

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1093
Appropriations Committee Substitute Adopted 6/25/92

Short Title: Capital Appropriations/1992.

(Public)

Sponsors:

Referred to:

June 2, 1992

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE CAPITAL IMPROVEMENTS APPROPRIATIONS FOR
3 NORTH CAROLINA FOR THE 1992-93 FISCAL YEAR, TO MAKE OTHER
4 CHANGES IN THE BUDGET OPERATION OF THE STATE, TO AMEND THE
5 CONSTITUTION OF NORTH CAROLINA, AND TO MAKE CONFORMING
6 STATUTORY CHANGES.

7 The General Assembly of North Carolina enacts:

8

9

TITLE I. CAPITAL APPROPRIATIONS

10

PART 1. INTRODUCTION

12 Section 1. The appropriations made by the 1992 General Assembly for capital
13 improvements are for constructing, repairing, or renovating State buildings, utilities, and
14 other capital facilities, for acquiring sites for them where necessary, and for acquiring
15 buildings and land for State government purposes.

16

PART 2. TITLE OF TITLE

18 Sec. 2. This Title shall be known as "The Capital Improvements
19 Appropriations Act of 1992".

20

PART 3. PROCEDURES FOR DISBURSEMENTS

22

1 Sec. 3. The appropriations made by the 1992 General Assembly for capital
2 improvements shall be disbursed for the purposes provided by this Title. Expenditure of
3 funds shall not be made by any State department, institution, or agency, until an
4 allotment has been approved by the Governor as Director of the Budget. The allotment
5 shall be approved only after full compliance with the Executive Budget Act, Article 1 of
6 Chapter 143 of the General Statutes. Prior to the award of construction contracts for
7 projects to be financed in whole or in part with self-liquidating appropriations, the
8 Director of the Budget shall approve the elements of the method of financing of those
9 projects including the source of funds, interest rate, and liquidation period. Provided,
10 however, that if the Director of the Budget approves the method of financing a project,
11 he shall report that action to the Joint Legislative Commission on Governmental
12 Operations at its next meeting.

13 Where direct capital improvement appropriations include the purpose of
14 furnishing fixed and movable equipment for any project, those funds for equipment
15 shall not be subject to transfer into construction accounts except as authorized by the
16 Director of the Budget. The expenditure of funds for fixed and movable equipment and
17 furnishings shall be reviewed and approved by the Director of the Budget prior to
18 commitment of funds.

19 Capital improvement projects authorized by the 1992 General Assembly shall
20 be completed, including fixed and movable equipment and furnishings, within the limits
21 of the amounts of the direct or self-liquidating appropriations provided, except as
22 otherwise provided in this Title.

23 24 **PART 4. CAPITAL IMPROVEMENTS/GENERAL FUND**

25
26 Sec. 4. Appropriations are made from the General Fund for the 1992-93
27 fiscal year for use by the State departments, institutions, and agencies to provide for
28 capital improvement projects according to the following schedule:

29		
30	Department of Administration	
31	(Total)	\$8,417,600
32	1. New Revenue Building Equipment and	
33	Furnishings 4,978,900	
34	2. Museum of History-Exhibits,	
35	Furnishings and Equipment 2,963,700	
36	3. Museum of History-N.C. Sports Hall of Fame	475,000
37		
38	Department of Agriculture	
39	(Total)	8,500,000
40	1. New Agronomics Lab	7,500,000
41	2. Tidewater Research and Extension Center	
42	Restore Funding for completion of the Center	1,000,000
43		

44 Department of Crime Control and Public Safety

1	1.	Fayetteville Armory	
2		Requirements	2,295,000
3		Receipts-Federal & Local	1,980,000
4		State Appropriation	315,000
5			
6		Department of Cultural Resources	
7	1.	Art Museum-Amphitheater	
8		Requirements	1,476,800
9		Receipts-Donations	1,476,800
10		State Appropriations	-
11			
12		Department of Environment, Health, and Natural Resources	
13		(Total)	8,054,300
14	1.	N.C. Zoo - Final Phase of North America	
15		Requirements	6,887,800
16		Receipts - Private	1,061,800
17		State Appropriation	5,826,000
18	2.	Civil Works/Water Resources-Matching	
19		for Federal Funds	2,000,000
20	3.	County Forestry Headquarters-Warren	
21		County-Equipment/Office Buildings	228,300
22			
23		Department of Human Resources	
24		(Total)	12,951,800
25	1.	Murdoch Center-Meadowview Cottage	
26		Renovation	1,546,500
27	2.	Dix Campus-Male Wing Renovation	3,004,600
28	3.	Umstead Hospital-New Psychiatric Unit	7,499,700
29	4.	Western Carolina Center-Reroof Walkways	699,800
30		-Boiler Replacement	201,200
31			
32		University Board of Governors	
33		(Total)	2,550,000
34	1.	N.C. State University-Restore Funds for	
35		Site Preparation-Centennial Center	2,000,000
36	2.	N.C. State University-Castle Hayne	
37		Horticultural Research Station-Restore	
38		Funds for Greenhouse and Support Facilities	350,000
39	3.	4-H Camps-Repairs and Renovations	200,000
40			
41		Community Colleges	
42	1.	Anson/Stanly - Restore funds for Union County	
43		Satellite	930,000
44			

1	Office of State Budget & Management	
2	(Total)	10,582,650
3	1. Reserve for Repairs & Renovations-Statewide	8,582,650
4	2. Critical School Facility Needs Fund - To	
5	correct a discrepancy in the manner in	
6	which grants were made from this fund	2,000,000
7		
8	TOTAL CAPITAL IMPROVEMENTS/GENERAL FUND	\$52,301,350
9		
10	NONRECURRING APPROPRIATIONS/GENERAL FUND	
11		
12	1. UNC Board of Governors:	
13	a. Funds to link Appalachian State University,	
14	UNC-Wilmington to CONCERT Communications	
15	Network operated by MCNC	1,675,000
16	b. North Carolina State University-Patent Research Funds	97,000
17	2. Community Colleges:	
18	Funds to purchase equipment and books	5,000,000
19	Nursing Diploma Program Funds	281,650
20	3. Cultural Resources:	
21	Grants for local arts/historic sites	295,000
22	4. Department of Public Instruction:	
23	Expenses involved with move to new	
24	education building	300,000
25	5. Environment, Health, and Natural Resources	
26	Funds for Soil and Water Conservation	
27	Supervisors' travel and expenses	50,000
28		
29	TOTAL NONRECURRING/GENERAL FUND	\$7,698,650
30		
31	GRAND TOTAL GENERAL FUND	\$60,000,000
32		

33 PART 5. OFFICE OF STATE BUDGET AND MANAGEMENT

34
35 Requested by: Senator Basnight

36 LOCAL WATER/SEWER FUNDS

37 Sec. 5. (a) Notwithstanding the provisions of Sections 3 and 28 of Chapter
38 689 of the 1991 Session Laws, the Office of State Budget and Management shall
39 transfer four million four hundred thousand dollars (\$4,400,000), from the funds
40 appropriated to the Reserve for Reimbursements to Local Governments and Shared Tax
41 Revenues for the 1992-93 fiscal year, to the Clean Water Revolving Loan and Grant
42 Fund created in G.S. 159G-5.

43 (b) Notwithstanding the provisions of G.S. 105-116, the Secretary of Revenue
44 shall reduce the amount to be transferred to municipalities on or before December 15,

1 1992, pursuant to G.S. 105-116(d), by an amount equal to three million three hundred
2 thousand dollars (\$3,300,000). The Secretary of Revenue shall allocate this reduction
3 on a pro rata basis among the municipalities entitled to receive a quarterly installment
4 pursuant to G.S. 105-116(d) on or before December 15, 1992.

5 (c) Notwithstanding the provisions of G.S. 105-113.82, the Secretary of
6 Revenue shall reduce the amount to be distributed to counties and cities for the 1992-93
7 fiscal year pursuant to G.S. 105-113.82 by an amount equal to one million one hundred
8 thousand dollars (\$1,100,000). The Secretary of Revenue shall allocate this reduction
9 on a pro rata basis among the counties and cities entitled to receive a distribution
10 pursuant to G.S. 105-113.82 for the 1992-93 fiscal year.

11 (d) The General Assembly finds that the purpose of the allocation provided in
12 this section is to meet the funding needs of local governments for water supply and
13 wastewater treatment facilities, as requested by local governmental units.

14
15 Requested by: Senator Basnight

16 **REPAIRS AND RENOVATIONS/OLD EDUCATION AND REVENUE**
17 **BUILDINGS**

18 Sec. 6. The Joint Legislative Commission on Governmental Operations may
19 study and make recommendations to the Office of State Budget and Management and to
20 the Office of State Construction of the Department of Administration on repairs and
21 renovations to the Old Education and Old Revenue Buildings. In conducting its study,
22 the Commission shall make recommendations pertaining to the following:

- 23 (1) The amount to be expended from the Reserve for Repairs and
24 Renovations for expediting the relocation of State agencies currently
25 occupying leased space into the Old Education and Old Revenue
26 Buildings;
- 27 (2) Which of the State agencies currently occupying leased space should
28 be moved into the Old Education and Old Revenue Buildings;
- 29 (3) The extent to which repairs and renovations are needed immediately
30 and those that may be needed in the future, and whether such repairs
31 and renovations may be phased in over a period of time; and
- 32 (4) Any other recommendations the Commission deems appropriate for
33 ensuring that repairs and renovations to the Old Education and Old
34 Revenue Buildings are carried out expeditiously and efficiently.

35
36 Requested by: Senator Marvin

37 **HEAD START CAPITAL IMPROVEMENTS**

38 Sec. 6.1. Of the funds appropriated in this Title to the Reserve for Repairs
39 and Renovations, the Office of State Budget and Management shall transfer the sum of
40 two million dollars (\$2,000,000) for the 1992-93 fiscal year to the Division of
41 Economic Opportunity, Department of Human Resources, to provide new Head Start
42 facilities and centers.

43
44 **PART 6. GENERAL ASSEMBLY**

1

2 Requested by: Senator Basnight

3 **EXTENSION OF THE TERRITORIAL JURISDICTION OF THE**
4 **LEGISLATIVE SERVICES COMMISSION**

5 Sec. 7. (a) G.S. 120-32.1 reads as rewritten:

6 **"§ 120-32.1. Use and maintenance of buildings and grounds.**

7 (a) ~~The Legislative Services Commission shall determine policy governing the~~
8 ~~use of the State Legislative Building and the State office building located at the~~
9 ~~northeast corner of Lane and Salisbury streets. The Commission shall allocate space~~
10 ~~within those buildings and the grounds encompassed by Jones, Wilmington, Lane and~~
11 ~~Salisbury streets; be responsible for the maintenance, security, control and care of those~~
12 ~~buildings; and promulgate rules and regulations governing the use of those buildings~~
13 ~~and their facilities. The Commission may delegate the actual work of maintenance of~~
14 ~~those buildings to the Department of Administration, which shall provide such~~
15 ~~maintenance services as may be delegated, subject to the direction of the Commission.~~
16 shall:

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

27 (b) ~~The rules and regulations promulgated~~ The Legislative Administrative Officer
28 shall have posted the rules adopted by the Legislative Services Commission under the
29 authority of this section shall be posted in a conspicuous place in the State Legislative
30 Building, and in the State office building located at the northeast corner of Lane and
31 Salisbury streets, and Building and the Legislative Office Building. The Legislative
32 Administrative Officer shall have filed a copy of the rules and regulations and all
33 amendments thereto, certified by the chairman of the Legislative Services Commission,
34 shall be filed in the office of the Secretary of State and in the office of the Clerk of the
35 Superior Court of Wake County. When so posted and filed, these rules and regulations
36 shall constitute notice to all persons of the existence and text of the rules and
37 regulations. ~~rules.~~ Any person, whether on his own behalf or for another, or acting as an
38 agent or representative of any person, firm, corporation, partnership or association, who
39 knowingly violates any of the rules ~~or regulations promulgated, adopted, posted and~~
40 ~~filed under the authority of this section is guilty of a misdemeanor, misdemeanor and~~
41 ~~upon conviction or a plea of guilty shall be punished by a fine or imprisonment in the~~
42 ~~discretion of the court, or by both such fine and imprisonment. Any person, firm,~~
43 ~~corporation, partnership or association who combines, confederates, conspires, aids,~~
44 ~~abets, solicits, urges, instigates, counsels, advises, encourages or procures another or~~

1 others to knowingly violate any of the rules and regulations promulgated, adopted,
 2 posted and filed under the authority of this section is guilty of a misdemeanor and upon
 3 conviction or a plea of guilty shall be punished by a fine or imprisonment in the
 4 discretion of the court, or by both such fine and imprisonment.

5 (c) ~~When the General Assembly is in regular or extra session, the Legislative~~
 6 ~~Services Commission shall have exclusive authority to assign parking space in the State~~
 7 ~~Legislative Building and upon its grounds, as "grounds" is defined in G.S. 120-32.3~~
 8 ~~[120-32.2], and the State Legislative Building security force shall have exclusive~~
 9 ~~authority and responsibility for enforcing the parking rules and regulations of the~~
 10 ~~Legislative Services Commission. The Legislative Services Commission may cause to~~
 11 ~~be removed at the owner's expense any vehicle parked in the State Legislative Building~~
 12 ~~or on its grounds legislative buildings and grounds in violation of the rules and~~
 13 ~~regulations of the Legislative Services Commission, Commission and during regular or~~
 14 ~~extra sessions of the General Assembly may cause to be removed any vehicle parked in~~
 15 any State-owned parking space leased to an employee of the General Assembly where
 16 the vehicle is parked without the consent of the employee to whom the space is leased.

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

19 (1) At all times:

- 20 a. The State Legislative Building and the area between outer walls
 21 of the State Legislative Building and the near curblineline of those
 22 sections of Jones, Wilmington, Lane, and Salisbury Streets
 23 which border land on which the State Legislative Building is
 24 situated;
- 25 b. The Legislative Office Building and the areas between its outer
 26 walls and the near curblineline of those sections of Lane and
 27 Salisbury Streets that border the land on which it is situated;
- 28 c. Any State-owned parking lot which is leased to the General
 29 Assembly; and
- 30 d. The bridge between the State Legislative Building and the State
 31 Governmental Mall.

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

- 35 a. When the General Assembly is in regular or extra session; and
- 36 b. On other days on which one or more standing committees of
 37 either or both houses of the General Assembly are meeting and
 38 the Legislative Administrative Officer determines that
 39 additional parking is needed for the functioning of the General
 40 Assembly and files notice of the committee's or committees'
 41 meetings and his finding that additional parking is needed in the
 42 office of the Secretary of State and that of Clerk of the Superior
 43 Court of Wake County."

44 (b) G.S. 120-32.2 reads as rewritten:

1 **"§ 120-32.2. State Legislative Building special police.**

2 All members of the State Legislative Building security force employed by the
3 Legislative Services Office are special policemen, and within the State Legislative
4 Building and upon its grounds legislative buildings and grounds, as defined in G.S.
5 120-32.1(d), they shall have all the powers of policemen of ~~incorporated towns, cities.~~

6 As used in this section, "grounds" means ~~the area between the outer walls of the State~~
7 ~~Legislative Building and the near curbline of those sections of Jones, Wilmington, Lane~~
8 ~~and Salisbury streets which border the land on which the State Legislative Building is~~
9 ~~situated. When the General Assembly is in regular or extra session, the term~~
10 ~~"grounds" also includes the surface to the far curbline of those sections of Jones,~~
11 ~~Wilmington, Lane and Salisbury streets which border the land on which the State~~
12 ~~Legislative Building is situated and any state-owned parking lot which is leased to the~~
13 ~~General Assembly while the General Assembly is in session.~~

14 The jurisdiction of the State Legislative Building security force shall also include the
15 State office building located at the northeast corner of Lane and Salisbury streets and
16 the area between the outer walls of that building and the near curbline of those sections
17 of Lane and Salisbury streets that border the land on which the building is located.

18 The Legislative Building security force has the exclusive authority and responsibility
19 for enforcing the parking rules of the Legislative Services Commission."

20 (c) This section becomes effective October 1, 1992, but does not affect the
21 validity of rules adopted by the Legislative Services Commission under the prior law.

