary may adopt rules necessary to carry out the provisions of this section. The Department shall provide a quarterly report to the Joint Legislative Commission on Governmental

Operations as to the Department's or museums' anticipated use of funds or expenditures of funds pursuant to this section."

**SECTION 35A.5.** This part becomes effective July 15, 2003.

## **PART XXXV-B. SECRETARY OF STATE FEES**

### **SECRETARY OF STATE FEES**

**SECTION 35B.1.(a)** G.S. 25-9-525(a) reads as rewritten:

"(a) Initial financing statement or other record: general rule. – Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this Part is:

- (1) Thirty-eight dollars (\$38.00)~~Thirty dollars (\$30.00)~~ if the record is communicated in writing and consists of one or two pages;
- (2) Forty-five dollars (\$45.00) if the record is communicated in writing and consists of more than two pages, plus two dollars (\$2.00) for each page over 10 pages; and
- (3) Thirty dollars (\$30.00) if the record is communicated by another medium authorized by filing-office rule."

**SECTION 35B.1.(b)** G.S. 25-9-525(d) reads as rewritten:

"(d) Response to information request. – The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

- (1) Thirty-eight dollars (\$38.00)~~Thirty dollars (\$30.00)~~ if the request is communicated in writing; and
- (2) Thirty dollars (\$30.00) if the request is communicated by another medium authorized by filing-office rule.

Upon request the filing office shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of two dollars (\$2.00) per page. This subsection does not require that a fee be charged for remote access searching of the filing office database."

**SECTION 35B.1.(c)** This section becomes effective July 15, 2003.

**SECTION 35B.2.(a)** G.S. 78A-31(b) reads as rewritten:

"(b) With regard to any security that is covered under section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(4)(d)), the Administrator, by rule or order, may require the issuer to file a notice on SEC Form D (17 C.F.R. § 239.500) and a consent to service of process signed by the issuer no later than 15 days after the first sale of the security in this State. There is established a fee of ~~one hundred fifty dollars (\$150.00)~~ three hundred fifty dollars (\$350.00) to recover costs for filing required by this section."

**SECTION 35B.2.(b)** This section becomes effective July 15, 2003.

**SECTION 35B.3.(a)** G.S. 66-97(a) reads as rewritten:

"(a) The seller of every business opportunity shall file with the Secretary of State two copies of the disclosure statement required by G.S. 66-95, accompanied by a fee in the amount of ~~ten dollars (\$10.00)~~ two hundred fifty dollars (\$250.00) made payable to the Secretary of State, prior to placing any advertisement or making any other representations to prospective purchasers in this State. The seller shall update this filing as any material change in the required information occurs, but no less than annually."

**SECTION 35B.3.(b)** This section becomes effective July 15, 2003.

## **PART XXXVI. DEPARTMENT OF TRANSPORTATION FEES**

### **INCREASE DRIVERS LICENSE AND MOTORCYCLE ENDORSEMENT FEES TO FUND ADDITIONAL DIVISION OF MOTOR VEHICLE DRIVERS LICENSE EXAMINERS**

**SECTION 36.1.** G.S. 20-7(i) reads as rewritten:

"(i) Fees. – The fee for a regular drivers license is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

<u>Class of Regular License</u>	<u>Fee For Each Year</u>
Class A	<del>\$3.75</del> <u>\$4.25</u>
Class B	<del>3.75</del> <u>4.25</u>
Class C	<del>2.50</del> <u>3.00</u>

The fee for a motorcycle endorsement is one dollar and ~~twenty five cents (\$1.25)~~ seventy-five cents (\$1.75) for each year of the period for which the endorsement is issued. The appropriate fee ~~must~~ shall be paid before a person receives a regular drivers license or an endorsement."

**SECTION 36.2.** This part becomes effective November 1, 2003.

**PART XXXVI-A. JUSTICE AND PUBLIC SAFETY FEES**

**ARBITRATION FEE**

**SECTION 36A.1.** G.S. 7A-37.1 is amended by adding a new subsection to read:

"(c1) In cases referred to nonbinding arbitration as provided in this section, a fee of one hundred dollars (\$100.00) shall be assessed per arbitration, to be divided equally among the parties, to cover the cost of providing arbitrators. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the State Treasurer."

**SUPERIOR COURT FEES ROUNDING**

**SECTION 36A.2.** G.S. 7A-308(a) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

- (1) Foreclosure under power of sale in deed of trust or mortgage ..... \$60.00  
If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: forty-five cents (.45) per one hundred dollars (\$100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars (\$10.00), a minimum ten dollar (\$10.00) fee will be collected. If the amount determined by the formula is more than three hundred dollars (\$300.00), a maximum three hundred dollar (\$300.00) fee will be collected.
- (2) Proceeding supplemental to execution ..... 30.00
- (3) Confession of judgment ..... ~~22.50~~ 25.00
- (4) Taking a deposition ..... 10.00
- (5) Execution ..... ~~22.50~~ 25.00
- (6) Notice of resumption of former name ..... ~~7.50~~ 10.00
- (7) Taking an acknowledgment or administering an oath, or both, with or without seal, each certificate (except that oaths of office shall be administered to public officials without charge).....~~\$1.50~~ 2.00
- (8) Bond, taking justification or approving..... ~~7.50~~ 10.00
- (9) Certificate, under seal..... 3.00
- (10) Exemplification of records ..... ~~7.50~~ 10.00
- (11) Recording or docketing (including indexing) any document  
– first page .....6.00  
– each additional page or fraction thereof .....25

- (12) Preparation of copies
    - first page .....1.502.00
    - each additional page or fraction thereof .....25
  - (13) Preparation and docketing of transcript of judgment ..... 7.5010.00
  - (14) Substitution of trustee in deed of trust ..... 7.5010.00
  - (15) Execution of passport application – the amount allowed by federal law
  - (16) Repealed by Session Laws 1989, c. 783, s. 2.
  - (17) Criminal record search except if search is requested by an agency of the State or any of its political subdivisions or by an agency of the United States or by a petitioner in a proceeding under Article 2 of General Statutes Chapter 20 .....7.5010.00
  - (18) Filing the affirmations, acknowledgments, agreements and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110-133 .....6.00
  - (19) Repealed by Session Laws 1989, c. 783, s. 3.
  - (20) Filing a motion to assert a right of access under G.S. 1-72.1 .....30.00."
- SECTION 36A.3.** This part becomes effective August 1, 2003.

**PART XXXVII. ADJUST LOCAL GOVERNMENT HOLD HARMLESS**

**ADJUST LOCAL GOVERNMENT HOLD HARMLESS**

**SECTION 37.1.** G.S. 105-521 reads as rewritten:

**"§ 105-521. Transitional local government hold harmless.**

- (a) Definitions. – The following definitions apply in this section:
  - (1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.
  - (2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.
  - (3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.
  - (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before ~~September~~ August 15, 2003, and ~~each September 15 thereafter, August 15, 2004~~, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars (\$100.00).

On or before May 1, 2003, and ~~each May 1 thereafter, May 1, 2004~~, the Office of State Budget and Management and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the

tax under this Article for the fiscal year. If, after May 1 and before a distribution is made, a law is enacted that would affect the projection, an updated projection must be submitted as soon as practicable. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and ~~each January 31 thereafter,~~ January 31, 2005, the amount distributed under this section for the current fiscal year."