22
23 Requested by: Senator Martin of Pitt

24 **RAILROAD ADVISORY COMMISSION MEMBERSHIP CHANGE**

25 Sec. 8. Section 3.1 of Chapter 754 of the 1991 Session Laws reads as
26 rewritten:

27 "Sec. 3.1. There is created the Railroad Advisory Commission. The Commission
28 shall consist of ~~12~~10 members, appointed as follows:

- 29 (1) Two members appointed by the Governor, one of whom shall be
30 knowledgeable about the railroad business and one of whom shall be
31 an advocate of passenger rail service;
- 32 (2) The Speaker of the House of Representatives or another member of the
33 House of Representatives serving as the Speaker's designee, and two
34 other members of the House of Representatives appointed by the
35 Speaker of the House of Representatives;
- 36 (3) The President Pro Tempore of the Senate or another member of the
37 Senate serving as the President Pro Tempore's designee, and two other
38 members of the Senate appointed by the President Pro Tempore of the
39 Senate;
- 40 (4) The Secretary of Transportation, or a member of his staff appointed by
41 the Secretary of Transportation; and
- 42 (5) The State Treasurer, or a member of his staff appointed by the
43 ~~Treasurer; Treasurer.~~

1 ~~(6) Two officers or directors of the North Carolina Railroad Company~~
2 ~~appointed by its Board of Directors.~~

3 The Attorney General or the Attorney General's designee shall also
4 participate and attend meetings of the Commission in accordance with Section 3.12 of
5 this Part."
6

7 **PART 7. DEPARTMENT OF ADMINISTRATION**

8
9 Requested by: Senator Basnight

10 **NORTH CAROLINA AQUARIUMS COMMISSION**

11 Sec. 9. (a) Chapter 143B of the General Statutes is amended by adding a new
12 Part to read:

13 **“PART 8C. NORTH CAROLINA AQUARIUMS COMMISSION.**

14 **“§ 143B-390.15. North Carolina Aquariums Commission – creation.**

15 There is hereby created the North Carolina Aquariums Commission.

16 **“§ 143B-390.16. North Carolina Aquariums Commission – organization, powers,** 17 **and duties.**

18 (a) The Commission shall consist of 12 members appointed as follows:

19 (1) Three members appointed by the Governor including one member
20 designated by the Governor to serve as chair of the Commission,

21 (2) Three members appointed by the General Assembly upon the
22 recommendation of the Speaker of the House of Representatives in
23 accordance with G.S. 120-121,

24 (3) Three members appointed by the General Assembly upon the
25 recommendation of the President Pro Tempore of the Senate in
26 accordance with G.S. 120-121, and

27 (4) Three members appointed by the North Carolina Aquarium Society,
28 Inc., each of whom resides in one of the counties where the North
29 Carolina Aquariums are located: Carteret, Dare, and New Hanover.

30 (b) Commission members shall serve for terms of four years, beginning July 1,
31 1992, and may be removed at any time by the appointing authority. If a vacancy on the
32 Commission occurs, the appointing authority shall appoint a replacement to serve for
33 the unexpired term.

34 (c) The Commission shall meet upon the call of the chair.

35 (d) The Secretary of Administration shall provide staff support for Commission
36 activities and travel reimbursement for Commission members.

37 (e) The Commission shall establish a schedule of uniform entrance fees for the
38 North Carolina Aquariums and may revise that schedule from time to time. The
39 Commission shall recommend expenditures from the North Carolina Special Aquariums
40 Fund, hereafter established.

41 (f) The North Carolina Special Aquariums Fund, hereafter ‘Fund’, is hereby
42 created, and shall be a special and nonreverting fund. The Fund shall be used only for
43 repair, maintenance, and educational exhibit construction at existing aquariums. The
44 Fund may also be used to match private funds that are raised for these purposes.

1 (g) Beginning June 30, 1992, the Department of Administration shall retain, at
2 the end of each fiscal year, unbudgeted entrance fee receipts from the North Carolina
3 Aquariums and deposit the receipts into the Fund. The Secretary of Administration may
4 expend funds only upon the recommendation of the Commission and the approval of the
5 Office of State Budget and Management. The Department of Administration shall
6 provide an annual report showing the use of aquarium entrance fees collected to the
7 Office of State Budget and Management and to the Fiscal Research Division of the
8 Legislative Services Office."

9 (b) G.S. 120-123 is amended by adding a new subdivision to read:

10 "(59) The North Carolina Aquariums Commission, as established by G.S.
11 143B-15."

13 **PART 7A. DEPARTMENT OF CULTURAL RESOURCES**

14
15 Requested by: Senator Basnight

16 **GRANTS FOR LOCAL ARTS/HISTORIC SITES**

17 Sec. 9.1. Of the funds appropriated in this Title to the Department of Cultural
18 Resources for grants for local arts/historic sites, the sum of thirty thousand dollars
19 (\$30,000) shall be allocated to the Eastern Music Festival to support activities
20 commemorating the thirtieth anniversary of the Festival, the sum of fifty thousand
21 dollars (\$50,000) shall be allocated to the North Carolina Shakespeare Festival for
22 equipment and other purposes, and a sufficient sum shall be allocated for the addition of
23 an auditorium for the Visitors Center at the Charles B. Aycock Historic Site.

25 **PART 8. PUBLIC SCHOOLS**

26
27 Requested by: Senator Basnight

28 **SCHOOL CRITICAL NEEDS FUNDS**

29 Sec. 10. The General Assembly finds that when the Commission on School
30 Facility Needs established a schedule in 1988 for making grants from the Critical
31 School Facility Needs Fund, in accordance with G.S. 115C-489.2(b), the data, although
32 lawful, that the Commission used to determine per capita income was not the most
33 current data available at the time that the Commission established the schedule. As a
34 result of discrepancies in the data, the Tyrrell County School Administrative Unit was
35 ranked 57th on the schedule instead of 32nd, and the Tyrrell County School
36 Administrative Unit has not received the grant it would have received had the most
37 current data been used. To remedy this problem, funds are appropriated in this Title
38 from the General Fund to the Office of State Budget and Management for the Critical
39 School Facility Needs Fund in the sum of two million dollars (\$2,000,000) for the 1992-
40 93 fiscal year for a grant for the Tyrrell County Schools.

42 **PART 9. COMMUNITY COLLEGES**

43
44 Requested by: Senator Richardson

ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION CONTINUED

Sec. 11. (a) Funds appropriated in this Title to the Department of Community Colleges to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing that are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina Medical Care Commission shall be distributed, upon application for financial assistance, for each full-time student duly enrolled in the program as of December 1, 1991, and on condition that accreditation is maintained. The amount per student shall not exceed eight hundred fifty dollars (\$850.00). The State Board of Community Colleges shall adopt rules to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

(b) This section expires June 30, 1993.

PART 10. COLLEGES AND UNIVERSITIES

Requested by: Senator Basnight

HIGH DENSITY POLYESTER PATENT RESEARCH AND TECHNOLOGY TRANSFER COMPLETION

Sec. 12. Of the funds appropriated to the Board of Governors of The University of North Carolina in this Title, the sum of ninety-seven thousand dollars (\$97,000) shall be allocated to North Carolina State University for completion of the research and technology transfer of high density polyester for which patent applications are pending. These funds shall be repaid to the General Fund from royalties paid the North Carolina State University Patent Reserve Fund from the companies licensed to use the patents.

PART 11. DEPARTMENT OF TRANSPORTATION

Requested by: Senator Goldston

1992 CAPITAL CONSTRUCTION MODIFICATIONS

Sec. 13. Section 236.1 of Chapter 689 of the 1991 Session Laws reads as rewritten:

"Sec. 236.1. Appropriations are made from the Highway Fund for the 1991-92 fiscal year and the 1992-93 fiscal year for use of the Department of Transportation to provide for capital improvement projects according to the following schedule:

DIVISION OF HIGHWAYS1991-92 1992-93

- | | | | |
|-----|-----------------------------------|-------------|------|
| 01. | Bridge Maintenance Office Complex | | |
| | Supplemental - Town of Brunswick | \$224,000 | \$ - |
| 02. | Equipment Shop - Carthage | - 2,247,000 | |

- 1
2 03. Bridge Maintenance Complex -
3 Wadesboro 26,000 439,000
4
5 04. Gas Pump Canopies - Statewide 398,000 ~~311,000~~ -
6
7 05. Fencing - Statewide 171,000 -
8
9 06. Land Acquisition - Siler City ~~54,000~~ -
10
11 07. Land Acquisition/Maintenance
12 Yard - Halifax 13,000 -
13
14 08. Land Acquisition/Maintenance
15 Yard - Trenton 27,000 -
16
17 09. Water and Sewer Connections
18 - Statewide 308,000 -
19 -Greene County Facility 400,000 -
20
21 10. Division Office Complex Phase
22 II - Fayetteville - 1,688,000
23
24 11. Division Office Addition
25 - Greensboro
26 Requirements 589,000
27 Less Receipts (Sale of Land) -589,000
28 Appropriation - -
29
30 12. Landscape Office, Warehouse
31 and Truck Shed - Asheville
32 Requirements 472,000
33 Less Receipts (Sale of Land) -472,000
34 Appropriation - -
35
36 13. Salt Storage Buildings
37 - Statewide 405,000 ~~67,000~~ -
38
39 14. Equipment Shop - Mocksville 511,000 -
40
41 15. District Office Building
42 - Albemarle 49,000 ~~247,000~~ 333,000
43
44 16. Division of Highways/Division

- 1 of Motor Vehicles Office
 2 Complex - Graham 67,000 -
 3
 4 17. Sign Shop - Town of Union - ~~725,000~~-
 5
 6 18. Design Equipment Shop - Meadows - ~~41,000~~52,000
 7
 8 19. Design Equipment Shop - Spindale - ~~24,000~~40,000
 9
 10 20. Design Equipment Shop - Washington - ~~40,000~~49,000
 11
 12 21. Design Equipment Shop - Wentworth - ~~44,000~~54,000
 13
 14 22. Bridge Maintenance Warehouse/Shed
 15 - Town of Union - ~~81,000~~-
 16
 17 23. Design Sign Shop - Carthage - ~~33,000~~42,000
 18
 19 24. Design District/Resident Engineer
 20 Office - Marion - ~~18,000~~49,000
 21
 22 25. Design Equipment Shop - Kinston - ~~43,000~~49,000
 23
 24 26. Land Purchase - Robbinsville - 17,000
 25
 26 27. Land Purchase - Roxboro - 17,000
 27
 28 28. District/Resident Engineers Office
 29 - Wilmington - 434,000
 30
 31 29. Roadside Environmental Warehouse/
 32 Office - Marion - 188,000
 33
 34 30. Maintenance Office/Assembly
 35 - Hudson - 309,466
 36
 37 31. Division Office (Supplement)
 38 - Durham - 85,000
 39
 40 32. Materials and Test Lab Design-Asheville - 34,000
 41
 42 33. Highway Building - Fire Alarm
 43 System - Raleigh- 141,000
 44

1
2 TOTAL DIVISION OF HIGHWAYS ~~\$2,653,000~~ \$2,599,000 ~~\$6,048,000~~ \$6,267,466
3
4

5 **DIVISION OF MOTOR VEHICLES**
6

7 1991-92 1992-93
8

9 01. Upgrade Electrical Power,
10 Communication and Computer
11 Circuits - Raleigh Division
12 of Motor Vehicles Building \$ 216,200 \$ -
13

14 02. Building Addition - Wilmington 221,900 -
15

16 03. Building Addition - Statesville 170,075 -
17

18 04. New Office Building - Asheville 635,100 -
19

20 05. Roof Replacement (7 Locations) 100,500 -
21

22 06. Resurface Parking Lots
23 (6 Locations) 107,500 -
24

25 07. Roof Replacement (7 Locations) - 103,100
26

27 08. Resurface Parking Lots (6 Locations) - 111,900
28

29 09. Building Addition - Goldsboro - 167,630
30

31 10. Building Addition - Whiteville - 164,770
32

33 11. Building Addition - Hillsborough - 179,200
34

35 12. Building Addition - Kinston - 179,200
36

37 13. Building Addition - Jacksonville - 174,800
38

39 14. Reserve to Make Restrooms
40 Handicapped Accessible in DMV
41 Facilities 25,000 25,000
42 _____
43

44 TOTAL DIVISION OF MOTOR VEHICLES

\$1,476,275 \$1,105,600

1
2 CRIME CONTROL AND PUBLIC SAFETY

3
4 01. State Highway Patrol - Troop H
5 Headquarters - New Building \$190,000 \$1,348,900

6
7 02. State Highway Patrol - Upgrade
8 and Replace Underground
9 Fuel Tanks 300,000 300,000

10
11 TOTAL CRIME CONTROL AND
12 PUBLIC SAFETY

\$ 490,000 \$1,648,900

13
14 GRAND TOTAL HIGHWAY FUND \$4,619,275 ~~\$4,565,275~~ ~~\$8,802,500~~ \$9,021,966 "

15
16 Requested by: Senator Goldston

17 **DEPARTMENT OF TRANSPORTATION CAPITAL CONSTRUCTION FUNDS**
18 **REVERSIONS**

19 Sec. 14. (a) The balance of fifty-four thousand dollars (\$54,000) appropriated
20 for land acquisition in Siler City in Section 236.1 of Chapter 689 of the 1991 Session
21 Laws is reverted to the Highway Fund to be reappropriated for the 1992-93 fiscal year.

22 (b) The balance of one hundred eleven thousand nine hundred dollars (\$111,900)
23 appropriated to landscape the office and warehouse in Graham in Section 6 of Chapter
24 754 of the 1989 Session Laws is reverted to the Highway Fund to be reappropriated for
25 the 1992-93 fiscal year.

26 (c) The balance of fifty-three thousand five hundred sixty-six dollars (\$53,566)
27 for the maintenance complex in Craggy (Buncombe County) in Section 5 of Chapter
28 480 of the 1985 Session Laws is reverted to the Highway Fund to be reappropriated for
29 the 1992-93 fiscal year.

30
31 Requested by: Senator Murphy

32 **ROADWAY IMPROVEMENTS FOR THE CENTENNIAL CENTER**

33 Sec. 15. From funds appropriated to the Department of Transportation for the
34 1992-93 fiscal year, three million three hundred thousand dollars (\$3,300,000) shall be
35 used for roadway improvements for the Centennial Center. These improvements shall
36 be part of a long-range plan that is to be developed by the Department of Transportation
37 to service the Centennial Center, Carter-Finley Stadium, the State Fairgrounds, and the
38 Government Office Complex (Blue Ridge Road). Included in these improvements shall
39 be widening Edwards Mill Road, a new Wade Avenue Bridge and ramps, and other off-
40 site improvements to Trinity Road, Wade Avenue, and West Chase Boulevard.
41 Authorized uses of these funds include design fees and expenses, surveying, testing, and
42 other contingencies related to construction.

43
44 Requested by: Senator Plyler

MOBILE CRANE STUDY

Sec. 15.1. The Department of Transportation shall study the requests of the mobile crane industry as compared to current rules, regulations, and policies regarding permitted movement of self-propelled truck cranes. A report detailing the results of this study shall be submitted to the Joint Legislative Highway Oversight Committee prior to the convening of the 1993 Session of the General Assembly.

Requested by: Senator Plyler

TRAFFIC CONTROL FUNDS

Sec. 15.2. G.S. 20-79.7 reads as rewritten:

"§ 20-79.7. Special Registration Plate Fund.

(a) Fund. – The Special Registration Plate Fund is established. The Fund consists of the revenue derived from one-half of the additional fee collected for a personalized registration plate and all of the additional fee collected for any other special registration plate issued under G.S. 20-79.4. The Commissioner shall deduct the costs of the registration plates, including the costs of issuing, handling, and advertising the availability of the special plates from the Fund.

~~(b) Initial Distribution of Proceeds. — After deducting the costs of the special registration plates from the Fund, the Secretary of Transportation may allocate and reserve up to one hundred thousand dollars (\$100,000) to the Department of Transportation each fiscal year for the purpose of traffic control at major events as provided for by G.S. 136-44.2. Any funds allocated for traffic control that are neither used nor obligated at the end of the fiscal year shall remain in the Fund and be used in accordance with subsection (c) of this section.~~

(c) Use of ~~Remaining Proceeds Funds.~~ — The ~~remaining~~ revenue in the Fund shall be transferred quarterly as follows:

- (1) Thirty-three percent (33%) to the account of the Department of Economic and Community Development to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in this State.
- (2) Fifty percent (50%) to the Department of Transportation to be used solely for the purpose of beautification of highways other than those designated as interstate. These funds shall be administered by the Department of Transportation for beautification purposes not inconsistent with good landscaping and engineering principles.
- (3) Seventeen percent (17%) to the account of the Department of Human Resources to promote travel accessibility for disabled persons in this State. These funds shall be used to collect and update site information on travel attractions designated by the Department of Economic and Community Development in its publications, to provide technical assistance to travel attractions concerning accommodation of disabled tourists, and to develop, print, and promote the publication ACCESS NORTH CAROLINA as provided in G.S.168-2. Any funds allocated for these purposes that are neither spent nor obligated at the end of the

1 fiscal year shall be transferred to the Department of Administration for
2 removal of man-made barriers to disabled travelers at State-funded
3 travel attractions. Guidelines for the removal of man-made barriers
4 shall be developed in consultation with the Department of Human
5 Resources."

6 Sec. 2. G.S. 136-44.2 reads as rewritten:

7 **"§ 136-44.2. Budget and appropriations.**

8 The Director of the Budget shall include in the 'Current Operations Appropriations
9 Bill' an enumeration of the purposes or objects of the proposed expenditures for each of
10 the construction and maintenance programs for that budget period for the State primary,
11 secondary, urban, and State parks road systems. The State primary system shall include
12 all portions of the State highway system located outside municipal corporate limits
13 which are designated by N.C., U.S. or Interstate numbers. The State secondary system
14 shall include all of the State highway system located outside municipal corporate limits
15 that is not a part of the State primary system. The State urban system shall include all
16 portions of the State highway system located within municipal corporate limits. The
17 State parks system shall include all State parks roads which are not also part of the State
18 highway system.

19 All construction and maintenance programs for which appropriations are requested
20 shall be enumerated separately in the budget. Programs that are entirely State funded
21 shall be listed separately from those programs involving the use of federal-aid funds.
22 Proposed appropriations of State matching funds for each of the federal-aid construction
23 programs shall be enumerated separately as well as the federal-aid funds anticipated for
24 each program in order that the total construction requirements for each program may be
25 provided for in the budget. Also, proposed State matching funds for the highway
26 planning and research program shall be included separately along with the anticipated
27 federal-aid funds for that purpose.

28 Other program categories for which appropriations are requested, such as, but not
29 limited to, maintenance, channelization and traffic control, bridge maintenance, public
30 service and access road construction, and ferry operations shall be enumerated in the
31 budget.

32 The Department of Transportation shall have all powers necessary to comply fully
33 with provisions of present and future federal-aid acts. No federally eligible construction
34 project may be funded entirely with State funds unless the Department of Transportation
35 has first consulted with the Joint Legislative Commission on Governmental Operations.
36 For purposes of this section, 'federally eligible construction project' means any
37 construction project except secondary road projects developed pursuant to G.S. 136-
38 44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not
39 federal funds are actually available.

40 The 'Current Operations Appropriations Bill' shall also contain the proposed
41 appropriations of State funds for use in each county for maintenance and construction of
42 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State
43 funds appropriated for secondary roads shall not be transferred nor used except for the

1 construction and maintenance of secondary roads in the county for which they are
 2 allocated pursuant to G.S. 136-44.5 and 136-44.6.

3 In the event receipts and increments to the State Highway Fund shall be more than
 4 the appropriations made for the preceding fiscal year, such excesses shall be allocated
 5 by the Director of the Budget to the Department of Transportation for school and
 6 industrial access roads and unforeseen happenings or state of affairs requiring prompt
 7 action, with fifty percent (50%) of the balance to be allocated to the State secondary
 8 roads program on the basis of need as determined by the Department of Transportation
 9 and the remaining fifty percent (50%) to be allocated in accordance with G.S. 136-44.5.

10 The Department of Transportation may provide for costs incurred or accrued for
 11 traffic control measures to be taken by the Department at major events which involve a
 12 high degree of traffic concentration on State highways, and which cannot be funded
 13 from regular budgeted items. This authorization applies only to events which are
 14 expected to generate 30,000 vehicles or more per day. The Department of
 15 Transportation shall provide for this funding by allocating and reserving up to one
 16 hundred thousand dollars (\$100,000) before any other allocations from the
 17 appropriations for State maintenance for primary, secondary, and urban road systems
 18 are made, based upon the same proportion as is appropriated to each system."

19
 20 **PART 12. DEPARTMENT OF CORRECTION**

21
 22 Requested by: Senators Plyler, Marvin

23 **PRISON BOND REALLOCATION/ADMINISTRATION CHANGES**

24 Sec. 16. (a) Section 239(c) of Chapter 689 of the 1991 Session Laws reads as
 25 rewritten:

26 "(c) **Descriptions, Custodial Levels, Beds, Projected Allocations.**
 27 Appropriations are made from bond proceeds for use by the Departments of Correction
 28 and Human Resources to provide for capital improvement projects as herein provided.

29 The proceeds of bonds and notes shall be expended for paying the cost, as defined in
 30 the bond act, of prison and youth services facilities, to the extent and as provided in this
 31 section and subject to change as herein provided, for the following projects:

32
 33 DEPARTMENT OF CORRECTION

<u>Project Description</u>	<u>Custodial</u>	<u>Beds</u>	
<u>Level</u>			
Nash Correctional Institution	Med Close	128	
Marion Correctional Center	Med Close		906-752
Cherry Correctional Center	Min	500	
Central Prison	Close	144	
<u>Odom Correctional Institution</u>		<u>Close</u>	<u>192</u>
Pasquotank Youth Institution	Med Close		440-664
NCCIW	Close/Med	256	
NCCIW - Repairs			

1	and Renovations		
2	Lumberton Correctional Center	Med	312
3	Fountain Correctional Center	Min	100
4	Greene Correctional Center	Min	200
5	Hyde Correctional Center	Med	312
6	Brown Creek Sewing Plant		
7	Pender Furniture Refurbishing		
8	Facility		
9	Columbus Sewing Facility		
10	Caswell Sewing and Tailoring		
11	Equipment		
12	Harnett Dining Hall		
13	<u>Provide dayrooms at 49 units</u>		
14	<u>to comply with Small v.</u>		
15	<u>Martin lawsuit</u>		
16	Subtotal	3,298 <u>3,104</u>	\$96,980,702 <u>\$101,380,310</u>
17			
18	Contingencies		
19	TOTAL		
20			\$103,38
21	0,310		
22			

23 DEPARTMENT OF HUMAN RESOURCES-DIVISION OF YOUTH SERVICES

24

25 7 Secure/nonsecure group homes

26 9 beds added to Pitt Detention Ctr.

27 Renovate unused dorms & upgrade

28 to meet American Correctional

29 Association Standards

30 Dillon secure unit, counseling

31 space, & fencing at 5 facilities

32 Conversion of dorms to individual

33 rooms

34 Increase number of transition

35 beds - step down & independent

36 living for Training Schools

37 \$9,119,690"

38 (b) Section 239(f) of Chapter 689 of the 1991 Session Laws reads as

39 rewritten:

40 "(f) **Administration.** With respect to facilities authorized for the Department of

41 Correction, the Office of State Budget and Management may contract for and supervise

42 all aspects of administration, technical assistance, design, construction or demolition of

43 prison facilities in order to implement the providing of prison facilities under the

44 provisions of this act without being subject to the requirements of the following statutes

1 and rules implementing those statutes: G.S. 143-135.26(1), 143-128, 143-129, 143-131,
2 143-132, 143-134, 143-135.26, ~~143-64.10 through 143-64.13~~, 113A-1 through 113A-
3 10, 113A-50 through 113A-66, ~~133-1.1(b)~~, 133-1.1(g), and 143-408.1; provided,
4 however, of the funds allocated under the provisions of this act for the construction of
5 prison facilities, the Office of State Budget and Management shall have a verifiable ten
6 percent (10%) goal for participation by minority and women-owned businesses. All
7 contracts for the design, construction, or demolition of prison facilities shall include a
8 penalty for failure to complete the work by a specified date.

9 The proposals for prison facilities authorized in this section shall be invited by
10 advertisement in newspapers having general circulation in the State. The form of
11 advertisement shall be prepared in the form of Section 301 of the State Construction
12 Manual of the Department of Administration, and shall be published in one issue of the
13 newspaper. A minimum of at least seven full days shall lapse between the date of
14 publication and the date of the opening of bids. Initiation of the advertisement shall be
15 by the Office of State Budget and Management.

16 The Office of State Budget and Management shall consider alternative delivery
17 systems that could expedite the delivery of prison facilities. Such delivery systems as
18 design-build, using modular or conventional building systems, shall be considered.
19 However, in order for such alternatives to be used, the Department of Correction must
20 approve the proposed design for operational programming and cost of operations and
21 maintenance.

22 The Office of State Budget and Management shall involve the Office of State
23 Construction of the Department of Administration in all aspects of the projects to ensure
24 that all prison facilities are constructed consistent with Office of State Construction
25 standards and procedures. Such involvement shall include but not be limited to the
26 review of plans and specifications for each project prior to the award of contracts,
27 attendance at scheduled project meetings, on-site inspections, review of all change
28 orders, final inspections, review of punch lists of project deficiencies and written
29 verification of the correction of such deficiencies, and certification of the identity of the
30 designer of record on each project.

31 The Office of State Budget and Management shall involve the Department of
32 Correction in all aspects of the projects to the extent that such involvement relates to the
33 Department's Program needs and to its responsibility for the care of the prison
34 population.

35 The Office of State Construction, the Department of Insurance, and the Department
36 of Correction shall immediately report any concerns regarding the prison construction
37 program to the Office of State Budget and Management. Any concerns not
38 satisfactorily resolved with the Office of State Budget and Management shall be
39 reported immediately to the Joint Legislative Commission on Governmental Operations.
40 The Office of State Construction, the Department of Insurance, and the Department of
41 Correction shall report quarterly to the Joint Legislative Commission on Governmental
42 Operations on their involvement with the Office of State Budget and Management and
43 the project manager in the prison construction program."
44

PART 13. DEPARTMENT OF HUMAN RESOURCES

Requested by: Senator Basnight

VOCATIONAL REHABILITATION MOTOR POOL EXEMPTION

Sec. 17. Notwithstanding G.S. 143-341(8)i.3., the Division of Vocational Rehabilitation Services, Department of Human Resources, may use funds available to it to replace and operate those motor vehicles under its ownership, custody, or control that are used primarily to transport clients being served under the Rehabilitation Act of 1973, Public Law 93-112, as amended.

Requested by: Senator Basnight

EASTERN REGIONAL VOCATIONAL REHABILITATION FACILITY FUNDS

Sec. 18. Of the funds appropriated in this Title to the Reserve for Repairs and Renovations, the sum of three hundred thousand dollars (\$300,000) for the 1992-93 fiscal year shall be allocated to the Division of Vocational Rehabilitation Services, Department of Human Resources, for capital improvements for the Eastern Regional Vocational Rehabilitation Facility.

Requested by: Senator Basnight

DOBBS SCHOOL RELOCATION FUNDS

Sec. 19. Notwithstanding any other provisions of law, funds allocated to the Department of Human Resources for renovations to The Dobbs School from the North Carolina Prison and Youth Services Bond Fund by Section 239 of Chapter 689 of the 1991 Session Laws, shall be used to begin the process of constructing facilities for the relocation of The Dobbs School to land currently allocated to the Department of Human Resources and adjacent to Caswell Center.

PART 14. DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Requested by: Senator Martin of Pitt

WATER RESOURCES DEVELOPMENT FUNDS

Sec. 20. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources for the 1992-93 fiscal year, the sum of two million dollars (\$2,000,000) shall be used for water resources development projects. The Department shall fund the following projects, whose estimated costs are as indicated:

- (1) Wilmington Harbor \$ 750,000
Deepening Study
- (2) Aquatic Plant Control 35,000
- (3) Jordan Lake Water Supply 110,000
Repayment & Operation

- 1
2 (4) Lower Creek Flood 161,000
3 Control-Lenoir
4
5 (5) Morehead City 165,000
6 Harbor Deepening
7
8 (6) Beaufort Harbor 80,000
9
10 (7) Wilmington Harbor 449,000
11 Navigation
12
13 (8) Cape Fear River Above Wilmington
14 Navigation 100,000
15
16 (9) State-Local Water Resources Development
17 Projects 150,000.
18

19 (b) Where the actual costs are different from the estimated costs under subsection
20 (a) of this section, the Department may adjust the allocations among projects as needed.
21 If any projects listed in subsection (a) of this section are delayed and the budgeted State
22 funds cannot be used during the 1992-93 fiscal year, or if the projects listed in
23 subsection (a) of this section are accomplished at a lower cost, the Department may use
24 the resulting fund availability to fund:

- 25 (1) Corps of Engineers project feasibility studies, or
26 (2) Corps of Engineers projects whose schedules have advanced and
27 require State matching funds in fiscal year 1992-93, or
28 (3) State-local Water Resources Development Projects.

29 Funds not expended or encumbered for these purposes shall revert to the General Fund
30 at the end of the 1993-94 fiscal year.

31 (c) Beginning October 1, 1992, the Department shall make quarterly reports on
32 the use of these funds to the Joint Legislative Commission on Governmental
33 Operations, the Director of the Fiscal Research Division of the Legislative Services
34 Office, and the Office of State Budget and Management. Each report shall include:

- 35 (1) All projects listed in this section;
36 (2) The estimated cost of each project;
37 (3) The date work on each project began or is expected to begin;
38 (4) The date work on each project was completed or is expected to be
39 completed; and
40 (5) The actual cost of each project.

41 The quarterly reports shall also show those projects advanced in schedule, those projects
42 delayed in schedule, and an estimate of the amount of funds expected to revert to the
43 General Fund.
44

PART 15. DEPARTMENT OF AGRICULTURE**JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS/
FARMERS MARKET STUDY**

Sec. 21. The Joint Legislative Commission on Governmental Operations may study the current farmers markets and the feasibility of funding additional farmers markets in North Carolina.

The Commission may report its findings and recommendations to the 1993 General Assembly.

PART 16. MISCELLANEOUS PROVISIONS

Requested by: Senators Basnight, Plyler

RESERVE FOR ADVANCE PLANNING

Sec. 22. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on how it intends to spend funds from the Reserve for Advance Planning at least 45 days before it spends the funds.

The Office of State Budget and Management shall also report the results of any project on which it uses funds from the Reserve for Advance Planning to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

Requested by: Senators Basnight, Plyler

ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

Sec. 23. When each capital improvement project appropriated by the 1992 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under 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.

Requested by: Senators Basnight, Plyler

PROJECT COST INCREASE

1 Sec. 24. Upon the request of the administration of a State department or
2 institution, the Director of the Budget may, when in his opinion it is in the best interest
3 of the State to do so, increase the cost of a capital improvement project. Provided,
4 however, that if the Director of the Budget increases the cost of a project, he shall report
5 that action to the Joint Legislative Commission on Governmental Operations at its next
6 meeting. The increase may be funded from gifts, federal or private grants, special fund
7 receipts, excess patient receipts above those budgeted at University of North Carolina
8 Hospitals at Chapel Hill, or direct capital improvement appropriations to that
9 department or institution.

10
11 Requested by: Senators Basnight, Plyler

12 **NEW PROJECT AUTHORIZATION**

13 Sec. 25. Upon the request of the administration of any State department or
14 institution, the Governor may authorize the construction of a capital improvement
15 project not specifically authorized by the General Assembly if such project is to be
16 funded by gifts, federal or private grants, special fund receipts, excess patient receipts
17 above those budgeted at University of North Carolina Hospitals at Chapel Hill, or self-
18 liquidating indebtedness. Provided, however, that if the Director of the Budget
19 authorizes the construction of such a capital improvement project, he shall report that
20 action to the Joint Legislative Commission on Governmental Operations at its next
21 meeting.

22
23 Requested by: Senators Basnight, Plyler

24 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

25 Sec. 26. Funds which become available by gifts, excess patient receipts
26 above those budgeted at University of North Carolina Hospitals at Chapel Hill, federal
27 or private grants, receipts becoming a part of special funds by act of the General
28 Assembly or any other funds available to a State department or institution may be
29 utilized for advance planning through the working drawing phase of capital
30 improvement projects, upon approval of the Director of the Budget. The Director of the
31 Budget may make allocations from the Advance Planning Fund for advance planning
32 through the working drawing phase of capital improvement projects, except that this
33 revolving fund may not be utilized by the Board of Governors of The University of
34 North Carolina or the State Board of Community Colleges.

35
36 Requested by: Senators Basnight, Plyler

37 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

38 Sec. 27. Except as permitted in previous sections of this Title, the
39 appropriations for capital improvements made by the 1991 General Assembly may be
40 expended only for specific projects set out by the 1991 General Assembly and for no
41 other purpose. Construction of all capital improvement projects enumerated by the
42 1992 General Assembly shall be commenced, or self-liquidating indebtedness with
43 respect to them shall be incurred, within 12 months following the first day of the fiscal
44 year in which the funds are available. If construction contracts on those projects have

1 not been awarded or self-liquidating indebtedness has not been incurred within that
2 period, the direct appropriation for those projects shall revert to the original source, and
3 the self-liquidating appropriation shall lapse; except that direct appropriations may be
4 placed in a reserve fund as authorized in this Title. This deadline with respect to both
5 direct and self-liquidating appropriations may be extended with the approval of the
6 Director of the Budget up to an additional 12 months if circumstances and conditions
7 warrant such extension.