**SECTION 37.2.** It is the intent of the General Assembly that the distribution under G.S. 105-521 will be extended through 2012.

## **PART XXXVII-A. UPDATE INTERNAL REVENUE CODE REFERENCE AND ADJUST BONUS DEPRECIATION AND ESTATE TAX**

### **UPDATE INTERNAL REVENUE CODE REFERENCE**

**SECTION 37A.1.** G.S. 105-228.90(b)(1b), as amended by S.L. 2003-25, reads as rewritten:

(b) Definitions. – The following definitions apply in this Article:

(1b) Code. – The Internal Revenue Code as enacted as of ~~January-June 1,~~ 2003, including any provisions enacted as of that date which become effective either before or after that date."

### **ADJUST BONUS DEPRECIATION**

**SECTION 37A.2.** G.S. 105-134.6(c)(8) reads as rewritten:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

(8) The applicable percentage of the amount allowed as a ~~thirty percent (30%) special~~ accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a ~~thirty percent (30%) special~~ accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

Taxable Year	Percentage
2002	100%
2003	70%
2004	70%
2005 and thereafter	0%"

**SECTION 37A.3.** G.S. 105-130.5(a)(15) reads as rewritten:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...

- (15) The applicable percentage of the amount allowed as a ~~thirty percent (30%) special~~ accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a ~~thirty percent (30%) special~~ accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:

<u>Taxable Year</u>	<u>Percentage</u>
2002	100%
2003	70%
2004	70%
<u>2005</u> and thereafter	<u>0%</u> "

#### **ADJUST ESTATE TAX**

**SECTION 37A.4.** Section 30C.3(b) of S.L. 2002-126 reads as rewritten:

"**SECTION 30C.3.(b)** This section is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that date. This section is repealed effective for the estates of decedents dying on or after ~~January 1, 2004.~~ July 1, 2005."

**SECTION 37A.5.** G.S. 105-32.2(b) reads as rewritten:

"(b) Amount. – The amount of the estate tax imposed by this section for estates of decedents dying on or after January 1, 2002, is the maximum credit for state death taxes allowed under section 2011 of the Code without regard to the phase-out and termination of that credit under subdivision (b)(2) and subsection (f) of that section. If any property in the estate is located in a state other than North Carolina, the amount of tax payable depends on whether the decedent was a resident of this State at death. If the decedent was a resident of this State at death, the amount of tax due under this section is reduced by the lesser of the amount of the death tax paid the other state or an amount computed by multiplying the credit by a fraction, the numerator of which is the gross value of the estate that has a tax situs in another state and the denominator of which is the value of the decedent's gross estate. If the decedent was not a resident of this State at death, the amount of tax due under this section is an amount computed by multiplying the credit by a fraction, the numerator of which is the gross value of real property that is located in North Carolina plus the gross value of any personal property that has a tax situs in North Carolina and the denominator of which is the value of the decedent's gross estate. For purposes of this section, the gross value of property is its gross value as finally determined in the federal estate tax proceedings."

**SECTION 37A.6.** This part is effective when this act becomes law.

#### **PART XXXVIII. TEMPORARILY MAINTAIN STATE SALES TAX RATE**

##### **TEMPORARILY MAINTAIN STATE SALES TAX RATE**

**SECTION 38.1.** Section 34.13(c) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies to sales made on or after that date. This section is repealed effective for sales made on or after July 1, 2005. ~~2003.~~ This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

**PART XXXIX. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE**

**TEMPORARILY MAINTAIN UPPER INCOME TAX RATE**

**SECTION 39.1.** Effective for taxable years beginning on or after January 1, 2006, G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

- (1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	<del>\$200,000</del> NA	7.75%
<del>\$200,000</del>	NA	<del>8.25%</del>

- (2) For heads of households, as defined in section 2(b) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	<del>\$160,000</del> NA	7.75%
<del>\$160,000</del>	NA	<del>8.25%</del>

- (3) For unmarried individuals other than surviving spouses and heads of households:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	<del>\$120,000</del> NA	7.75%
<del>\$120,000</del>	NA	<del>8.25%</del>

- (4) For married individuals who do not file a joint return under G.S. 105-152:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	<del>\$100,000</del> NA	7.75%
<del>\$100,000</del>	NA	<del>8.25%</del>

**SECTION 39.2.** Section 34.18(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.18.(b)** This section becomes effective for taxable years beginning on or after January 1, 2001, and expires for taxable years beginning on or after January 1, 2004, 2001. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this section."

**PART XXXIX-A. RESERVED.**

**PART XXXIX-B. CONFORM CHILD TAX CREDIT TO FEDERAL CREDIT**

**CONFORM CHILD TAX CREDIT TO FEDERAL CREDIT**

**SECTION 39B.1.** Reserved.

**SECTION 39B.2.** G.S. 105-151.24 reads as rewritten:

"§ 105-151.24. Credit for children.



(a) Credit. – An individual who is allowed a federal child tax credit under section 24 of the Code for the taxable year and whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed below is allowed a credit against the tax imposed by this Part in an amount equal to seventy-five dollars (\$75.00) for each dependent child for whom the individual ~~was is allowed to deduct a personal exemption under section 151(c)(1)(B) of the Code~~ the federal credit for the taxable year:

<u>Filing Status</u>	<u>AGI</u>
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000.

(b) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

**SECTION 39B.3.** This part becomes effective for taxable years beginning on or after January 1, 2003.

**PART XL. RESERVED**

**PART XLI. RESERVED**

**PART XLII. RESERVED**

**PART XLIII. EQUALIZE INSURANCE TAX RATES ON ARTICLE 65 CORPORATIONS**

**EQUALIZE INSURANCE TAX RATES ON ARTICLE 65 CORPORATIONS**

**SECTION 43.1.** G.S. 105-228.5(d) reads as rewritten:

"(d) Tax Rates; Disposition. –

- (1) Workers' Compensation. – The tax rate to be applied to gross premiums, or the equivalent thereof in the case of self-insurers, on contracts applicable to liabilities under the Workers' Compensation Act is two and five-tenths percent (2.5%). The net proceeds shall be credited to the General Fund.
- (2) Other Insurance Contracts. – The tax rate to be applied to gross premiums on all other taxable contracts issued by insurers and to be applied to gross premiums and gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is one and nine-tenths percent (1.9%). The net proceeds shall be credited to the General Fund.
- (3) Additional Statewide Fire and Lightning Rate. – An additional tax shall be applied to gross premiums on contracts of insurance applicable to fire and lightning coverage, except in the case of marine and automobile policies, at the rate of one and thirty-three hundredths percent (1.33%). Twenty-five percent (25%) of the net proceeds of this additional tax shall be deposited in the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. The remaining net proceeds shall be credited to the General Fund.
- (4) Additional Local Fire and Lightning Rate. – An additional tax shall be applied to gross premiums on contracts of insurance applicable to fire and lightning coverage within fire districts at the rate of one-half of

one percent (1/2 of 1%). The net proceeds shall be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25.

- (5) ~~(Effective January 1, 2004) Article 65 Corporations. — The tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is one percent (1%). The net proceeds shall be credited to the General Fund.~~
- (6) **(Effective January 1, 2004) Health Maintenance Organizations.** – The tax rate to be applied to gross premiums on insurance contracts issued by health maintenance ~~organizations~~ organizations, including directly operated health maintenance organizations authorized under G.S. 58-67-95, is one percent (1%). The net proceeds shall be credited to the General Fund."