8
9 Requested by: Senators Basnight, Plyler

10 **1991-92 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

11 Sec. 28. (a) Except where expressly repealed or amended by this Title, the
12 provisions of Chapters 689 and 761 of the 1991 Session Laws and House Bill 1340 as
13 ratified by the 1991 General Assembly remain in effect.

14 (b) Notwithstanding any modifications by this Title in the amounts
15 appropriated, except where expressly repealed or amended, the limitations and
16 directions for the 1992-93 fiscal year in Chapters 689 and 761 of the 1991 Session Laws
17 and House Bill 1340 as ratified by the 1991 General Assembly that applied to
18 appropriations to particular agencies or for particular purposes apply to the newly
19 enacted appropriations and budget reductions of this Title for those same particular
20 purposes.

21 Sec. 29. This Title becomes effective July 1, 1992.

22 **TITLE II. STATE LOTTERY**

23
24
25 Sec. 201. The General Statutes are amended by adding a new Chapter to read:

26 **"CHAPTER 143C.**

27 **"NORTH CAROLINA STATE LOTTERY.**

28 **"ARTICLE 1.**

29 **"GENERAL PROVISIONS AND DEFINITIONS.**

30 **"§ 143C-101. Citation.**

31 This Chapter shall be known and may be cited as the North Carolina State Lottery
32 Act.

33 **"§ 143C-102. Purpose and intent.**

34 The General Assembly declares that the purpose and intent of this Chapter is to
35 provide additional monies to benefit the public purpose described in this Chapter
36 without the imposition of additional or increased taxes through the implementation of a
37 State-operated lottery. The lottery shall be initiated at the earliest practical time and it
38 shall be operated to maximize new revenue to the State which shall be raised in a
39 manner consistent with the dignity of the State, the general welfare of the people, and in
40 a manner consistent with effective business practices.

41 **"§ 143C-103. Laws not affected.**

42 Nothing contained in this Chapter shall be construed to repeal or modify any
43 existing State law with respect to gambling. In the event of a conflict between the

1 provisions of this Chapter and any other laws of the State of North Carolina, the
2 provisions of this Chapter shall govern.

3 **"§ 143C-104. Prohibition on use of State funds.**

4 It is the intent of this Chapter that the State-operated lottery established by this
5 Chapter shall be a self-supporting revenue-raising agency of State government.

6 **"§ 143C-105. Public purpose to benefit from lottery.**

7 The net revenues of the lottery shall be used to benefit the public purposes set forth
8 in G.S. 143C-175. It is the intent of this Chapter that the net revenues generated by the
9 State-operated lottery established by this Chapter shall not supplant revenues already
10 expended or projected to be expended for the public purpose and that lottery net
11 revenues shall supplement rather than be used as substitute funds for the total amount of
12 money allocated for the public purpose.

13 **"§ 143C-106. Allocation of revenues.**

14 As nearly as practical, at least eighty-four percent (84%) of the total annual revenues
15 from the sale of lottery tickets or shares, as described in this Chapter, shall be returned
16 to the public in the form of prizes and net revenues benefiting the public purposes set
17 forth in G.S. 143C-175. As nearly as practical, at least fifty percent (50%) of the total
18 annual revenues, as described in this Chapter, shall be returned to the public in the form
19 of prizes as described in this Chapter. Unclaimed prize money, as described in this
20 Chapter, shall revert to the benefit of the public purpose as described in this Chapter.
21 As nearly as practical, no more than sixteen percent (16%) of the total annual revenues
22 as described in this Chapter shall be allocated for payment of expenses of the lottery as
23 described in this Chapter. To the extent that the expenses of the lottery are less than
24 sixteen percent (16%) of total annual revenues, any surplus funds shall also be allocated
25 to the benefit of the public purpose as described in this Chapter.

26 **"§ 143C-107. Definitions.**

27 As used in this Chapter, unless the context requires otherwise:

- 28 (1) 'Commission' or 'Lottery Commission' means the North Carolina State
29 Lottery Commission, the five-member body appointed by the
30 Governor pursuant to this Chapter to oversee the lottery and the
31 Director.
- 32 (2) 'Commissioner' means one of the members of the North Carolina State
33 Lottery Commission appointed by the Governor pursuant to this
34 Chapter to oversee the State lottery.
- 35 (3) 'Director' means the Director of the North Carolina State Lottery
36 appointed by the Governor pursuant to this Chapter as the chief
37 administrator of the State lottery.
- 38 (4) 'Game' or 'Lottery game' means any procedure authorized by the
39 Commission whereby prizes are distributed among persons who have
40 paid, or unconditionally agreed to pay, for tickets or shares that
41 provide the opportunity to win these prizes.
- 42 (5) 'Lottery' or 'State lottery' means the North Carolina State Lottery
43 established and operated pursuant to this Chapter.

- 1 (6) 'Lottery contractor' means a person with whom the North Carolina
2 State Lottery has contracted for the purpose of providing goods and
3 services to the North Carolina State Lottery.
- 4 (7) 'Major procurement' means a procurement for a contract for the
5 printing of tickets or the provision of shares for use in any lottery
6 game, for any goods or services involving the receiving or recording of
7 number selections in any lottery game, or for any goods or services
8 involving the determination or generation of winners in any lottery
9 game.
- 10 (8) 'Person' means any natural person or corporation, trust, association,
11 partnership, joint venture, subsidiary, or other business entity.
- 12 (9) 'Retailer' or 'Lottery retailer' means a person with whom the North
13 Carolina State Lottery Commission has contracted for the purpose of
14 selling tickets or shares in lottery games to the public.
- 15 (10) 'Share' means any method of participation in a lottery game, other than
16 by a ticket purchased on an equivalent basis with a ticket whether
17 presently contemplated or developed in the future.
- 18 (11) 'Ticket' means any tangible evidence issued by the lottery to prove
19 participation in a lottery game.
- 20 (12) 'Vendor' or 'Lottery vendor' means any person who submits a bid,
21 proposal, or offer as part of a procurement for a contract for goods or
22 services for the North Carolina State Lottery.

23 **"§§ 143C-108 and 143C-109: Reserved for future codification purposes.**

24 **"ARTICLE 2.**

25 **"NORTH CAROLINA STATE LOTTERY COMMISSION.**

26 **"§ 143C-110. Creation of Commission.**

27 There is created a North Carolina State Lottery Commission.

28 **"§ 143C-111. Commission membership; appointment; vacancies; removal.**

29 (a) The North Carolina State Lottery Commission shall consist of five members
30 appointed by the Governor who shall serve at the pleasure of the Governor.

31 (b) The Commissioners shall be appointed for the following initial terms: one
32 member shall be appointed for a term of two years, one member shall be appointed for a
33 term of three years, one member shall be appointed for a term of four years, and two
34 members shall be appointed for terms of five years. All succeeding appointments shall
35 be for terms of five years.

36 (c) All initial appointments shall be made within 30 days of the effective date
37 of this Chapter.

38 (d) Vacancies shall be filled within 30 days of their occurrence by the
39 Governor for the unexpired portion of the term in which they occur.

40 **"§ 143C-112. Qualifications of Commissioners.**

41 At least one of the Commissioners shall have a minimum of five years experience in
42 law enforcement, and at least one of the other Commissioners shall be a certified public
43 accountant. No person shall be appointed as a Commissioner who has been convicted

1 of a felony. No more than three members of the Commission shall be of the same
2 political party.

3 **"§ 143C-113. Compensation and expenses.**

4 Commissioners shall be compensated at the rate of one hundred dollars (\$100.00)
5 for each day engaged in Commission business. Commissioners shall be reimbursed for
6 actual expenses incurred on Commission business, including, necessary travel expenses.

7 **"§ 143C-114. Powers and duties of the Commission.**

8 The Commission shall exercise all powers necessary to effectuate the purposes of
9 this Chapter.

10 **"§ 143C-115. Annual selection of chairman.**

11 The Commission shall annually select a chairman from its membership.

12 **"§ 143C-116. Meetings; records.**

13 Meetings of the Commission shall be open and public in accordance with Article
14 33C of Chapter 143 of the General Statutes. Records of the Commission shall be open
15 and available to the public in accordance with the provisions of Chapter 132 of the
16 General Statutes. The Commission shall meet with the Director at least monthly to
17 make recommendations and set policy, to approve or reject reports of the Director, to
18 adopt rules in accordance with Chapter 150B of the General Statutes, and to transact
19 any other business that may properly be brought before it. The chairman or a majority
20 of the members of the Commission shall have the power to call special meetings of the
21 Commission upon advance written notice to all of the members of the Commission and
22 the Director.

23 **"§ 143C-117. Quorum; voting.**

24 A majority of the total membership of the North Carolina Lottery Commission
25 constitutes a quorum. All decisions of the Commission shall be made by a majority
26 vote.

27 **"§ 143C-118. Reports.**

28 The Commission shall make quarterly and annual reports on the operation of the
29 lottery to the Governor, Attorney General, State Treasurer, and to the General
30 Assembly. The reports shall include full and complete statements of lottery revenues,
31 prize disbursements, expenses, net revenues, and all other financial transactions
32 involving lottery funds.

33 **"§ 143C-119: Reserved for future codification purposes.**

34 **"ARTICLE 3.**

35 **"NORTH CAROLINA STATE LOTTERY DIRECTOR.**

36 **"§ 143C-120. Appointment and removal of Director.**

37 The Governor shall appoint a Director within 30 days of the effective date of this
38 Chapter. The Director shall direct the operations of the State lottery. The Governor
39 may remove the Director upon notification to the Commission. The Director shall be
40 exempt from the State Personnel Act.

41 **"§ 143C-121. Qualifications of the Director.**

42 The Director shall be qualified by training and experience to direct the operations of
43 a State-operated lottery. No person shall be appointed Director who has been convicted
44 of a felony.

1 **"§ 143C-122. Salary.**

2 During the first fiscal year of the operation of the lottery, the Director shall receive
3 compensation as set by the Commission and approved by the Governor. Thereafter the
4 compensation of the Director shall be set by the General Assembly in the Current
5 Operations Appropriations Act. The Director shall render full-time attention to the
6 duties of the office.

7 **"§ 143C-123. Duties and powers of the Director.**

8 The Director shall perform all duties, exercise all powers, assume and discharge all
9 responsibilities, and carry out and effect all purposes provided by this Chapter. The
10 Director shall act as the Secretary and Executive Officer of the North Carolina State
11 Lottery Commission. The Director shall act in accordance with this Chapter, the rules
12 adopted by the Commission, and under the guidance of the Commission.

13 **"§ 143C-124. Power to hire.**

14 The Director shall hire, subject to the approval of the Commission, the professional,
15 clerical, technical and administrative personnel needed to carry out the provisions of
16 this Chapter. No person shall be employed by the lottery who has been convicted of a
17 felony. Each person employed by the lottery shall execute an authorization to allow an
18 investigation of his background.

19 **"§ 143C-125. Assistant directors.**

20 The Director may appoint, and prescribe the duties for, up to four assistant directors.
21 The compensation of each assistant director shall be set by the Commission and shall
22 not exceed the Director's compensation. The Director may designate one of the
23 assistant directors as the deputy director. All employees of the North Carolina State
24 Lottery shall be exempt from the State Personnel Act.

25 **"§ 143C-126. Assistant director for security.**

26 One of the assistant directors shall be responsible for a security division to assure the
27 security, honesty, fairness, and integrity in the operation and administration of the
28 lottery, including an examination of the background of all prospective employees,
29 lottery vendors, and lottery contractors. The assistant director for security shall be
30 qualified by training and experience including at least five years of law enforcement
31 experience and knowledge and experience in computer security. The assistant director
32 for security may, in conjunction with the Director, confer with the Attorney General or
33 his designee, to promote and ensure the security, honesty, fairness, and integrity of the
34 operation and administration of the lottery. The assistant director for security, in
35 conjunction with the Director, shall report any alleged violation of law to the
36 appropriate law enforcement authority for further investigation and action. The
37 assistant director for security shall have peace officer status in this State.

38 **"§ 143C-127. Criminal identification information available to lottery; peace officer**
39 **status.**

40 Upon the request of the assistant director for security, the Attorney General and the
41 Secretary of Crime Control and Public Safety shall furnish information to the Director
42 and the assistant director for security, necessary to assure the security, honesty, fairness,
43 and integrity in the operation and administration of the lottery which they have in their
44 possession, including computerized or other information and data. For the purpose of

1 requesting and receiving this information, the State lottery shall be considered to be a
2 'criminal justice agency' and its enforcement agents to be 'peace officers'. State lottery
3 enforcement agents shall have the same authority with respect to service and execution
4 of arrest warrants and search warrants as is conferred on other peace officers of this
5 State.

6 **"§ 143C-128. Coordination with Commission.**

7 The Director shall confer as frequently as necessary, but not less than monthly, with
8 the Commission on the operation and administration of the lottery. The Director shall
9 make available for inspection by the Commission all books, records, files, documents,
10 and other information of the lottery and shall make recommendations for the improved
11 operation and administration of the lottery.

12 **"§ 143C-129. Study of lottery systems; recommendations for improvement.**

13 The Director shall make an ongoing study of the operation and administration of the
14 lotteries that are in operation in other states and countries, of available literature on the
15 subject of lotteries, of federal laws which may affect the operation of the lottery, and of
16 the reaction of the citizens of the State to existing or proposed features in lottery games.
17 The Director shall conduct this research in order to recommend improvements that will
18 serve the purposes of this Chapter. The Director may make recommendations to the
19 Commission, to the Governor, and to the General Assembly on any matters concerning
20 the secure, profitable, and efficient operation and administration of the lottery and the
21 convenience of the purchasers of tickets and shares.

22 **"§ 143C-130. Accountability; books and records.**

23 The Director shall make and keep books and records that accurately and fairly
24 reflect each day's transactions, including the distribution of tickets or shares to lottery
25 game retailers, receipt of funds, prize claims, prizes paid directly by the Commission,
26 expenses, and all other financial transactions involving lottery funds necessary to permit
27 preparation of daily financial statements in conformity with generally accepted
28 accounting principles, in order to maintain daily accountability.

29 **"§ 143C-131. Monthly financial reports.**

30 The Director shall make a monthly financial report to the Commission, to the
31 Governor, to the State Treasurer, and to the General Assembly. The report shall include
32 a statement of all lottery revenues, prize disbursements, expenses, net revenues, and all
33 other financial transactions involving lottery funds for the preceding month.

34 **"§ 143C-132. Independent study of demographics of lottery players.**

35 Within the first six months of sales of tickets or shares to the public, the Director
36 shall engage an independent firm experienced in demographic analysis to conduct a
37 special study to ascertain the demographic characteristics of the players of each lottery
38 game, including their income, age, sex, education, and frequency of participation. This
39 report shall be presented to the Commission, to the Governor, and to the General
40 Assembly. Similar studies shall be conducted on a continuing, periodic basis.

41 **"§ 143C-133. Independent study of effectiveness of lottery communications.**

42 After the first full year of sales of tickets or shares to the public, the Director shall
43 engage an independent firm experienced in the analysis of advertising, promotion,
44 public relations, and other aspects of communications to conduct a special study of the

1 effectiveness of the communications activities undertaken by the lottery and make
2 recommendations to the Commission on the future conduct and future rate of
3 expenditures for these activities. This report shall be presented to the Commission, to
4 the Governor, and to the General Assembly. Similar studies shall be conducted on a
5 continuing, periodic basis.

6 **"§ 143C-134. Independent audit of lottery security.**

7 The Director shall, in addition to all other security measures, engage an independent
8 firm experienced in security procedures, including computer security and systems
9 security, to conduct a continuing comprehensive study and evaluation of all aspects of
10 security in the operation of the lottery. The study shall include:

11 (1) Personnel security;

12 (2) Lottery game retailer security;

13 (3) Lottery contractor security;

14 (4) Security of manufacturing operations of lottery contractors;

15 (5) Security against ticket counterfeiting, alteration, and other
16 means of fraudulently winning; security of drawings among entries
17 or finalists;

18 (6) Computer security;

19 (7) Data communications security;

20 (8) Database security;

21 (9) Systems security;

22 (10) Lottery premises and warehouse security;

23 (11) Security in distribution;

24 (12) Security involving validation and payment procedures;

25 (13) Security involving unclaimed prizes;

26 (14) Security aspects applicable to each particular lottery game;

27 (15) Security of drawings in games where winners are
28 determined by drawings of numbers;

29 (16) Any other aspects of security applicable to any particular
30 lottery game and to the lottery and its operations.

31 The portion of the security audit report containing the overall evaluation of the lottery in
32 terms of each aspect of security shall be presented to the Commission, to the Governor,
33 and to the General Assembly. The portion of the security audit report containing
34 specific recommendations shall be confidential and shall be presented only to the
35 Director, to the assistant director for security, and to the Commission. Similar audits of
36 security shall be conducted biennially thereafter.

37 **"§§ 143C-135 to 143C-139: Reserved for future codification purposes.**

38 **"ARTICLE 4.**

39 **"OPERATION OF LOTTERY.**

40 **"§ 143C-140. Initiation and operation of lottery.**

41 The Commission shall initiate operation of the lottery on a continuous basis at the
42 earliest feasible and practical time. The lottery shall be initiated and shall continue to be
43 operated so as to produce the maximum amount of net revenues to benefit the public
44 purpose described in this Chapter consistent with the purposes stated in G.S. 143C-102.

1 Other departments, boards, commissions, and agencies of the State and their officers
2 shall cooperate with the Commission to aid the Commission in fulfilling these
3 objectives.

4 **"§ 143C-141. Types of lottery games.**

5 (a) Upon the recommendation of the Director, the Commission shall adopt rules,
6 in the manner prescribed by Chapter 150B of the General Statutes specifying the types
7 of lottery games to be conducted by the lottery, including but not limited to, instant
8 lotteries, on-line games, and other games traditional to the lottery, provided, however:

- 9 (1) No lottery game may use the theme of bingo, dog racing, or horse
10 racing;
11 (2) No lottery game may be based on the outcome of a particular sporting
12 event or on the results of a series of sporting events;
13 (3) In lottery games using tickets, each ticket in a particular game shall
14 bear a unique number distinguishing it from every other ticket in that
15 lottery game;
16 (4) No name or photograph of an elected official shall appear on the
17 tickets of any lottery game; and
18 (5) In games using electronic computer terminals or other devices, no
19 coins or currency shall be dispensed to players from those electronic
20 computer terminals or devices.

21 (b) The Commission may authorize the use of any type of lottery game that
22 has been conducted by any state government-operated lottery in the United States
23 including, but not limited to, the sale of instant tickets or shares by electronic computer
24 terminals or devices, or any other type of lottery game that will achieve the revenue
25 objectives of the lottery consistent with the purposes stated in G.S. 143C-102.

26 **"§ 143C-142. Number and value of prizes.**

27 Upon the recommendation of the Director, the Commission shall adopt rules as
28 prescribed by Chapter 150B of the General Statutes that specify the number and value
29 of prizes for winning tickets or shares in each lottery game including cash prizes,
30 merchandise prizes, prizes consisting of deferred payments or annuities, and prizes of
31 tickets or shares in the same lottery game or other lottery games conducted by the
32 lottery, provided:

- 33 (1) In lottery games using tickets with preprinted winners, the overall
34 estimated odds of winning prizes shall be printed on each ticket; and
35 (2) A detailed tabulation of the estimated number of prizes of each
36 particular prize denomination that are expected to be awarded in each
37 lottery game, or the estimated odds of winning these prizes, shall be
38 available at the offices of the lottery at the time that lottery game is
39 offered for sale to the public; and
40 (3) All printed or point of sale advertising promoting the sale of lottery
41 tickets for a particular game shall include the actual or estimated odds
42 of winning that game.

43 **"§ 143C-143. Method of determining winners.**

1 (a) Upon the recommendation of the Director, the Commission shall adopt rules
2 as prescribed by Chapter 150B of the General Statutes, which specify the method for
3 determining winners in each lottery game, provided that if a lottery game uses a
4 drawing of winning numbers, a drawing among entries, or a drawing among finalists:

5 (1) The drawings shall always be open to the public;

6 (2) The drawings shall be witnessed by an independent certified public
7 accountant;

8 (3) Any equipment used in the drawings shall be inspected by the
9 independent certified public accountant and an employee of the lottery
10 both before and after the drawings; and

11 (4) The drawings and inspections shall be recorded on both video and
12 audio tape.

13 (b) It is the intent of this Chapter that the Commission may authorize the use
14 of any of a variety of existing or future methods or technologies in determining winners.

15 **"§ 143C-144. Sale price of tickets and shares.**

16 Upon the recommendation of the Director, the Commission shall adopt rules as
17 prescribed by Chapter 150B of the General Statutes, specifying the retail sales price for
18 each ticket or share for each lottery game, provided:

19 (1) No ticket or share shall be sold for more than the retail sales price
20 established by the Commission; and

21 (2) The minimum retail price of each ticket, share, or transaction in any
22 lottery game shall be fifty cents (50¢), except to the extent of any
23 discounts or promotions authorized by the Commission for a particular
24 lottery game.

25 **"§ 143C-145. Validation and payment of prizes.**

26 Upon the recommendation of the Director, the Commission shall adopt rules as
27 prescribed by Chapter 150B of the General Statutes, to establish a system of verifying
28 the validity of tickets or shares claimed to win prizes and to effect payment of those
29 prizes, provided:

30 (1) For the convenience of the public, lottery retailers may be authorized
31 by the Commission to pay winners of up to an amount appropriate to
32 the lottery game involved, after performing validation procedures on
33 their premises, and with the approval of the Director;

34 (2) No prize shall be paid to any person under the age of 18 years;

35 (3) No prize may be paid arising from claimed tickets or shares that are
36 stolen, counterfeit, altered, fraudulent, unissued, produced or issued in
37 error, unreadable, not received or recorded by the lottery by the
38 applicable deadlines, lacking in captions that conform and agree with
39 the lottery play symbols as appropriate to the lottery game involved, or
40 not in compliance with any additional specific rules and regulations
41 and public or confidential validation and security tests of the lottery
42 appropriate to the particular game involved;

43 (4) No particular prize in any lottery game may be paid more
44 than once, and in the event of a binding determination that more than

1 one claimant is entitled to a particular prize, the sole remedy for
2 these claimants is the award to each of them of a proportionate share
3 in the prize;

4 (5) The Commission may specify that winners of twenty-five
5 dollars (\$25.00) or less may claim the prizes from either the same
6 lottery game retailer who sold the winning ticket or share or from the
7 lottery itself or from any other lottery retailer;

8 (6) Holders of tickets or shares shall have the right to claim
9 prizes for 120 days after the drawing or the end of the lottery game
10 or play in which the prize was won. The Commission may define
11 shorter time periods for eligibility for entry into drawings involving
12 entries or finalists. If a valid claim is not made for a prize payable
13 directly by the Commission within the applicable period, the
14 unclaimed prize money will revert to the North Carolina State
15 Lottery Fund;

16 (7) After the expiration of the claim period for prizes for each
17 lottery game, the Commission shall make available a detailed
18 tabulation of the total number of prizes of each prize denomination
19 that were actually claimed and paid directly by the Commission;

20 (8) The right of any person to a prize shall not be assignable, except that
21 payment of any prize may be paid to the estate of a deceased
22 prizewinner or to a person designated pursuant to an appropriate
23 judicial order. The Director, Commission, State lottery, and the State
24 shall be discharged of all liability upon payment of a prize; and

25 (9) No ticket or share in a lottery game shall be purchased by, and no prize
26 shall be paid to a member of the Commission, the Director, an
27 assistant lottery director, or employee of the lottery or to any spouse,
28 parent, or child living in the same household as a person disqualified
29 by this provision.

30 **"§ 143C-146. Lottery game play rules and winner validation procedures.**

31 All prizes contemplated in each lottery game by its prize structure for a given level
32 of sales shall be paid to the players of the lottery game. Conversely, in order to preserve
33 the fiscal integrity of the lottery and to protect public funds, no prizes shall be paid
34 which are invalid and not contemplated by the prize structure of the lottery game
35 involved. By purchasing a ticket or share in a lottery game, a player agrees to abide by,
36 and be bound by, the lottery's game play rules developed by the Director, and approved
37 by the Commission, to apply to any particular lottery game involved. An abbreviated
38 form of the game play rules may appear on tickets in lottery games using tickets. In
39 particular a player acknowledges that the determination of whether the player is a
40 winner is subject to the game play rules and the winner validation procedures and
41 confidential validation tests established by the lottery for the particular lottery game
42 involved. The game play rules shall not be considered to be rules or regulations for the
43 purpose of Chapter 150B of the General Statutes.

44 **"§ 143C-147. Distribution of tickets and shares.**

1 (a) Upon the recommendation of the Director, the Commission shall adopt rules
2 as prescribed by Chapter 150B of the General Statutes, specifying the manner of
3 distribution, dissemination, or sale of lottery tickets or shares to lottery game retailers or
4 directly to the public, and the incentives, if any, for any lottery employees or lottery
5 retailers engaged in these activities. Notwithstanding any other provisions of this
6 Chapter, no lottery ticket or shares may be sold or resold by any party except at the sales
7 price or value established by the Commission, except as specifically authorized by the
8 Commission. In lottery games using electronic computer terminals or devices, the
9 lottery may employ or engage persons with experience in the repair, maintenance, or
10 operation of comparable equipment.

11 (b) The Commission may enter into agreements with other states for the
12 operation and promotion of multistate lotteries consistent with the purposes set forth in
13 G.S. 143C-102.

14 **"§§ 143C-148 and 143C-149: Reserved for future codification purposes.**

15 **"ARTICLE 5.**

16 **"LOTTERY GAME RETAILERS.**

17 **"§ 143C-150. Contracting with lottery game retailers.**

18 Upon the recommendation of the Director, the Commission shall adopt rules as
19 prescribed by Chapter 150B of the General Statutes, specifying the terms and conditions
20 for contracting with lottery game retailers to provide adequate and convenient
21 availability of tickets or shares to prospective buyers of each lottery game. The
22 Commission may permit the North Carolina State Lottery to sell tickets and shares
23 directly to the public or to make these sales by any other method authorized by the
24 Commission.

25 **"§ 143C-151. Selection of lottery game retailers.**

26 (a) The Director shall select as lottery game retailers those persons deemed best
27 able to serve the public convenience and to promote the sale of tickets or shares. No
28 natural person under 21 years of age shall be a lottery game retailer. This minimum age
29 does not prohibit employees of a retailer who are under 21 years of age from selling
30 lottery tickets or shares during their employment. In the selection of a lottery game
31 retailer the Director shall consider:

32 (1) Financial responsibility;

33 (2) Accessibility of the place of business or activity to the public;

34 (3) Security of the premises;

35 (4) Integrity;

36 (5) Reputation;

37 (6) The sufficiency of existing lottery game retailers for any particular
38 lottery game to serve the public convenience; and

39 (7) The projected volume of sales for the lottery game involved.

40 No contract with any lottery game retailer shall be entered into if the retailer has been
41 convicted of a felony or a gambling-related offense in any state or federal court of the
42 United States of America within 10 years of entering into the contract.

43 (b) No person shall be a lottery game retailer who is engaged exclusively in
44 the business of selling lottery tickets or shares. A person lawfully engaged in

1 nongovernmental business on State property or an owner or lessee of premises on which
2 alcoholic beverages are sold may be selected as a lottery game retailer. A civic or
3 fraternal organization may be selected as a lottery game retailer. Political subdivisions
4 or their agencies or departments may be selected as lottery game retailers for sales from
5 their premises. The Director may contract with lottery retailers on a permanent,
6 seasonal, or temporary basis. The lottery may require payment by each lottery game
7 retailer to the lottery of an initial fee or an annual fee, or both, as established by the
8 Commission, to maintain the contract to be a lottery game retailer.

9 **"§ 143C-152. Nonassignability.**

10 The contract to act as a lottery game retailer is not assignable or transferable.

11 **"§ 143C-153. Termination of a contract with a lottery game retailer.**

12 The Director may terminate a contract with a lottery game retailer under the
13 provisions for termination included in the contract. These provisions for termination
14 shall include the knowing sale of tickets or shares to any person under the age of 18
15 years.

16 **"§ 143C-154. Compensation for lottery game retailers.**

17 Upon the recommendation of the Director, the Commission shall adopt rules as
18 prescribed by Chapter 150B of the General Statutes, to determine the compensation to
19 be paid to lottery game retailers for their sales of lottery tickets or shares. Until the
20 Commission determines otherwise, the compensation paid to lottery game retailers shall
21 be five percent (5%) of the retail price of the tickets or shares plus an incentive bonus of
22 one percent (1%) based on attainment of sales volume or other objectives specified by
23 the Director for each lottery game. In cases of a lottery game retailer whose rental
24 payments for premises are contractually computed on the basis of a percentage of retail
25 sales, and where the computation of retail sales is not explicitly defined to include sales
26 of tickets or shares in a State lottery, the compensation received by the lottery game
27 retailer from the lottery shall be deemed to be the amount of the retail sale for the
28 purposes of this contractual computation.

29 **"§ 143C-155. Sales to persons under the age of 18.**

30 No tickets or shares in lottery games shall be sold to persons under the age of 18
31 years. Selling tickets or shares to a person under the age of 18 years shall be a
32 misdemeanor. In the case of lottery tickets or shares sold by lottery game retailers or
33 their employees, those persons shall establish safeguards to help assure that sales are not
34 made to natural persons under the age of 18 years. In the case of sales of tickets or
35 shares sold by vending machines, electronic computer terminals, or other devices, the
36 Commission shall establish safeguards to help assure that the vending machines or
37 devices are not operated by natural persons under the age of 18 years. Nothing in this
38 Article shall be construed to prevent any person 18 years or older from giving lottery
39 tickets or shares to another as a gift.

40 **"§ 143C-156. Payment of prize won by person under 18.**

41 If the person entitled to a prize or any winning ticket is under the age of 18 years,
42 and the prize is less than five thousand dollars (\$5,000), the Director may direct
43 payment of the prize by delivery of a check or draft payable to the order of the person
44 under 18 years of age to an adult member of that person's family or to that person's legal

1 guardian. If the person entitled to a prize or any winning ticket is under the age of 18
2 years, and the prize is five thousand dollars (\$5,000) or more, the Director may direct
3 payment to that person by depositing the amount of the prize in any insured depository
4 institution to the credit of an adult member of that person's family, or the legal guardian
5 of the person, as custodian for that person.

6 **"§ 143C-157. Display of certificate of authority.**

7 No lottery tickets or shares shall be sold by a lottery game retailer unless the retailer
8 conspicuously displays a certificate of authority, signed by the Director, to sell lottery
9 tickets or shares.

10 **"§ 143C-158. Bonding.**

11 The Director may require an appropriate bond from any lottery game retailer or may
12 purchase blanket bonds covering the activities of selected lottery game retailers.

13 **"§ 143C-159. Lottery game retailer accounting; payments.**

14 (a) The Director shall establish procedures which shall be used by lottery game
15 retailers to account for all tickets or shares that are sold by them to the public and to
16 account for all funds received by them from the public for the tickets or shares.

17 (b) No payment by lottery game retailers to the lottery for tickets or shares
18 shall be in cash. All payments shall be in the form of checks, bank drafts, electronic
19 fund transfers, or other recorded financial instruments as approved by the Director.

20 **"ARTICLE 6.**

21 **"LOTTERY VENDORS AND LOTTERY CONTRACTORS.**

22 **"§ 143C-160. Procurements.**

23 Notwithstanding other provisions of law, the Director may purchase or lease goods
24 or services or combinations of goods and services needed to effectuate the purposes of
25 this Chapter. The lottery may not contract with any private party or non-governmental
26 entity for the operation and administration of the State lottery established by this
27 Chapter; however, the foregoing shall not preclude procurements that integrate
28 functions such as lottery game design, supply of goods and services, and advertising. In
29 all procurements, the Director and Commission shall act to promote the objective of
30 raising net revenues for the benefit of the public purpose described in this Chapter.

31 **"§ 143C-161. Contracts.**

32 The Director may directly solicit proposals or enter into contracts for the purchase or
33 lease of goods or services to effectuate the purposes of this Chapter. In awarding
34 contracts in response to solicitations for proposals, the Director shall award the
35 contracts to the responsible vendor submitting the best proposal which he determines
36 maximizes the benefits to the State. In all procurement decisions, the Director, or the
37 Commission, if the Commission chooses to make the decision, shall take into account
38 the particularly sensitive nature of the lottery and shall consider the competence, quality
39 of product, experience, and timely performance of the vendors in order to promote and
40 ensure security, honesty, fairness, and integrity in the operation and administration of
41 the lottery and objective of raising net revenues for the benefit of the public purpose
42 described in this Chapter. The Director may engage an independent firm experienced in
43 evaluating government procurement proposals to aid in the evaluation of proposals to

1 the lottery. Before a contract for a major procurement is awarded, the assistant director
2 for security shall conduct a thorough background investigation of:

3 (1) The vendor to whom the contract is to be awarded;

4 (2) Any parent or subsidiary corporation of the vendor to whom
5 the contract is to be awarded;

6 (3) All shareholders with a five percent (5%) or more interest in
7 the vendor or parent or subsidiary corporation of the vendor to
8 whom the contract is to be awarded; and

9 (4) All officers and directors of the vendor or parent or
10 subsidiary corporation of the vendor to whom the contract is to be
11 awarded.