**SECTION 43.2.** G.S. 58-6-25(a) and (e) read as rewritten:

"(a) Charge Levied. – There is levied on each insurance company an annual charge for the purposes stated in subsection (d) of this section. The charge levied in this section is in addition to all other fees and taxes. The percentage rate of the charge is established pursuant to subsection (b) of this section. For each insurance company that is not ~~an Article 65 corporation nor~~ a health maintenance organization, the rate is applied to the company's premium tax liability for the taxable year. For ~~Article 65 corporations and~~ health maintenance organizations, the rate is applied to a premium tax liability for the taxable year calculated as if the corporation or organization were paying tax at the rate in G.S. 105-228.5(d)(2). In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

- (1) Additional taxes imposed by G.S. 105-228.8.
- (2) The additional local fire and lightning tax imposed by G.S. 105-228.5(d)(4).
- (3) Any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. 97-133(a).
- (4) Any tax credits allowed under Chapter 105 of the General Statutes other than tax payments made by or on behalf of the taxpayer.

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

- ~~(1) Article 65 corporation. — Defined in G.S. 105-228.3.~~
- (2) Insurance company. – A company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8.
- (3) Insurer. – Defined in G.S. 105-228.3."

**SECTION 43.3.** Notwithstanding the provisions of G.S. 105-228.5(f), the following provisions apply to Article 65 Corporations, as defined in G.S. 105-228.3, for the 2004 and 2005 taxable years in lieu of the provisions of G.S. 105-228.5(f):

Article 65 corporations that are subject to the tax imposed by G.S. 105-228.5 and have an estimated premium tax liability for the 2004 or 2005 taxable year, not including the additional local fire and lightning tax, of ten thousand dollars (\$10,000) or more for business done in North Carolina shall remit two estimated tax payments with each payment equal to fifty percent (50%) of the taxpayer's estimated premium tax liability for the relevant taxable year. The first estimated payment is due on or before April 15 of the relevant year and the second estimated payment is due on or before June 15 of the relevant year. The taxpayer must remit the balance by the following March 15 in the same manner provided in G.S. 105-228.5(e) for annual returns.

An underpayment of an estimated payment required by this section bears interest at the rate established under G.S. 105-241.1(i). Any overpayment bears interest as provided in G.S. 105-266(b) and, together with the interest, must be credited to the taxpayer and applied against the taxes imposed upon the company under G.S. 105-228.5.

The penalties provided in Article 9 of Chapter 105 of the General Statutes apply to the estimated tax payments required by this section.

**SECTION 43.4.** This part is effective for taxable years beginning on or after January 1, 2004. The Commissioner of Insurance must make a certification to the Secretary of Revenue and to the Revisor of Statutes when there are no Article 65 corporations that offer medical service plans or hospital service plans. This part is repealed effective for taxable years beginning on or after the January 1 immediately following the certification required by this section.

## **PART XLIII-A. CLARIFY PROPERTY TAX EXCLUSION FOR PROPERTY USED TO REDUCE COTTON DUST**

### **PROPERTY TAX EXCLUSION FOR PROPERTY USED TO REDUCE COTTON DUST**

**SECTION 43A.1.** G.S. 105-275(8)c. reads as rewritten:

"c. Tangible personal property that is used exclusively, or if being installed, is to be used exclusively, for the prevention or reduction of cotton dust inside a textile plant for the protection of the health of the employees of the plant, in accordance with occupational safety and health standards adopted by the State of North Carolina pursuant to Article 16 of G.S. Chapter 95. Notwithstanding the exclusive use requirement of this sub-subdivision, all parts of a ventilation or air conditioning system that are integrated into a system used for the prevention or reduction of cotton dust, except for chillers and cooling towers, are excluded from taxation under this sub-subdivision. The Department of Revenue shall adopt guidelines to assist the tax supervisors in administering this exclusion."

**SECTION 43A.2.** This part is effective when it becomes law.

## **PART XLIV. CONTINUE USE TAX LINE ITEM ON INCOME TAX FORM**

### **CONTINUE USE TAX LINE ITEM ON INCOME TAX FORM**

**SECTION 44.1.** Section 18 of S.L. 2000-120 reads as rewritten:

"**Section 18.** Section 7 of this act becomes effective January 1, 2001. Sections 10 and 11 of this act become effective for taxable years beginning on or after January 1, ~~2003-2005~~. The remainder of this act is effective when it becomes law."

## **PART XLV. CONFORM TO STREAMLINED SALES AND USE TAX AGREEMENT**

### **CONFORM TO STREAMLINED SALES AND USE TAX AGREEMENT**

**SECTION 45.1.** The Streamlined Sales and Use Tax Agreement is an historic multistate agreement designed to simplify and modernize sales and use tax collection and administration. The states and businesses involved in the Streamlined Sales Tax Project recognize that a simplified and uniform system saves businesses compliance and audit costs, while also saving states administrative costs and improving voluntary compliance, which should increase state collections. To participate in the Agreement, North Carolina must amend or modify some of its sales and use tax law to conform to the simplifications and uniformity in the Agreement. This part makes those necessary changes.

**SECTION 45.2.** G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

- (4a) Computer. – An electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
- (4b) Computer software. – A set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
- (5c) Custom computer software. – Computer software that is not prewritten computer software. The term includes a user manual or other documentation that accompanies the sale of the software.
- (5d) Delivered electronically. – Delivered to the purchaser by means other than tangible storage media.
- ...
- (7a) Direct mail. – Printed material delivered or distributed by the United States Postal Service or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.
- ...
- (8a) Drug. – A compound, substance, or preparation or a component of one of these that meets any of the following descriptions and is not food, a dietary supplement, or an alcoholic beverage:
- a. Is recognized in the United States Pharmacopoeia, Homeopathic Pharmacopoeia of the United States, or National Formulary.
  - b. Is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.
  - c. Is intended to affect the structure or function of the body.
- (8b) Durable medical equipment. – Equipment that meets all of the conditions of this subdivision. The term includes repair and replacement parts for the equipment. The term does not include mobility enhancing equipment.
- a. Can withstand repeated use.
  - b. Primarily and customarily used to serve a medical purpose.
  - c. Generally not useful to a person in the absence of an illness or injury.
  - d. Not worn in or on the body.
- (8c) Durable medical supplies. – Supplies related to use with durable medical equipment that are eligible to be covered under the Medicare or Medicaid program.
- (8d) Electronic. – Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- ...
- (17) Lease or rental. – A transfer, for consideration, of the use but not the ownership of property to another for a period of time. A transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. The term does not include any of the following:
- a. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.
  - b. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of