12 All contract awards made by the Director are made subject to the approval of the
13 Commission. No contract may be awarded to any person convicted of a felony or any
14 gambling offense in any state or federal court of the United States of America within 10
15 years of entering into the contract. The Commission may by rule designate classes of
16 contracts other than major procurements that do not require approval of the
17 Commission.

18 **"§ 143C-162. Lottery vendor disclosures for major procurements.**

19 Upon the recommendation of the Director, the Commission shall adopt rules as
20 prescribed by Chapter 150B of the General Statutes, to provide for disclosures by
21 vendors submitting bids, proposals, or offers as part of a major procurement to ensure
22 that the vendors provide all the information necessary to allow for a full and complete
23 evaluation by the lottery of the competence, integrity, background, and character of the
24 lottery vendors. The rules shall require that all lottery vendors submit to the assistant
25 director for security any appropriate investigation authorizations needed to facilitate
26 these investigations.

27 **"§ 143C-163. Compliance with applicable laws.**

28 Each lottery contractor shall perform its contract consistent with the laws of this
29 State, federal law, and laws of the state or states in which the lottery contractor is
30 performing or producing, in whole or in part, any of the goods or services contracted
31 for.

32 **"§ 143C-164. Performance bond.**

33 Each lottery contractor in a major procurement shall, at the time of executing the
34 contract with the Director, post an appropriate bond or letter of credit with the Director,
35 in an amount equal to the full amount estimated to be paid annually to the lottery
36 contractor under the contract. The Commission may issue a rule allowing the Director
37 to decrease the bond or letter of credit requirement for a major procurement if the
38 Director determines that the decrease will result in a cost savings to the lottery while
39 still providing adequate protection against nonperformance. In lieu of a bond or letter
40 of credit, a contractor may, to assure the faithful performance of its obligations, deposit
41 and maintain with the Director securities that are interest bearing or accruing that, with
42 the exception of those specified in subdivision (1) or (2), are rated in one of the
43 four highest classifications by an established nationally recognized investment rating
44 service. Securities eligible under this section are limited to the following:

- 1 (1) Certificates of deposit issued by solvent banks and savings
 2 associations organized and existing under North Carolina law or under
 3 the laws of the United States and having their principle place of
 4 business in North Carolina.
- 5 (2) United States bonds and bills for which the full faith and credit of the
 6 government of the United States is pledged for the payment of
 7 principal and interest.
- 8 (3) General obligation bonds and notes of any political subdivision of the
 9 State.
- 10 (4) Corporate bonds of a corporation that is not an affiliate or subsidiary
 11 of the depositor.

12 Securities shall be held in trust and must have at all times a market value at least equal
 13 to the full amount estimated to be paid annually to the contractor under contract.

14 **"§§ 143C-165 to 143C-169: Reserved for future codification purposes.**

15 **"ARTICLE 7.**

16 **"NORTH CAROLINA STATE LOTTERY FUND.**

17 **"§ 143C-170. North Carolina State Lottery Fund.**

18 A special account to be known as the 'North Carolina State Lottery Fund' is created
 19 within the State treasury. The North Carolina State Lottery Fund is continuously
 20 appropriated to the Commission for the purposes of operating the Commission and the
 21 State lottery.

22 **"§ 143C-171. Types of income to the North Carolina State Lottery Fund.**

23 The North Carolina State Lottery Fund shall receive the following monies:

- 24 (1) All proceeds from the sale of lottery tickets or shares;
 25 (2) The investments for initial start-up costs; and
 26 (3) All other monies credited to the lottery from any lottery-
 27 related source.

28 **"§ 143C-172. Types of disbursements from the North Carolina State Lottery**
 29 **Fund.**

30 Disbursements shall be made from the North Carolina State Lottery Fund for any of
 31 the following purposes:

- 32 (1) The payment of prizes to the holders of valid winning
 33 lottery tickets or shares;
 34 (2) Expenses of the lottery, including initial start-up costs; and
 35 (3) Transfer of funds from the North Carolina State Lottery
 36 Fund to the Savings Reserve Account and the Capital-Maintenance
 37 Account established under G. S. 143C-175.

38 **"§ 143C-173. Prize payments of the lottery.**

39 As nearly as practical, at least fifty percent (50%) of the total projected revenue as
 40 computed on a year-round basis for each lottery game, accruing from the sales of all
 41 lottery tickets or shares from that lottery game shall be apportioned for payment of
 42 prizes for that lottery game. The North Carolina State Lottery Commission may
 43 allocate a larger percentage of the total projected revenue for a lottery game to prizes if

1 it concludes that the total annual net revenue from the lottery game will be enhanced by
2 that prize percentage.

3 **"§ 143C-174. Expenses of the lottery.**

4 Expenses of the lottery shall include:

- 5 (1) The costs incurred in the operation and administration of the
6 lottery, including initial start-up costs;
- 7 (2) The costs resulting from any contracts entered into for the purchase or
8 lease of goods or services required by the lottery;
- 9 (3) The compensation paid to lottery game retailers;
- 10 (4) The cost of supplies, materials, tickets, independent studies, data
11 transmission, advertising, promotion, incentives, public relations,
12 communications, bonding for lottery game retailers, printing, and
13 distribution of tickets and shares;
- 14 (5) The costs of reimbursing other governmental entities for services
15 provided to the lottery; and
- 16 (6) The costs for any other goods and services needed to accomplish the
17 purposes of this Chapter.

18 As nearly as practical, No more than sixteen percent (16%) of the total annual revenues
19 accruing from the sale of all lottery tickets and shares from all lottery games shall be
20 expended for the payment of expenses of the lottery.

21 **"§ 143C-175. Transfer of net revenues.**

22 (a) The funds remaining in the North Carolina State Lottery Fund after receipt of
23 all revenues to the North Carolina State Lottery Fund and after accrual of all obligations
24 of the lottery for prizes and expenses shall be deemed to be the net revenues of the
25 lottery.

26 (b) The State Treasurer shall transfer monthly one-half of the net proceeds of the
27 North Carolina State Lottery Fund to the Savings Reserve Account, a special revenue
28 account established within the State treasury. At the end of each fiscal year, the State
29 Treasurer shall transfer the amount of revenue in the Account that exceeds eight percent
30 (8%) of the General Fund operating budget for the fiscal year ending that June 30,
31 including local government tax reimbursements and local government tax sharing funds,
32 to the General Fund.

33 (c) The State Treasurer shall transfer monthly the remaining one-half of the net
34 proceeds of the North Carolina State Lottery Fund to the Capital-Maintenance Account,
35 a special revenue account established within the State treasury. Eighty percent (80%) of
36 the revenue in the Account shall be used, as determined by the General Assembly, for
37 capital improvements and debt service retirement on General Obligation bonds. The
38 remaining twenty percent (20%) shall be used to maintain capital improvements.

39 **"§ 143C-176. Intergovernmental reimbursements for services.**

40 It is the intent of this Chapter that the lottery shall be a self-supporting agency of
41 State government. The North Carolina State Lottery Commission shall reimburse, at a
42 reasonable rate, all other governmental entities for any and all services necessary to
43 effectuate the purposes of this Chapter provided by those governmental entities to the
44 Commission.

1 **"§ 143C-177. Audits.**

2 The State Auditor shall conduct annual postaudits of all accounts and transactions of
3 the Commission and any other special postaudits the State Auditor deems to be
4 necessary. The Auditor or his agents conducting an audit may examine any records of
5 the Commission, its distributing agencies, lottery contractors, and lottery game retailers.

6 **"§§ 143C-178 and 143C-179: Reserved for future codification purposes.**

7 **"ARTICLE 8.**

8 **"MISCELLANEOUS.**

9 **"§ 143C-180. Taxes.**

10 No taxes shall be imposed on the sale of lottery tickets or shares of the lottery
11 established by this Chapter.

12 **"§ 143C-181. Preemption of local laws.**

13 All matters relating to the operation of the lottery established by this Chapter shall
14 be governed solely by the provisions of this Chapter and shall be free from regulation or
15 legislation by local governments, including cities and counties.

16 **"§ 143C-182. Lawful activity.**

17 Any other State or local law, ordinance, or regulation providing any penalty,
18 disability, restriction, regulation, or prohibition for the manufacture, transportation,
19 storage, distribution, advertising, possession, or sale of any lottery tickets or shares or
20 for the operation of any lottery game does not apply to the operation of the lottery
21 established by this Chapter."

22 Sec. 202. G.S. 147-69.2(a) is amended by adding a new subdivision to read:

23 " (17.1) The North Carolina State Lottery Fund."

24 Sec. 203. If Sections 201 and 202 of this act are approved by the qualified
25 voters in the referendum called for in Section 204 of this act, then the reasonable costs
26 to the State Board of Elections and to the boards of elections of the various counties for
27 the referendum called for by Section 203 of this act and attributable specifically to the
28 question of establishing a North Carolina State Lottery shall be expenses of the lottery
29 pursuant to G.S. 143C-174 and shall be reimbursed to the State Board of Elections and
30 to boards of elections of the various counties from the Lottery Fund.

31 If Sections 201 and 202 of this act are not approved by the qualified voters in
32 the referendum called for in Section 204 of this act, then the State Board of Elections
33 and the boards of elections of the various counties may seek reimbursement from the
34 General Assembly for the reasonable costs of the referendum called for by Section 4 of
35 this act and attributable specifically to the question of establishing a North Carolina
36 State Lottery.

37 Sec. 204. If approved by the qualified voters of the State of North Carolina,
38 Sections 201 and 202 of this act become effective January 1, 1993. The question of the
39 approval of Sections 201 and 202 of this act shall be submitted to the qualified voters of
40 the State of North Carolina at an election on November 3, 1992.

41 The referendum shall be held in accordance with the provisions of Chapter
42 163 of the General Statutes, and the form of the ballot shall be:

43 "[] FOR approval of an act establishing a North Carolina State Lottery.

1 [] AGAINST approval of an act establishing a North Carolina State
2 Lottery."

3 If less than a majority of the votes are cast in favor of the approval of Sections 201 and
4 202 of this act, they shall have no force or effect.

5 Sec. 205. Nothing in this Title shall be construed to obligate the General
6 Assembly to make additional appropriations to implement the provisions of this Title.

7 Sec. 206. The North Carolina State Lottery Commission shall determine an
8 estimate of the initial working capital and submit that estimate to the the Office of State
9 Budget and Management for approval. After approval is granted by the Office of State
10 Budget and Management, and with the written approval of the State Treasurer, the State
11 Controller shall advance the approved funds by internal borrowing from other available
12 State funds. The terms and conditions of the temporary loan or loans shall be
13 determined by the Office of State Budget and Management.

14 Sec. 207. This Title is effective upon ratification.

15

16 **TITLE III. JUDICIAL SELECTION**

17

18 Sec. 301. Section 6(1) of Article IV of the North Carolina Constitution reads
19 as rewritten:

20 "(1) Membership. The Supreme Court shall consist of a Chief Justice and six
21 Associate Justices, but the General Assembly may increase the number of Associate
22 Justices to not more than eight. The Governor shall nominate, and with the advice and
23 consent of a majority of those present and voting of the Senate and of the House of
24 Representatives, appoint the Chief Justice and the Associate Justices as provided by
25 law. The General Assembly may require the Governor to make his nominations from
26 names of persons submitted pursuant to procedures and in a manner prescribed by law.
27 The General Assembly may by law permit persons nominated to serve pending
28 appointment, and it may permit persons appointed to serve pending the beginning of
29 their initial term. Justices appointed shall serve an initial term as provided by this
30 Article and shall be eligible for subsequent terms pursuant to procedures and in a
31 manner as shall be established by the General Assembly. In the event the Chief Justice
32 is unable, on account of absence or temporary incapacity, to perform any of the duties
33 placed upon him, the senior Associate Justice available may discharge these duties."

34 Sec. 302. Section 7 of Article IV of the North Carolina Constitution reads as
35 rewritten:

36 "Sec. 7. Court of Appeals.

37 The structure, organization, and composition of the Court of Appeals shall be
38 determined by the General Assembly. The Governor shall nominate, and with the
39 advice and consent of a majority of those present and voting of the Senate and of the
40 House of Representatives, appoint the Judges of the Court of Appeals as provided by
41 law. The General Assembly may require the Governor to make his nominations from
42 names of persons submitted pursuant to procedures and in a manner prescribed by law.
43 The General Assembly may by law permit persons nominated to serve pending
44 appointment, and it may permit persons appointed to serve pending the beginning of

1 their initial term. Judges appointed shall serve an initial term as provided in this Article
2 and shall be eligible for subsequent terms pursuant to procedures and in a manner as
3 shall be established by the General Assembly. The Court shall have not less than five
4 members, and may be authorized to sit in divisions, or other than **en banc**. Sessions of
5 the Court shall be held at such times and places as the General Assembly may
6 prescribe."

7 Sec. 303. Section 9(1) of Article IV of the North Carolina Constitution reads
8 as rewritten:

9 "(1) Superior Court Judges and districts. The General Assembly shall, from time
10 to time, divide the State into a convenient number of Superior Court judicial districts
11 and shall provide for the election of one or more Superior Court Judges for each district.
12 Judges of the Superior Court shall be elected by the qualified voters and shall hold
13 office for terms of eight years and until their successors are elected and qualified.
14 Regular Judges of the Superior Court may be elected by the qualified voters of the State
15 or by the voters of their respective districts, as the General Assembly may prescribe.
16 Each regular Superior Court Judge shall reside in the district for which he is elected.
17 The General Assembly may provide by general law for the selection or appointment of
18 special or emergency Superior Court Judges not selected for a particular judicial
19 district."

20 Sec. 304. Section 16 of Article IV of the North Carolina Constitution reads
21 as rewritten:

22 "~~Sec. 16. Terms of office and election of Justices of the Supreme Court, and Judges~~
23 ~~of the Court of Appeals, and Judges of the Superior Court.~~

24 ~~Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of~~
25 ~~the Superior court shall be elected by the qualified voters and shall hold office for terms~~
26 ~~of eight years and until their successors are elected and qualified. Justices of the~~
27 ~~Supreme Court and Judges of the Court of Appeals shall be elected by the qualified~~
28 ~~voters of the State. Regular Judges of the Superior Court may be elected by the~~
29 ~~qualified voters of the State or by the voters of their respective districts, as the General~~
30 ~~Assembly may prescribe.~~

31 The initial term of office for each person holding the office of Chief Justice of the
32 Supreme Court, Associate Justice of the Supreme Court, and Judge of the Court of
33 Appeals shall be four years, and each subsequent term for that person in that office shall
34 be eight years."

35 Sec. 305. Section 19 of Article IV of the North Carolina Constitution reads
36 as rewritten:

37 "Sec. 19. Vacancies.

38 (1) Vacancies generally. Unless otherwise provided in this Article, all vacancies
39 occurring in the offices provided for by this Article shall be filled by appointment of the
40 Governor, and the appointees shall hold their places until the next election for members
41 of the General Assembly that is held more than 60 days after the vacancy occurs, when
42 elections shall be held to fill the offices. When the unexpired term of any of the offices
43 named in this Article of the Constitution in which a vacancy has occurred, and in which
44 it is herein provided that the governor shall fill the vacancy, expires on the first day of

1 January succeeding the next election for members of the General Assembly, the
2 governor shall appoint to fill that vacancy for the unexpired term of the office. If any
3 person elected or appointed to any of these offices shall fail to qualify, the office shall
4 be appointed to, held and filled as provided in case of vacancies occurring therein. All
5 incumbents of these offices shall hold until their successors are qualified.

6 (2) Vacancies on appellate courts. Vacancies in the office of Chief Justice,
7 Associate Justice, or Judge of the Court of Appeals shall be filled according to Sections
8 6 and 7 of this Article. The General Assembly may by general law specify provisions
9 contrary to those in Article VI, Section 10 to be applicable to Justices and Judges."

10 Sec. 306. Article IV of the North Carolina Constitution is amended by
11 adding a new section at the end to read:

12 "Sec. 23. Transition to appointment system.