- required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100.00) or one percent (1%) of the total required payments.
- c. The providing of tangible personal property along with an operator for a fixed or indeterminate period of time if the operator is necessary for the equipment to perform as designed. For the purpose of this sub-subdivision, an operator must do more than maintain, inspect, or set up the tangible personal property.
- (17a) Load and leave. – Delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.
- ...  
 (21a) Mobility enhancing equipment. – Equipment that meets all of the conditions of this subdivision. The term includes repair and replacement parts for the equipment. The term does not include durable medical equipment.
- a. Primarily and customarily used to provide or increase the ability of an individual to move from one place to another.  
 b. Appropriate for use either in a home or motor vehicle.  
 c. Not generally used by a person with normal mobility.  
 d. Not normally provided on a motor vehicle by a motor vehicle manufacturer.
- ...  
 (25a) Over-the-counter drug. – A drug that can be dispensed under federal law without a prescription and is required by 21 C.F.R. § 210.66 to have a label containing a "Drug Facts" panel and a statement of its active ingredients.
- ...  
 (28) Prepared food. – Food that meets at least one of the following conditions: conditions of this subdivision. Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not otherwise process.
- a. It is sold in a heated state or it is heated by the retailer.  
 b. It consists of two or more foods mixed or combined by the retailer for sale as a single item. This sub-subdivision does not include foods containing raw eggs, fish, meat, or poultry that require cooking by the consumer as recommended by the Food and Drug Administration to prevent food borne illnesses.  
 c. It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws. The term does not include food the retailer sliced, repackaged, or pasteurized but did not otherwise process.
- (29) Prescription drug. – A drug that under federal law is required, prior to being dispensed or delivered, to be labeled with the following statement: "Caution: Federal law prohibits dispensing without prescription". Prescription. – An order, formula, or recipe issued orally, in writing, electronically, or by another means of transmission by a physician, dentist, veterinarian, or another person licensed to prescribe drugs.
- (29a) Prewritten computer software. – Computer software, including prewritten upgrades, that is not designed and developed by the author or another creator to the specifications of a specific purchaser. The term includes software designed and developed by the author or

another creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser.

...  
(30a) Prosthetic device. – A replacement, corrective, or supporting device worn on or in the body that meets one of the conditions of this subdivision. The term includes repair and replacement parts for the device.

- a. Artificially replaces a missing portion of the body.
- b. Prevents or corrects a physical deformity or malfunction.
- c. Supports a weak or deformed portion of the body.

...  
(46) Tangible personal property. – Personal property that may be seen, weighed, measured, felt, or touched or is in any other manner perceptible to the senses. ~~The term does not include stocks, bonds, notes, insurance, or other obligations or securities, nor does it include water delivered by or through main lines or pipes either for commercial or domestic use or consumption. The term includes computer software delivered on a storage medium, such as a cd rom, a disk, or a tape.~~The term includes electricity, water, gas, steam, and prewritten computer software."

**SECTION 45.3.** G.S. 105-164.4B reads as rewritten:

**"§ 105-164.4B. ~~Sales are sourced based on destination.~~Sourcing principles.**

(a) General Principles. – The following principles apply in determining where to source the sale of a product. These principles apply regardless of the nature of the product.

- (1) Over-the-counter. – When a purchaser receives a product at a business location of the seller, the sale is sourced to that business location.
- (2) Delivery to specified address. – When a purchaser receives a product at a location specified by the purchaser and the location is not a business location of the seller, the sale is sourced to the location where the purchaser receives the product.
- (3) Delivery address unknown. – When a seller of a product does not know the address where a product is received, the sale is sourced to the first address or location listed in this subdivision that is known to the seller:
  - a. The business or home address of the purchaser.
  - b. The billing address of the purchaser or, if the product is a prepaid telephone calling service that authorizes the purchase of mobile telecommunications service, the location associated with the mobile telephone number.
  - c. The billing address of the purchaser.

(b) Periodic Rental Payments. – When a lease or rental agreement requires recurring periodic payments, the payments are sourced as follows:

- (1) For leased or rented property, the first payment is sourced in accordance with the principles set out in subsection (a) of this section and each subsequent payment is sourced to the primary location of the leased or rented property for the period covered by the payment. This subdivision applies to all property except a motor vehicle, an aircraft, and transportation equipment.
- (2) For leased or rented property that is a motor vehicle or an aircraft but is not transportation equipment, all payments are sourced to the primary location of the leased or rented property for the period covered by the payment.

(3) For leased or rented property that is transportation equipment, all payments are sourced in accordance with the principles set out in subsection (a) of this section.

(c) Transportation Equipment Defined. – As used in the section, the term "transportation equipment" means any of the following used to carry persons or property in interstate commerce: a locomotive, a railway car, a commercial motor vehicle as defined in G.S. 20-4.01, or an aircraft. The term includes a container designed for use on the equipment and a component part of the equipment.

(d) Exceptions. – This section does not apply to the following:

(1) ~~telecommunications~~ Telecommunications services. ~~\_\_\_\_\_ – Telecommunications services are sourced in accordance with G.S. 105-164.4C.~~

(2) Direct mail. – Direct mail that meets one of the conditions of this subdivision is sourced to the location where the property is delivered. In all other cases, direct mail is sourced in accordance with the principles set out in subsection (a) of this section.

a. Direct mail purchased pursuant to a direct pay permit.

b. When the purchaser provides the seller with information to show the jurisdictions to which the direct mail is to be delivered."

**SECTION 45.4.** G.S. 105-164.6A(b) reads as rewritten:

"(b) Mandatory Provisions. – The agreements must contain the following provisions:

(1) The seller is not liable for use tax not paid to it by a customer.

(2) A customer's payment of a use tax to the seller relieves the customer of liability for the use tax.

(3) The seller must remit all use taxes it collects from customers on or before the due date specified in the agreement, which may not be later than 31 days after the end of a quarter or other collection period. The collection period cannot be more often than annually if the seller's State and local tax collections are less than one thousand dollars (\$1,000) in a calendar year.

(4) A seller who fails to remit use taxes collected on behalf of its customers by the due date specified in the agreement is subject to the interest and penalties provided in Article 9 of this Chapter with respect to the taxes to the same extent as if the seller were a retailer and were required to collect use taxes under this Article."

**SECTION 45.5.** G.S. 105-164.13 reads as rewritten:

**"§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

(12) Sales of any of the following items:

a. ~~Therapeutic, prosthetic, or artificial devices, such as pulmonary respirators or medical beds, that are designed for individual personal use to correct or alleviate physical illness, disease, or incapacity and that are sold on the written prescription of a physician, dentist, or other professional person licensed to prescribe.~~

b. ~~Crutches, artificial limbs, artificial eyes, hearing aids, false teeth, eyeglasses ground on prescription of a physician or an optometrist.~~

c. ~~Orthopedic appliances designed to be worn by the purchaser or user.~~

- d. ~~Durable medical equipment and related medical supplies that are covered under the Medicare or Medicaid program and are sold on either a certificate of medical necessity or a written prescription of a physician, dentist, or other professional person licensed to prescribe. This exemption applies whether or not the item is purchased by a Medicare or Medicaid beneficiary.~~
    - a. Prosthetic devices.
    - b. Mobility enhancing equipment sold on a prescription.
    - c. Durable medical equipment sold on prescription.
    - d. Durable medical supplies sold on prescription.
- (13) ~~All of the following drugs, including the constituent elements and ingredients used to produce the drugs, the their packaging materials, materials and any instructions or information about the product drugs included in the package with the drugs;them:~~
- a. ~~Prescription drugs.~~Drugs required by federal law to be dispensed only on prescription.
  - b. ~~Nonprescription drugs sold on prescription of physicians, dentists, or veterinarians.~~Over-the-counter drugs sold on prescription.
  - c. Insulin.

...  
 (43) ~~Custom computer software. —"Custom computer software" is software written in accordance with the specifications of a specific customer. The term includes a user manual or other documentation that accompanies the sale of the software. The term does not include prewritten software that can be installed and executed with no changes to the software's source code other than changes made to configure hardware or software.~~ Custom computer software and the portion of prewritten computer software that is modified or enhanced if the modification or enhancement is designed and developed to the specifications of a specific purchaser and the charges for the modification or enhancement are separately stated.

(43a) Computer software delivered electronically or delivered by load and leave.

...  
 (51) Water delivered by or through main lines or pipes for either commercial or domestic use or consumption."

**SECTION 45.5A.** G.S. 105-164.13(50) reads as rewritten:

"(50) Fifty percent (50%) of the sales price of tangible personal property sold through a coin-operated vending machine, other than closed container soft drinks and tobacco."

**SECTION 45.6.** G.S. 105-164.13B reads as rewritten:

**"§ 105-164.13B. Food exempt from tax.**

~~Food is exempt from the taxes imposed by this Article, except as follows:~~

- (1) ~~The following items are subject to tax:~~
  - a. ~~Alcoholic beverages, as defined in 105-113.68.~~
  - b. ~~Dietary supplements.~~
  - c. ~~Food sold through a vending machine.~~
- (2) ~~The following items are subject to tax, unless the items are purchased for home consumption and would be exempt if purchased under the Federal Food Stamp Program, 7 U.S.C. § 51:~~
  - a. ~~Candy.~~
  - b. ~~Prepared food.~~
  - c. ~~Soft drinks.~~



(a) State Exemption. – Food is exempt from the taxes imposed by this Article unless the food is included in one of the subdivisions in this subsection. The following food items are subject to tax:

- (1) Alcoholic beverages, as defined in G.S. 105-113.68.
- (2) Dietary supplements.
- (3) Food sold through a vending machine.
- (4) Prepared food.
- (5) Soft drinks.
- (6) Candy, unless the item is purchased for home consumption and would be exempt if purchased under the Federal Food Stamp Program, 7 U.S.C. § 51.

(b) Reserved."

**SECTION 45.6A.** G.S. 105-164.13B, as amended by this act, is amended by adding a new subsection to read:

"(b) Administration of Local Food Tax. – The Secretary must administer local sales and use taxes imposed on food as if they were imposed under this Article. This applies to local taxes on food imposed under Subchapter VIII of this Chapter and under Chapter 1096 of the 1967 Session Laws."

**SECTION 45.6B.** G.S. 105-164.13B(a)(6), as enacted by this act, is repealed.

**SECTION 45.7.** G.S. 105-164.13C reads as rewritten:

"§ 105-164.13C. **Sales and use tax holiday.**

(a) The taxes imposed by this Article do not apply to the following items of tangible personal property if sold between 12:01A.M. on the first Friday of August and 11:59 P.M. the following Sunday:

- (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per item.
- (2) ~~School supplies, such as pens, pencils, paper, binders, notebooks, textbooks, reference books, book bags, lunchboxes, and calculators,~~ supplies with a sales price of one hundred dollars (\$100.00) or less per item.
- (3) ~~Computers, printers and printer supplies, and educational computer software,~~ Computers with a sales price of three thousand five hundred dollars (\$3,500) or less per item.
- (4) Sport or recreational equipment with a sales price of fifty dollars (\$50.00) or less per item.

(b) The exemption allowed by this section does not apply to the following:

- (1) Sales of clothing accessories or equipment.
- (2) Sales of protective equipment.
- (3) Sales of furniture.
- (4) ~~Sales involving a layaway contract or a similar deferred payment and delivery plan.~~
- (5) Sales of an item for use in a trade or business.
- (6) Rentals.

(c) ~~For the purpose of this section, "computer" means a central processing unit for personal use and any peripherals sold with it and any computer software installed at the time of purchase.~~

**SECTION 45.8.** G.S. 105-164.16(b1) reads as rewritten:

"(b1) Monthly. – A taxpayer who is consistently liable for more than one hundred dollars (\$100.00) but less than ten thousand dollars (\$10,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the ~~15<sup>th</sup>~~ 20<sup>th</sup> day of the month following the calendar month covered by the return."

**SECTION 45.9.** G.S. 105-164.27A(a) reads as rewritten:

"(a) Tangible Personal Property. – A direct pay permit for tangible personal property authorizes its holder to purchase any tangible personal property without paying

tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases tangible personal property under a direct pay permit issued under this subsection is liable for use tax due on the purchase. The tax is payable when the property is placed in use. A direct pay permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4(a)(1f) or G.S. 105-164.4(a)(4a).

A person who purchases direct mail may apply to the Secretary for a direct pay permit for the purchase of direct mail. The direct pay permit issued for direct mail does not apply to any purchase other than the purchase of direct mail.

A person who purchases tangible personal property whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a direct pay permit for tangible personal property:

- (1) The place of business where the property will be used is not known at the time of the purchase and a different tax consequence applies depending on where the property is used.
- (2) The manner in which the property will be used is not known at the time of the purchase and one or more of the potential uses is taxable but others are not taxable."

**SECTION 45.10.** G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of the month of either January or July, as set by the board of county commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least 90 days advance notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax or tax rate change."

**SECTION 45.11.(a)** G.S. 105-469 reads as rewritten:

**"§ 105-469. Secretary to collect and administer local sales and use tax.**

(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary must distribute local taxes levied on food to the taxing counties in accordance with G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."

**SECTION 45.11.(b)** Section 6 of Chapter 1096 of the 1967 Session Law is amended by adding the following sentence immediately after the first sentence in that section:

"As directed by G.S. 105-164.13B, taxes levied by Mecklenburg County on food are administered as if they were levied by the State under Article 5 of Chapter 105 of the North Carolina General Statutes."

**SECTION 45.11.(c)** The first paragraph of Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding the following sentence immediately after the first sentence in that paragraph:

"The Secretary of Revenue shall distribute the taxes levied by Mecklenburg County on food to Mecklenburg County and municipalities within Mecklenburg County in accordance with G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county."

**SECTION 45.12.** Sections 45.2 through 45.5, Section 45.6, and Sections 45.8 through 45.10 of this act become effective July 15, 2003. Sections 45.6A, 45.7,

45.8, and 45.11 become effective October 1, 2003. Section 45.5A and Section 45.6B become effective January 1, 2004. The remainder of this part is effective when it becomes law.

## **PART XLV-A. ELIMINATE TOBACCO AND ALCOHOL DISCOUNTS**

### **ELIMINATE TOBACCO DISCOUNTS**

**SECTION 45A.1.(a)** G.S. 105-113.21 reads as rewritten:

**"§ 105-113.21. ~~Discount; refund.~~ Refund.**

(a) ~~Discount.~~—A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of four percent (4%). ~~This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.~~

(b) Refund. — A distributor in possession of packages of stale or otherwise unsalable cigarettes upon which the tax has been paid may return the cigarettes to the manufacturer and apply to the Secretary for refund of the tax. The application shall be in the form prescribed by the Secretary and shall be accompanied by an affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer by the applicant. The Secretary shall refund the tax paid on the unsalable cigarettes, ~~less the discount allowed, to the applicant cigarettes.~~"

**SECTION 45A.1.(b)** G.S. 105-113.35(c) reads as rewritten:

"(c) Secondary Liability. — A retail dealer who acquires non-tax-paid tobacco products subject to the tax imposed by this section from a wholesale dealer is liable for any tax due on the tobacco products. ~~A retail dealer who is liable for tax under this subsection may not deduct a discount from the amount of tax due when reporting the tax.~~"

**SECTION 45A.1.(c)** G.S. 105-113.39 is repealed.

**SECTION 45A.1.(d)** This section is effective for reporting periods beginning on or after August 1, 2003.

### **ELIMINATE ALCOHOL DISCOUNTS**

**SECTION 45A.2.(a)** G.S. 105-113.85 is repealed.

**SECTION 45A.2.(b)** This section is effective for reporting periods beginning on or after August 1, 2003.

## **PART XLVI. REPAIR AND RENOVATIONS**

### **REPAIR AND RENOVATIONS**

**SECTION 46.1.** Repair and Renovation. — This section authorizes the issuance or incurrence of special indebtedness in a maximum aggregate principal amount of three hundred million dollars (\$300,000,000) to be used only in accordance with this section for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund.