13 The Chief Justice, Associate Justices, and Judges of the Court of Appeals holding
14 office on the effective date of amendments to this Article deleting provisions requiring
15 elections to those offices, and inserting in their place provisions requiring appointment
16 to those offices, shall continue in office until the expiration of their terms. Those
17 Justices and Judges, to remain in office beyond the expiration of their terms, shall be
18 subject to the reconfirmation or retention procedures established by the General
19 Assembly. The General Assembly may also provide by general law for the extension of
20 terms of those Justices and Judges if necessary to an orderly transition to an appointive
21 system of initial selection."

22 Sec. 307. The amendments set out in Sections 301 through 306 of this act
23 shall be submitted to the qualified voters of the State at the general election to be held in
24 November of 1992, which election shall be conducted under the laws then governing
25 elections in the State. At that election, each qualified voter desiring to vote shall be
26 provided a ballot on which shall be printed the following:

27 FOR Constitutional amendments to change from election to
28 appointment of appellate judges by the Governor, subject to the advice
29 and consent of the General Assembly for initial terms of four years,
30 followed by subsequent terms of eight years pursuant to a
31 reconfirmation procedure to be determined by the General Assembly.

32 AGAINST Constitutional amendments to change from election to
33 appointment of appellate judges by the Governor, subject to the advice
34 and consent of the General Assembly for initial terms of four years,
35 followed by subsequent terms of eight years pursuant to a
36 reconfirmation procedure to be determined by the General Assembly."

37 Those qualified voters favoring the amendments set out in Sections 301
38 through 306 of this act shall vote by making an "X" or check mark in the square beside
39 the statement beginning "FOR", and those qualified voters opposed to that amendment
40 shall vote by marking an "X" or check mark in the square beside the statement beginning
41 "AGAINST".

42 Notwithstanding the foregoing provisions of this section, voting machines
43 may be used in accordance with rules and regulations prescribed by the State Board of
44 Elections.

1 Sec. 308. If a majority of votes cast thereon are in favor of the amendments
2 set out in Sections 301 through 306 of this act, the State Board of Elections shall certify
3 the amendments to the Secretary of State, who shall enroll the amendments so certified
4 among the permanent records of his office, and the amendments shall become effective
5 January 15, 1993.

6 Sec. 309. Sections 301 through 308 of this act are effective upon ratification.

7 Sec. 310. Chapter 7A of the General Statutes is amended by adding a new
8 Article to read:

9 **“ARTICLE 1A.**

10 **“APPOINTMENT, CONFIRMATION, AND RECONFIRMATION**
11 **OF JUSTICES AND JUDGES.**

12 **“§ 7A-4.1. Appointment of justices and judges by Governor and confirmation by**
13 **General Assembly.**

14 (a) When a new judgeship on the Supreme Court or Court of Appeals is created,
15 the Governor shall within 120 days after the act creating the judgeship becomes law
16 nominate a person from the list of nominees provided pursuant to G.S. 7A-4.2 to serve
17 in the judgeship. Unless otherwise provided, the nominee shall be subject to
18 confirmation by the Senate and the House of Representatives in the first regular session
19 held in an odd-numbered year convening after the judgeship is created.

20 (b) When a vacancy occurs in the office of Chief Justice of the Supreme Court,
21 Associate Justice of the Supreme Court, or Judge of the Court of Appeals, the Governor
22 shall nominate a person to fill the vacancy from the list of nominees provided pursuant
23 to G.S. 7A-4.2. If the vacancy occurs because the holder of the office indicates that he
24 will not seek reconfirmation at the end of his term, the Governor shall submit his
25 nomination to the General Assembly by March 1 of the year after that intention is made
26 known. If the vacancy occurs for any other reason, the Governor shall submit his
27 nomination to the General Assembly no later than 120 days after the vacancy is created.

28 (c) Nominees nominated pursuant to subsections (a) or (b) of this section are
29 subject to confirmation as provided in this subsection. If the nomination is for a vacancy
30 to be created at the end of a term and the nomination is the first such nomination for that
31 office, the nomination shall be considered during the regular session held in the odd-
32 numbered year in which the term of office of the judge vacating the office expires. All
33 other nominations may be considered for confirmation at any regular or extra session of
34 the General Assembly, but the nomination shall be considered no later than the first
35 regular session conducted in an odd-numbered year after the nomination is submitted,
36 unless it is submitted after April 1 during such a session. Nominations submitted during
37 such a session and after April 1 may be considered by the General Assembly for
38 confirmation in that session or any regular or extra session conducted thereafter, but the
39 nomination shall be considered for confirmation no later than the first regular session in
40 an odd-numbered year convening after the nomination is submitted. To be confirmed, a
41 nominee shall receive a majority vote of those present and voting in the Senate and
42 House of Representatives during the session in which the nomination is considered.
43 Failure to receive a majority vote of those present and voting in both houses in a session
44 in which a nomination is considered constitutes a failure to confirm and creates a

1 vacancy in the office to be filled as provided by this section. A nominee confirmed by
2 both the Senate and the House of Representatives shall be appointed by the Governor
3 for a four-year term to begin on the next September 1 in an odd-numbered year. A
4 person confirmed may begin service immediately upon being appointed, even though
5 his term of office has not begun. For purposes of this subsection, a nomination is
6 'considered' if either house of the General Assembly votes on the nomination. For
7 purposes of this subsection, a session ends when it adjourns or recesses for more than 30
8 days, or adjourns **sine die**, whichever comes first.

9 (d) In addition to any other lawful requirement for service as a justice or judge, a
10 nominee, to be eligible to be nominated for Chief Justice, Associate Justice of the
11 Supreme Court, or Judge of the Court of Appeals, shall be a registered voter in this
12 State.

13 (e) The Governor, in making nominations, shall make reasonable efforts to
14 ensure that his nominees are broadly representative of the people of this State.

15 **"§ 7A-4.2. Nomination procedure.**

16 (a) The Governor, in making a nomination to the office of Chief Justice, shall
17 make the nomination from among a list of nominees as follows:

- 18 (1) All active trial judges in the General Court of Justice;
- 19 (2) All active associate justices and Court of Appeals judges in the
20 General Court of Justice;
- 21 (3) Not more than three nominees from each district bar, as defined by
22 G.S. 84-19, who are residents of the district and who are members of
23 that district bar; and
- 24 (4) Former justices and judges in the General Court of Justice, except
25 those who (i) have been impeached, (ii) have been removed from
26 office, or (iii) have failed to be confirmed or reconfirmed pursuant to
27 Article 1A of Chapter 7A of the General Statutes.

28 (b) The Governor, in making a nomination to the office of Associate Justice,
29 shall make the nomination from among a list of nominees as follows:

- 30 (1) All active trial judges in the General Court of Justice;
- 31 (2) All active Court of Appeals judges in the General Court of Justice;
- 32 (3) Not more than three nominees from each district bar, as defined by
33 G.S. 84-19, who are residents of the district and who are members of
34 that district bar; and
- 35 (4) Former justices and judges in the General Court of Justice, except
36 those who (i) have been impeached, (ii) have been removed from
37 office, or (iii) have failed to be confirmed or reconfirmed pursuant to
38 Article 1A of Chapter 7A of the General Statutes.

39 (c) The Governor, in making a nomination to the office of Judge of the Court of
40 Appeals, shall make the nomination from among a list of nominees as follows:

- 41 (1) All active trial judges in the General Court of Justice;
- 42 (2) Not more than three nominees from each district bar, as defined by
43 G.S. 84-19, who are residents of the district and who are members of
44 that district bar; and

1 (3) Former justices and judges in the General Court of Justice, except
2 those who (i) have been impeached, (ii) have been removed from
3 office, or (iii) have failed to be confirmed or reconfirmed pursuant to
4 Article 1A of Chapter 7A of the General Statutes.

5 (d) The nominees of the district bars shall be submitted within 30 days of the date
6 the bar is notified of the occurrence of the vacancy. If any district bar fails to submit a
7 nomination within the 30-day period, the Governor shall make the nomination and
8 appointment from among the nominations received before the expiration of the 30-day
9 period. The Governor shall notify each district bar in writing of the occurrence of a
10 vacancy in the office of Chief Justice, Associate Justice, or Court of Appeals Judge. If
11 the Governor is informed of the creation of a vacancy to become effective on a future
12 date certain, he may notify the district bars before the effective date of the vacancy, and
13 the 30-day period shall begin to run from the date of the notice.

14 **"§ 7A-4.3. Screening of potential nominees by Judicial Selection and Retention**
15 **Commission.**

16 (a) Before submitting a nomination to the General Assembly to fill a new
17 judgeship or a vacancy in an existing judgeship, the Governor shall first submit to the
18 Judicial Selection and Retention Commission the names of at least three but not more
19 than five persons he is considering for the nomination. The Commission shall
20 investigate the candidates' fitness for nomination and shall report its findings to the
21 Governor before the Governor may submit a nomination. If after receiving the findings
22 of the Commission, the Governor decides not to nominate any of the candidates
23 submitted, he must submit the name of any additional person or persons he proposes to
24 nominate to the Commission and receive the Commission's evaluation of those persons,
25 including the person to be nominated, before submitting a nomination to the General
26 Assembly. The Commission shall personally meet with each candidate and provide the
27 candidate with an opportunity to address any concerns that the Commission's
28 investigation has revealed. The Commission shall also determine that each candidate:

- 29 (1) Is in good standing with the State Bar and in good standing with any
30 other state bars of which the nominee is a member;
31 (2) Has a reputation for and possesses integrity and good character;
32 (3) Is of sound health;
33 (4) Has demonstrated and possesses outstanding legal ability and
34 commitment to equal justice under the law; and
35 (5) Is of such demeanor, character, and personality that would indicate
36 judicial temperament.

37 The Commission shall indicate in its report that it finds the candidate 'Not Qualified,'
38 'Qualified,' or 'Well Qualified' to assume the judgeship for which he is a candidate.
39 The finding of the Commission shall be by majority vote of those present and voting,
40 and the number of commissioners voting in favor of and against the ultimate finding
41 shall be included when the finding is submitted to the Governor. The Governor shall
42 include the Commission's finding when submitting any nomination to the General
43 Assembly.

44 (b) As used in subsection (a) of this section:

- 1 (1) 'Well Qualified' means the Commission believes the person is one of
2 the best persons available to serve in the judgeship from the standpoint
3 of integrity, competency, and temperament.
4 (2) 'Qualified' means that the Commission believes that the person would
5 perform satisfactorily in the judgeship from the standpoint of integrity,
6 competency, and temperament.
7 (3) 'Not Qualified' means that the Commission believes that the person
8 would not perform satisfactorily in the judgeship from the standpoint
9 of integrity, competency, or temperament.

10 (c) The Commission shall report its finding to the Governor within 30 days of the
11 receipt of the names from the Governor. If the Commission fails to report to the
12 Governor within 30 days, the Governor may submit a nomination without the
13 evaluation, and no evaluation of the Commission shall be disseminated by the
14 Commission with respect to the person nominated.

15 (d) Information received in the course of the investigation is confidential and
16 shall not be disclosed unless specifically required by law or the candidate consents in
17 writing to the disclosure. Except for the report of the Commission's ultimate finding
18 with respect to a person nominated and the number of commissioners voting for and
19 against the finding, documents prepared or received by the Commission in the course of
20 its investigation are confidential and not open to public inspection without the consent
21 of the candidate, notwithstanding the provisions of Chapter 132 of the General Statutes.

22 **"§ 7A-4.4. Reconfirmation procedure.**

23 (a) Any Chief Justice, Associate Justice, or Judge of the Court of Appeals, to be
24 eligible to be reconfirmed, shall by November 1 in the year immediately preceding the
25 year in which his term expires, file a written declaration of his intent to seek
26 reconfirmation. The declaration shall be filed with the Governor. The Governor shall
27 promptly notify the General Assembly and the Judicial Selection and Retention
28 Commission of his receipt of the declaration. Failure to file the declaration in a timely
29 manner results in the creation of a vacancy in the office at the expiration of the term. A
30 justice or judge may indicate in writing to the Governor that he does not intend to seek
31 reconfirmation, and the filing of that intention creates a vacancy in the office at the
32 expiration of the term, unless the justice or judge leaves office at an earlier date.

33 (b) The Judicial Selection and Retention Commission, upon receipt of a justice's
34 or judge's written declaration of his intent to seek reconfirmation, shall investigate the
35 judge's performance as a justice or judge to determine if it should recommend that he be
36 reconfirmed. The Commission shall conduct a public hearing to allow comment from
37 interested persons on the justice's or judge's fitness to continue in office. Information
38 received in the course of the investigation is confidential and shall not be disclosed
39 unless specifically required by law or unless the justice or judge consents to the
40 disclosure. Documents prepared or received by the Commission in the course of its
41 investigation are confidential and not subject to public inspection without the consent of
42 the justice or judge, notwithstanding the provisions of Chapter 132 of the General
43 Statutes. The investigation shall include an evaluation of the justice's or judge's ethical
44 conduct, his knowledge of and application of the law, his management of the courts

1 over which he has presided, his work habits, his health, his judicial demeanor, and any
2 other matter that the Commission determines to be relevant to its inquiry. The justice or
3 judge shall be given an opportunity to present to the Commission any information he
4 determines to be appropriate. The Commission's recommendation shall be by majority
5 vote of those present and voting.

6 (c) No later than 30 days after the convening of the General Assembly in the year
7 following the filing of a justice's or judge's intent to seek reconfirmation, the
8 Commission shall report to the General Assembly as to whether it recommends that the
9 justice or judge be reconfirmed. A vote of sixty percent (60%) of those present and
10 voting of both the Senate and the House of Representatives shall be necessary to reject
11 the recommendation of the Commission. If either house fails to vote on the report of
12 the Commission during the session in which it is submitted, the recommendation of the
13 Commission shall be deemed to have been approved by the General Assembly. For the
14 purpose of this subsection, a session ends when it adjourns or recesses for more than 30
15 days, or adjourns **sine die**, whichever comes first.

16 (d) A justice or judge reconfirmed by the General Assembly serves an eight-year
17 term, to begin at the expiration of the term he is serving at the time of reconfirmation. If
18 the General Assembly does not reconfirm a justice or judge, either by a negative vote or
19 by failing to vote on a negative recommendation of the Commission, a vacancy in that
20 office is created at the expiration of the term. The provisions of Article VI, Section 10
21 of the North Carolina Constitution are not applicable to justices or judges who are not
22 reconfirmed by the General Assembly.

23 **"§ 7A-4.5. Judicial Selection and Retention Commission.**

24 (a) The Judicial Selection and Retention Commission consists of:

- 25 (1) Four members appointed by the Governor, none of whom may be
26 licensed attorneys, with one member from each judicial division as
27 those divisions were constituted on January 1, 1991;
- 28 (2) Four members appointed by the President of the State Bar from its
29 membership with one member from each judicial division as those
30 divisions were constituted on January 1, 1991;
- 31 (3) Two members, one of whom shall not be a licensed attorney,
32 appointed by the General Assembly on recommendation of the
33 Speaker of the House of Representatives, as provided by G.S. 120-121;
- 34 (4) Two members, one of whom shall not be a licensed attorney,
35 appointed by the General Assembly on recommendation of the
36 President Pro Tempore of the Senate, as provided by G.S. 120-121;
- 37 (5) One member appointed by the President of the North Carolina Bar
38 Association from its membership;
- 39 (6) One member appointed by the President of the North Carolina
40 Association of Women Attorneys from its membership;
- 41 (7) One member appointed by the President of the North Carolina
42 Academy of Trial Lawyers from its membership;
- 43 (8) One member appointed by the President of the North Carolina
44 Association of Black Lawyers from its membership;

- 1 (9) One member appointed by the President of the North Carolina
2 Association of Defense Attorneys from its membership;
3 (10) One member appointed by the President of the Conference of District
4 Attorneys from its membership; and
5 (11) One member appointed by the President of the North Carolina
6 Association of Public Defenders from its membership.

7 The Governor and the President of the State Bar shall consider the racial and gender
8 composition of the State's population in making their appointments. No member of the
9 Commission shall be an active judge or justice of the General Court of Justice or an
10 active member of the General Assembly.

11 (b) The Director of the Administrative Office of the Courts shall convene the
12 initial meeting of the Commission as soon as feasible after the initial appointments are
13 made. At that meeting the Commission shall select a chairman from among its
14 members.

15 (c) All the members appointed by the Governor and by the President of the State
16 Bar shall serve four-year terms of office, except that two of the initial appointees of the
17 Governor and two of the initial appointees of the State Bar President shall serve terms
18 expiring June 30, 1995, and the remaining two appointees of the Governor and the State
19 Bar President shall serve initial terms expiring June 30, 1997. The members appointed
20 by the Presidents of the Bar Association, the Conference of District Attorneys, the
21 Association of Women Attorneys, and the Academy of Trial Lawyers shall serve four-
22 year terms, except that the term of office for the initial appointees from those
23 organizations shall expire June 30, 1995. The members appointed by the Presidents of
24 the Association of Black Lawyers, the Association of Public Defenders, and the
25 Association of Defense Attorneys shall serve four-year terms, except that the term of
26 office for these initial appointees shall expire June 30, 1997. The appointees of the
27 General Assembly shall serve an initial term expiring June 30, 1995, and thereafter
28 appointees shall serve a two-year term. Members who have served a full term may be
29 reappointed to one additional full term. The members shall be appointed within 30 days
30 of the date this act becomes effective.