Proceeds of the Repair and Renovation special indebtedness shall be used only for the purposes and in accordance with the procedures provided in G.S. 143-15.3A, the Repairs and Renovations Reserve Account.

Except in the case of an emergency as provided in G.S. 143-15.3A, the Director of the Budget shall use the Repair and Renovations funds only for repairs and renovations that have been approved by an act of the General Assembly or, if the General Assembly is not in session, for repairs and renovations about which the Director of the Budget has first consulted with the Joint Legislative Commission on Governmental Operations under G.S. 143-15.3A(c). The Director of the Budget shall direct the State Treasurer to carry out the financing for repair and renovation projects selected pursuant to this section. Special indebtedness authorized by this section shall be

issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes, as enacted by this part.

**SECTION 46.2.** Article 9 of Chapter 142 of the General Statutes, as enacted by House Bill 643, 2003 General Assembly, is rewritten to read:

"Article 9.

"State Capital Facilities Finance Act.

**"§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

**"§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

- (1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.
- (2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.
- (3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.
- (4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

**"§ 142-82. Definitions.**

The following definitions apply in this Article:

- (1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.
- (2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.
- (3) Capital facility. – Any one or more of the following:
  - a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.
  - b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.
  - c. Land or an interest in land.
  - d. Other infrastructure.
  - e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.
- (4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.
- (5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.
- (6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

- a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.
  - b. The cost of engineering, architectural, and other consulting services.
  - c. The cost of providing personnel to ensure effective management of capital facilities.
  - d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.
  - e. Administrative expenses and charges.
  - f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.
  - g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.
  - h. Any other costs and expenses necessary or incidental to the purposes of this Article.
- (7) Credit facility. – An agreement that:
- a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company, or other insurance institution, a corporation, investment banking firm, or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and
  - b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.
- (8) Department of Administration. – The North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes or, if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.
- (9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment-purchase contract, or other similar type installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

- a. It constitutes an operating lease under generally accepted accounting principles.
  - b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars (\$5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.
  - c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.
- (10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.
  - (11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.
  - (12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.
  - (13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.
  - (14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:
    - a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.
    - b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.
    - c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.
  - (15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.
  - (16) Special corporation. – Either of the following:
    - a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
    - b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
  - (17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
  - (18) State. – The State of North Carolina, including any State agency.
  - (19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The

term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

- (20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

**"§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

- (1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
- (2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

**"§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency determines that special indebtedness is appropriate to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration concurs, it shall provide written notice to the State Treasurer advising the State Treasurer of this determination.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

- (1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.
- (2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.
- (3) Set the maturity or maximum maturity of the special indebtedness authorized.
- (4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.
- (5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Financing Terms. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection

(a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

- (1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.
- (2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.
- (3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State has authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Oversight by Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

**"§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

- (1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.
- (2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.
- (3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the



principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

- (1) The purposes to which the proceeds of special indebtedness may be applied.
- (2) The disposition and application of the revenues of the State, including taxes.
- (3) Insuring, maintaining, and other duties with respect to the capital facilities financed.
- (4) The disposition of any charges and collection of any revenues and administrative charges.
- (5) The terms and conditions of the issuance of additional special indebtedness.
- (6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

**"§ 142-86. Financing contract indebtedness.**

(a) Documentation. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law and, if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after the State Treasurer's having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

**"§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Documentation. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

**"§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series \_\_\_\_\_" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

**"§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates; may be serial or term bonds or notes, or any combination of these; may mature in any amounts and at any times, not exceeding 40 years from their dates; may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts; may bear interest at any rates, which may vary from time to time; and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or bear the Governor's facsimile signature, shall be signed by the State Treasurer or bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons who, at the actual time of the execution of the bonds or notes, were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase, or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

- (1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.
- (2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.
- (3) For the renewal of any loan evidenced by notes authorized in this Article.
- (4) For the purposes authorized in this Article.
- (5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable or, if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including

covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depository of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

**"§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

- (1) It is payable from time to time on demand or tender for purchase by the owner thereof if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.
- (2) It is additionally supported by a credit facility.
- (3) It is subject to redemption or mandatory tender for purchase prior to maturity.
- (4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.
- (5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

**"§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

**"§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

**"§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision of the State is now or may later be authorized by law.

**"§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

**SECTION 46.3.** G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment-purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted

contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

**SECTION 46.4.** Interpretation of Part. (a) Additional Method. – This part provides an additional and alternative method for the doing of the things authorized by this part and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this part shall not be regarded as in derogation of any powers now existing. The authority granted in this part is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

**SECTION 46.4.(b)** Statutory References. – References in this part to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

**SECTION 46.4.(c)** Liberal Construction. – This part, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

**SECTION 46.4.(d)** Severability. – If any provision of this part or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the part that can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

## **PART XLVI-A. STATE CAPITAL FACILITIES FINANCE**

### **ACQUIRE TWO PRIVATE PRISONS**

**SECTION 46A.1.(a)** Acquisition of Correctional Facilities. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness to be used to acquire two correctional facilities that the State currently leases located in Pamlico County and Avery County. The State Treasurer is authorized to give notice for, arrange, and consummate the purchase of these facilities in accordance with this section.

**SECTION 46A.1.(b)** Pamlico County Correctional Facility. – The State is authorized to acquire the correctional facility located in Pamlico County that the State currently leases from U.S. Corrections Corporation pursuant to the purchase option provision in the lease. Title to these facilities shall be held in the name of the State. The cost of acquiring the Pamlico County correctional facility shall be financed as provided in Article 9 of Chapter 142 of the General Statutes.

**SECTION 46A.1.(c)** Mountain View Correctional Facility. – The State is authorized to acquire the Mountain View Correctional Facility located in Avery County that the State currently leases from Correctional Properties Trust pursuant to the purchase option provision in the lease. Title to these facilities shall be held in the name of the State. The cost of acquiring the Mountain View Correctional Facility shall be financed as provided in Article 9 of Chapter 142 of the General Statutes.

**SECTION 46A.1.(d)** Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with any other available funds, to pay the cost of acquiring either or both of the Pamlico County correctional facility and the Mountain View Correctional Facility described in this section. Notwithstanding the provisions of G.S. 142-83, no maximum principal amount is required to be stated in this section authorizing the issuance or incurrence of financing contract indebtedness for these purposes.

**SECTION 46A.1.(e)** Transition. – Funds are appropriated in this act to the Department of Correction in each year of the 2003-2005 fiscal biennium to directly or indirectly pay the property taxes levied on the two facilities to be acquired pursuant to this section. The Department of Correction shall make these payments in the amounts

appropriated for the biennium only and, depending upon the ownership status of each facility for each respective tax year, may recharacterize one or more of the payments as fees in lieu of the original obligation.

## **YOUTH DEVELOPMENT CENTERS**

**SECTION 46A.2.** In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of up to six million seven hundred eighty thousand dollars (\$6,780,000) of financing contract indebtedness to be used for (i) design, construction drawings, and solicitation of bids for construction of three youth development centers totaling up to 500 beds to be operated by the Department of Juvenile Justice and Delinquency Prevention and (ii) utility infrastructure and site work for one of the three centers. The State, with the prior approval of the State Treasurer and the Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to execute and deliver one or more financing contracts in a maximum principal amount of six million seven hundred eighty thousand dollars (\$6,780,000) in order to provide funds to the State to be used, together with any other available funds, to pay these costs. The State Construction Office shall manage the planning and design of the youth development centers and shall administer funds provided pursuant to this section for planning and design.

## **STRUCTURAL PEST CONTROL TRAINING FACILITY**

**SECTION 46A.3.** In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of up to three hundred ten thousand dollars (\$310,000) of financing contract indebtedness to be used for constructing and equipping a structural pest control training facility to be located at North Carolina State University and comprising a classroom building along with a custom-built residential foundation to be used as a laboratory for techniques of subterranean termite treatment. The State, with the prior approval of the State Treasurer and Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to execute and deliver one or more financing contracts in a maximum principal amount of three hundred ten thousand dollars (\$310,000) in order to provide funds to the State to be used, together with any other available funds, to pay these costs.

## **PART XLVII. LEASE PURCHASE NEW PRISONS**

### **LEASE-PURCHASE NEW PRISONS**

**SECTION 47.1.** G.S. 148-37.2 reads as rewritten:

**"§ 148-37.2. Lease-purchase of ~~three~~ prison facilities.**

(a) Authorization. – The Secretary of Correction may, as provided in this section, enter contracts with private for-profit or nonprofit firms for the construction of ~~three~~ close security correctional facilities ~~totaling up to 3,000 cells described in subsection (a1) of this section~~ to be operated by the Department pursuant to a lease that contains a schedule for purchase of the facilities over a period of up to 20 years.

The State, with the prior approval of the Council of State and the State Treasurer as provided in this section, is authorized to execute and deliver one or more lease-purchase agreements with a special nonprofit corporation providing for the lease-purchase by the State of the Projects from the special nonprofit corporation in connection with and under an arrangement whereby certificates of participation are sold and delivered by the special nonprofit corporation in order to provide funds to pay the purchase price of the Projects. The Projects will be constructed by selected contractors designated to the special nonprofit corporation by the State Property Office of the Department of Administration in consultation with the Department of Correction. ~~The selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.~~ The Projects will be sold to the special nonprofit corporation, with the purchase price paid by the special nonprofit



corporation from the proceeds of the certificates of participation. The State may lease the real property upon which the Projects will be located, if owned by the State, to the selected contractors constructing the Projects and to the special nonprofit corporation for nominal consideration.

(a1) Facilities Authorized. – The following facilities are authorized under this section:

- (1) 2001 Facilities. – Three close security correctional facilities totaling up to 3,000 cells.
  - (2) 2003 Facilities. – Three close security correctional facilities substantially identical to the facilities described in subdivision (1) of this subsection and totaling up to 3,000 cells. If the State and the special nonprofit corporation are able to negotiate a contract for one or more of these facilities with the construction contractor that constructed the facilities described in subdivision (1) of this subsection on terms that are reasonable and desirable to the State as determined by the State Treasurer, the Secretary of Administration, and the Council of State, then a request for proposals under subsection (c) of this section is not required. The remaining provisions of this section continue to apply.
- (b) Definitions. – The following definitions apply in this section:
- (1) Certificates of participation. – Certificates or other instruments delivered by a special nonprofit corporation as provided in this section evidencing the assignment of proportionate and undivided interests in the rights to receive lease payments to be made by the State pursuant to a lease-purchase agreement.
  - (2) Construction contract agreement. – ~~A~~ Either of the following:
    - a. A contract between the Department of Correction and the selected contractors for construction of the Projects, under which the selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.
    - b. A contract between the special nonprofit corporation and the selected contractors for construction of the Projects, but only if the contract has provisions sufficient to carry out the requirements of the last paragraph of subsection (c) of this section. The Secretary of Correction shall determine the sufficiency of the contract and shall approve the contract only if it is sufficient.
  - (3) Lease-purchase agreement. – A lease-purchase agreement entered into pursuant to this section, under which the State will lease the Projects from the special nonprofit corporation, with option to purchase.
  - (4) ~~Projects. – Three close security correctional facilities providing up to 3,000 cells~~ Facilities described in subsection (a1) of this section to be constructed by selected contractors, sold to the special nonprofit corporation, and leased to the State pursuant to this section.
  - (5) Purchase agreement. – A contract under which the special nonprofit corporation will purchase the Projects from the selected contractors.
  - (6) Selected contractors. – One or more private firms selected to construct the Projects.
  - (7) Special nonprofit corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes and designated by the State Treasurer for entering into the transactions contemplated by this section.
- (c) Request for Proposals. – The Secretary of Correction may issue a request for proposals to private firms for the private firms to construct the Projects in accordance

with plans and specifications developed by the Department of Correction and reviewed by the Office of State Construction. ~~The request for proposals shall provide for the option of proposing on one or more of the facilities, and shall require each proposer to provide a separate proposal on a single facility of up to 1,000 cells. It is the intent of the General Assembly that the State may decide to accept proposals for only one, for two, or for all three facilities.~~

The Secretary of Correction shall make recommendations to the State Property Office of the Department of Administration on the final award decision. The Department of Correction and the State Property Office of the Department of Administration shall consult with the Joint Legislative Commission on Governmental Operations before making the final award decision. The Department of Administration shall make the final award decision, which shall then be subject to the approval of the Council of State. If the contract for construction of the 2003 facilities is entered into with the construction contractor who constructed the 2001 facilities as provided by subdivision (a1)(2) of this section, the general terms and conditions of the construction contract for the 2003 facilities shall be substantially similar to the terms and conditions of the construction contracts for the construction of the 2001 facilities, including, without limitation, terms and conditions regarding the activities, performance, and construction standards required of the contractor, the arrangements for selection and retention of subcontractors by the contractor, and the responsibility of the contractor for the performance by the selected subcontractors. The construction contract for the 2003 facilities may, however, contain any changes from the construction contracts for the 2001 facilities that may be necessary or desirable to reflect the financing arrangements for the 2003 facilities, including provisions for the periodic payment of construction costs based upon construction progress.

The Department of Correction will enter into a construction contract agreement with the selected contractors for the construction of the ~~Projects~~. Projects or, alternatively, the construction contract may be entered into with the selected contractor by the special nonprofit corporation, with the approval of the Department of Correction. The special nonprofit corporation will enter into a purchase agreement with the selected contractors for the sale of the ~~constructed~~ Projects to the special nonprofit corporation. With respect to the 2003 facilities, the purchase agreement may provide for the periodic payment by the special nonprofit corporation to the selected contractor of portions of the purchase price during the construction of the 2003 facilities on the basis of construction progress, rather than a payment of the entire purchase price upon delivery of the 2003 facilities. The Department of Correction shall furnish plans and specifications for review by the State Construction Office. Construction contract agreements entered into under this section shall provide that the Department of Correction and the Office of State Construction shall inspect and review each facility during construction to ensure and determine jointly that the facility is suitable for use as a correctional facility and for future acquisition by the State. The Department of Correction may contract with a design consortium for construction administration services.

(d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may not be entered into pursuant to this section unless the following conditions are met before the lease-purchase agreement is entered into: (i) the Council of State, by resolution, approves the execution and delivery of the lease-purchase agreement, and (ii) the State Treasurer approves the lease-purchase agreement and all other documentation related to it, including any leasehold deed of trust or trust agreement in connection with it. The resolution of the Council of State may include any matters the Council of State determines. In determining whether to approve the lease-purchase agreement, the State Treasurer may consider any factors as the State Treasurer considers relevant in order to find and determine that all of the following conditions are met:

- (1) The principal amount to be financed under the lease-purchase agreement is adequate and not excessive for the purpose of paying the cost of the Projects.

- (2) The increase, if any, in State revenues necessary to pay the sums to become due under the lease-purchase agreement is not excessive.
  - (3) The lease-purchase agreement can be entered into on terms desirable to the State.
  - (4) The sale of certificates of participation will not have an adverse effect on any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.
- (e) Terms and Conditions. – The following provisions apply to a lease-purchase agreement entered into under this section:
- (1) In order to secure the performance by the State of its obligations under the lease-purchase agreement, the lease-purchase agreement may require the eviction of the State from the occupancy of one or more of the Projects in the event that the State breaches its obligations and agreements under the lease-purchase agreement.
  - (2) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in the lease-purchase agreement or any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged to secure any moneys due under the lease-purchase agreement.
  - (3) The lease-purchase agreement shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Projects.
  - (4) The lease-purchase agreement may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the lease-purchase agreement.
  - (5) The lease-purchase agreement may contain any provisions for protecting and enforcing the rights and remedies of the special nonprofit corporation that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the State with respect to the Projects, which may include provisions relating to insuring, operating, and maintaining the Projects and the custody, safeguarding, investment, and application of moneys.
  - (6) The lease-purchase agreement may designate the lease payments to be paid by the State under it to be "principal components" and "interest components." Any interest component of the lease payments may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.
  - (7) The lease-purchase agreement may be entered into by the State, and certificates of participation may be delivered by the special nonprofit corporation, at any time, including at times prior to the delivery of the completed Projects to the special nonprofit corporation for purchase, corporation, and the related delivery of occupancy of the Projects to the State by the special nonprofit corporation. The lease-purchase agreement may require the State to make prepayments of lease payments at a time prior to when the State accepts occupancy of the Projects. The lease-purchase agreement and related financing arrangements may provide for the funding of interest during construction from the proceeds of certificates of participation. The costs incurred in connection with the preparation of the lease-purchase agreement and related documents and the delivery of the certificates of participation may be paid from the proceeds of the certificates of participation.

(8) The State is authorized to agree in the lease-purchase agreement to indemnify the special corporation and its directors and agents for any liabilities that arise to the special corporation or directors or agents on account of their participation in the activities contemplated by this act.

(f) Faith and Credit Not Pledged. – The payment of amounts payable by the State under the lease-purchase agreement and other related documentation during any fiscal biennium or fiscal year is limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this section and no lease-purchase agreement creates any pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

(g) Certificates of Participation. – The State may cooperate as necessary to effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of participation, including participating in the preparation of offering documents, the filing of required tax forms and agreeing to comply with restrictions on the use of the Projects as required in order for the interest component of the lease payments to be tax-exempt. Disclosures and compliance with other federal law requirements by the special nonprofit corporation shall be under the direction of the State Treasurer. Certificates of participation may be sold at the direction of the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this section. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special nonprofit corporation.

Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this section and further provide for the enforcement of any lien or security interest created pursuant to this section, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation that are reasonable and proper and not in violation of law as determined by the State Treasurer. The State Treasurer shall designate the professionals providing legal or financial services relating to the lease-purchase agreement and the delivery of certificates of participation, including the provider of any credit facility and the underwriter or placement agent for any certificates of participation.

(h) Tax Exemption. – The lease purchase agreement and any certificates of participation relating to it shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the lease-purchase agreement and certificates of participation, and franchise taxes. The interest component of the lease payments made by the State under the lease-purchase agreement, including the interest payable with respect to any certificates of participation, is not subject to taxation as income.

(i) Licensing Requirements. – The private for-profit or nonprofit firms authorized to respond to requests for ~~proposal~~ proposals authorized by this section, or entitled to be a ~~Selected Contractor~~ selected contractor pursuant to ~~any response to such proposal, this section,~~ need not be a licensed general contractor within the meaning of G.S. 87-1 so that providing a response to ~~such request for proposal~~ the request or entering a ~~Construction Contract Agreement or Purchase Agreement shall not be deemed~~ construction contract agreement or purchase agreement is not general contracting within the meaning of G.S. 87-1; ~~provided that this~~ 87-1. This subsection shall ~~not be deemed to~~ does not remove the actual construction of any prison facility from the provisions of G.S. 87-1.

(j) Minority Business Participation. – G.S. 143-128.2 applies to the Projects authorized in this section."

**SECTION 47.2.** The two 1000-cell close security prototypical prisons to be constructed in Greene County and Bertie County shall be constructed in accordance with the North Carolina State Building Code, 1996 Edition through 1999 revisions, if construction starts before January 1, 2004. This section applies only if the construction documents have been reviewed and approved by the Department of Insurance, the State Construction Office, and the Department of Correction.

## **PART XLVIII. GENERAL PROVISIONS**

### **GENERAL PROVISIONS**

**SECTION 48.1.** Parts 32 through 47 of this act do not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by those parts before the effective date of its amendment or repeal; nor do they affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

**SECTION 48.2.** Except as otherwise provided in this act, parts 32 through 48 of this act are effective when this act becomes law.

## **PART XLIX. MISCELLANEOUS PROVISIONS**

### **EXECUTIVE BUDGET ACT APPLIES**

**SECTION 49.1.** The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

### **COMMITTEE REPORT**

**SECTION 49.2.(a)** The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated June 28, 2003, which was distributed in the House of Representatives and the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

**SECTION 49.2.(b)** The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2003-2005 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, in accordance with the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated June 28, 2003, together with any accompanying correction sheets.

The budget enacted by the General Assembly shall be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

**MOST TEXT APPLIES ONLY TO THE 2003-2005 FISCAL BIENNIUM**

**SECTION 49.3.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2003-2005 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2003-2005 fiscal biennium.

**EFFECT OF HEADINGS**

**SECTION 49.4.** The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

**SEVERABILITY CLAUSE**

**SECTION 49.5.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**EFFECTIVE DATE**

**SECTION 49.6.** Except as otherwise provided, this act becomes effective July 1, 2003.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2003.

s/ Beverly E. Perdue  
President of the Senate

s/ Richard T. Morgan  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 5:18 p.m. this 30<sup>th</sup> day of June, 2003