31 (d) The Commission shall be allowed to inspect the files of the Judicial Standards
32 Commission by request of the chairman of the Commission. Notwithstanding the
33 provisions of G.S. 7A-377, the files of the Judicial Standards Commission shall be made
34 available to the Commission. Meetings of the Commission shall not be subject to the
35 provisions of Article 33C of Chapter 143 of the General Statutes. Testimony and other
36 evidence presented to the Commission is privileged in any action for defamation.

37 (e) The Commission may employ an executive secretary to assist it in performing
38 its duties.

39 **§ 7A-4.6. Governor to issue commissions to justices and judges.**

40 Every person duly appointed by the Governor as Chief Justice, Associate Justice, or
41 Judge of the Court of Appeals, and every justice or judge duly reconfirmed by the
42 General Assembly shall procure from the Governor a commission attesting that fact,
43 which the Governor shall issue upon receipt of a certification by the Principal Clerks of
44 the Senate and House of Representatives that the person has been confirmed or

1 reconfirmed by the house in which the Clerk serves. The Principal Clerk of the Senate
2 and the Principal Clerk of the House of Representatives shall promptly certify the
3 results to the Governor of any judicial confirmation and reconfirmation votes taken in
4 their respective houses. The Secretary of State shall inform the Governor whenever the
5 General Assembly adjourns or recesses for more than 30 days or adjourns **sine die**.

6 **"§ 7A-4.7. Transitional provisions for judges in office on effective date of Article.**

7 (a) Any Chief Justice, Associate Justice, or Judge of the Court of Appeals
8 holding a judgeship on January 15, 1993, that on January 14, 1993, is required by law to
9 be filled by election shall be subject to the reconfirmation procedures in G.S. 7A-4.4
10 and to the provisions of subsections (b) and (c) of this section to retain his office.

11 (b) A justice or judge covered by the provisions of subsection (a) of this section
12 who, at the end of his term of office has at least four years of service in the office he is
13 holding on January 15, 1993, shall be subject to the reconfirmation process during the
14 first regular session convening in an odd-numbered year after the term expires. Terms
15 of such justices and judges are extended until August 31 of the year following the year
16 in which the term would have normally expired.

17 (c) A justice or judge covered by the provisions of subsection (a) of this section
18 who, at the end of his term of office has less than four years in the office he is holding
19 on January 15, 1993, shall be subject to the reconfirmation process in the first regular
20 session convening in an odd-numbered year after he would have four years in service in
21 that office, if continued in office past the expiration of his term. Terms of office of such
22 justices and judges shall be extended until August 31 of the year in which a
23 reconfirmation decision is made by the General Assembly."

24 Sec. 311. G.S. 7A-10(a) reads as rewritten:

25 "(a) The Supreme Court shall consist of a Chief Justice and six associate justices,
26 ~~elected by the qualified voters of the State for terms of eight years~~selected as provided
27 by Article 1A of this Chapter. Before entering upon the duties of his office, each justice
28 shall take an oath of office. Four justices shall constitute a quorum for the transaction of
29 the business of the court. Sessions of the court shall be held in the city of Raleigh, and
30 scheduled by rule of court so as to discharge expeditiously the court's business."

31 Sec. 312. G.S. 7A-16 reads as rewritten:

32 **"§ 7A-16. Creation and organization.**

33 ~~The Court of Appeals is created effective January 1, 1967. It shall consist initially of~~
34 ~~six judges, elected by the qualified voters of the State for terms of eight years. The~~
35 ~~Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to~~
36 ~~serve in such capacity at the pleasure of the Chief Justice. Before entering upon the~~
37 ~~duties of his office, a judge of the Court of Appeals shall take the oath of office~~
38 ~~prescribed for a judge of the General Court of Justice.~~

39 The Governor on or after July 1, 1967, shall make temporary appointments to the six
40 initial judgeships. The appointees shall serve until January 1, 1969. Their successors
41 shall be elected at the general election for members of the General Assembly in
42 November, 1968, and shall take office on January 1, 1969, to serve for the remainder of
43 the unexpired term which began on January 1, 1967.

1 ~~Upon the appointment of at least five judges, and the designation of a Chief Judge,~~
2 ~~the court is authorized to convene, organize, and promulgate, subject to the approval of~~
3 ~~the Supreme Court, such supplementary rules as it deems necessary and appropriate for~~
4 ~~the discharge of the judicial business lawfully assigned to it.~~

5 ~~Effective January 1, 1969, the number of judges is increased to nine, and the~~
6 ~~Governor, on or after March 1, 1969, shall make temporary appointments to the~~
7 ~~additional judgeships thus created. The appointees shall serve until January 1, 1971.~~
8 ~~Their successors shall be elected at the general election for members of the General~~
9 ~~Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the~~
10 ~~remainder of the unexpired term which began on January 1, 1969.~~

11 ~~Effective January 1, 1977, the number of judges is increased to 12; and the~~
12 ~~Governor, on or after July 1, 1977, shall make temporary appointments to the additional~~
13 ~~judgeships thus created. The appointees shall serve until January 1, 1979. Their~~
14 ~~successors shall be elected at the general election for members of the General Assembly~~
15 ~~in November, 1978, and shall take office on January 1, 1979, to serve the remainder of~~
16 ~~the unexpired term which began on January 1, 1977.~~

17 The Court of Appeals shall consist of 12 judges, selected as provided in Article 1A
18 of this Chapter. The Chief Justice of the Supreme Court shall designate one of the
19 judges as Chief Judge to serve in such capacity at the pleasure of the Chief Justice.
20 Before entering upon the duties of his office, a judge of the Court of Appeals shall take
21 the oath of office prescribed for a judge of the General Court of Justice.

22 The Court of Appeals shall sit in panels of three judges each. The Chief Judge
23 insofar as practicable shall assign the members to panels in such fashion that each
24 member sits a substantially equal number of times with each other member. He shall
25 preside over the panel of which he is a member, and shall designate the presiding judge
26 of the other panel or panels.

27 Three judges shall constitute a quorum for the transaction of the business of the
28 court, except as may be provided in G.S. 7A-32.

29 In the event the Chief Judge is unable, on account of absence or temporary
30 incapacity, to perform the duties placed upon him as Chief Judge, the Chief Justice shall
31 appoint an acting Chief Judge from the other judges of the Court, to temporarily
32 discharge the duties of Chief Judge."

33 Sec. 313. G.S. 120-123 is amended by adding a new subdivision to read:

34 "(3b) The Judicial Selection and Retention Commission as established by
35 G.S. 7A-4.5."

36 Sec. 314. G.S. 163-106 reads as rewritten:

37 "**§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing;**
38 **withdrawal.**

39 (a) Notice and Pledge. – No one shall be voted for in a primary election unless he
40 shall have filed a notice of candidacy with the appropriate board of elections, State or
41 county, as required by this section. To this end every candidate for selection as the
42 nominee of a political party shall file with and place in the possession of the board of
43 elections specified in subsection (c) of this section, a notice and pledge in the following
44 form:

‘Date

I hereby file notice as a candidate for nomination as in the party primary election to be held on, 19..... I affiliate with the party, (and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the party.)

I pledge that if I am defeated in the primary, I will not run for any office as a write-in candidate in the next general election.

Signed

Name of candidate

Witness:

.....
.....

(Title of witness)'

Each candidate shall sign his notice of candidacy in the presence of the chairman or secretary of the board of elections, State or county, with which he files. In the alternative, a candidate may have his signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgments and administer oaths, in which case the candidate may mail his notice of candidacy to the appropriate board of elections.

In signing his notice of candidacy the candidate shall use only his legal name and, in his discretion, any nickname by which he is commonly known. A candidate may also, in lieu of his legal first name and legal middle initial or middle name (if any) sign his nickname, provided that he appends to the notice of candidacy an affidavit that he has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way his name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

Prior to the date on which candidates may commence filing, the State Board of Elections shall print and furnish, at State expense, to each county board of elections a sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections.

(b) Eligibility to File. – No person shall be permitted to file as a candidate in a primary if, at the time he offers to file notice of candidacy, he is registered on the appropriate registration book or record as an affiliate of a political party other than that in whose primary he is attempting to file. No person who has changed his political party affiliation or who has changed from unaffiliated status to party affiliation as permitted in G.S. 163-74(b), shall be permitted to file as a candidate in the primary of the party to which he changed unless he has been affiliated with the political party in which he seeks to be a candidate for at least 90 days prior to the filing date for the office for which he desires to file his notice of candidacy.

A person registered as ‘unaffiliated’ shall be ineligible to file as a candidate in a party primary election.

1 (c) Time for Filing Notice of Candidacy. – Candidates seeking party primary
2 nominations for the following offices shall file their notice of candidacy with the State
3 Board of Elections no earlier than 12:00 noon on the first Monday in January and no
4 later than 12:00 noon on the first Monday in February preceding the primary:

5 Governor

6 Lieutenant Governor

7 All State executive officers

8 ~~Justices of the Supreme Court, Judges of the Court of Appeals~~

9 Judges of the superior courts

10 Judges of the district courts

11 United States Senators

12 Members of the House of Representatives of the United States

13 District attorneys

14 Candidates seeking party primary nominations for the following offices shall file
15 their notice of candidacy with the county board of elections no earlier than 12:00 noon
16 on the first Monday in January and no later than 12:00 noon on the first Monday in
17 February preceding the primary:

18 State Senators

19 Members of the State House of Representatives

20 All county offices.

21 (d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any
22 primary in which there are ~~two or more vacancies for Chief Justice and associate~~
23 ~~justices of the Supreme Court, two or more vacancies for judge of the Court of Appeals,~~
24 ~~or~~ two vacancies for United States Senator from North Carolina or two or more
25 vacancies for the office of district court judge to be filled by nominations, each
26 candidate shall, at the time of filing notice of candidacy, file with the State Board of
27 Elections a written statement designating the vacancy to which he seeks nomination.
28 Votes cast for a candidate shall be effective only for his nomination to the vacancy for
29 which he has given notice of candidacy as provided in this subsection.

30 A person seeking party nomination for a specialized district judgeship established
31 under G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State
32 Board of Elections a written statement designating the specialized judgeship to which he
33 seeks nomination.

34 (e) Withdrawal of Notice of Candidacy. – Any person who has filed notice of
35 candidacy for an office shall have the right to withdraw it at any time prior to the date
36 on which the right to file for that office expires under the terms of subsection (c) of this
37 section. If a candidate does not withdraw before the filing deadline, except as provided
38 in G.S. 163-112, his name shall be printed on the primary ballot, any votes for him shall
39 be counted, and he shall not be refunded his filing fee.

40 (f) Candidates required to file their notice of candidacy with the State Board of
41 Elections under subsection (c) of this section shall file along with their notice a
42 certificate signed by the chairman of the board of elections or the supervisor of elections
43 of the county in which they are registered to vote, stating that the person is registered to
44 vote in that county, stating the party with which the person is affiliated, and that the

1 person has not changed his affiliation from another party or from unaffiliated within
2 three months prior to the filing deadline under subsection (c) of this section. In issuing
3 such certificate, the chairman or supervisor shall check the registration records of the
4 county to verify such information. During the period commencing 36 hours immediately
5 preceding the filing deadline the State Board of Elections shall accept, on a conditional
6 basis, the notice of candidacy of a candidate who has failed to secure the verification
7 ordered herein subject to receipt of verification no later than three days following the
8 filing deadline. The State Board of Elections shall prescribe the form for such
9 certificate, and distribute it to each county board of elections no later than the last
10 Monday in December of each odd-numbered year.

11 (g) When any candidate files a notice of candidacy with a county board of
12 elections under subsection (c) of this section or under G.S. 163-291(2), the chairman or
13 supervisor of elections shall, immediately upon receipt of the notice of candidacy,
14 inspect the registration records of the county, and cancel the notice of candidacy of any
15 person who is not eligible under subsection (c) of this section. The Board shall give
16 notice of cancellation to any candidate whose notice of candidacy has been cancelled
17 under this subsection by mail or by having the notice served on him by the sheriff.

18 (h) No person may file a notice of candidacy for more than one office described
19 in subsection (c) of this section for any one election. If a person has filed a notice of
20 candidacy with a board of elections under this section for one office, then a notice of
21 candidacy may not later be filed for any other office under this section when the
22 election is on the same date unless the notice of candidacy for the first office is
23 withdrawn under subsection (e) of this section; provided that this subsection shall not
24 apply unless the deadline for filing notices of candidacy for both offices is the same.
25 Notwithstanding this subsection, a person may file a notice of candidacy for a full term
26 as United States Senator, and also file a notice of candidacy for the remainder of the
27 unexpired term of that same seat in an election held under G.S. 163-12, and may file a
28 notice of candidacy for a full term as a member of the United States House of
29 Representatives, and also file a notice of candidacy for the remainder of the unexpired
30 term in an election held under G.S. 163-13.

31 (i) No person may file a notice of candidacy for superior court judge unless that
32 person is at the time of filing the notice of candidacy a resident of the judicial district as
33 it will exist at the time the person would take office if elected. No person may be
34 nominated as a superior court judge under G.S. 163-114 unless that person is at the time
35 of nomination a resident of the judicial district as it will exist at the time the person
36 would take office if elected. This subsection implements Article IV Section 9(1) of the
37 North Carolina Constitution which requires regular Superior Court Judges to reside in
38 the district for which elected."

39 Sec. 315. G.S. 163-107(a) reads as rewritten:

40 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate
41 shall pay to the board of elections with which he files under the provisions of G.S. 163-
42 106 a filing fee for the office he seeks in the amount specified in the following
43 tabulation:
44

1	Office Sought	Amount of Filing Fee
2		
3		
4	Governor	One percent (1%) of the annual salary of the office sought
5		
6	Lieutenant Governor	One percent (1%) of the annual salary of the office sought
7		
8	All State executive offices	One percent (1%) of the annual salary of the office sought
9		
10	All Justices, Judges, and	One percent (1%) of the annual salary of the office sought
11	<u>Superior and District Court</u>	
12	<u>Judges and District Attorneys of</u>	
13	the General Court of Justice	
14	United States Senator	One percent (1%) of the annual salary of the office sought
15		
16	Members of the United States	One percent (1%) of the annual salary of the office sought
17	House of Representatives	
18	State Senator	One percent (1%) of the annual salary of the office sought
19		
20	Member of the State House of	One percent (1%) of the annual salary of the office sought
21	Representatives	
22	All county offices not	One percent (1%) of the annual salary of the office sought
23	compensated by fees	
24	County Commissioners, if	Ten dollars (\$10.00)
25	compensated entirely by fees	
26	Members of county board of	Five dollars (\$5.00)
27	education, if compensated	
28	entirely by fees	
29	Sheriff, if compensated entirely	Forty dollars (\$40.00), plus
30	by fees one percent (1%) of the	
31		income of the office above
32		four thousand dollars
33		(\$4,000)
34	Clerk of superior court, if	Forty dollars (\$40.00), plus
35	compensated entirely by fees	one percent (1%) of the
36		income of the office above
37		four thousand dollars
38		(\$4,000)
39	Register of deeds, if	Forty dollars (\$40.00), plus
40	compensated entirely by fees	one percent (1%) of the
41		income of the office above
42		four thousand dollars
43		(\$4,000)
44	Any other county office, if	Twenty dollars (\$20.00), plus

1 compensated entirely by fees one percent (1%) of the
 2 income of the office above
 3 two thousand dollars (\$2,000)
 4 All county offices compensated One percent (1%) of the first
 5 partly by salary and partly by annual salary to be received
 6 fees (exclusive of fees)".

7 Sec. 316. G.S. 163-107.1(b) reads as rewritten:

8 "(b) If the candidate is seeking the office of United States Senator, Governor,
 9 Lieutenant Governor, or any State executive officer, ~~Justice of the Supreme Court or~~
 10 ~~Judge of the Court of Appeals~~, the petition must be signed by 10,000 registered voters
 11 who are members of the political party in whose primary the candidate desires to run,
 12 except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be
 13 making nominations by primary election, the petition must be signed by ten percent
 14 (10%) of the registered voters of the State who are affiliated with the same political
 15 party in whose primary the candidate desires to run, or in the alternative, the petition
 16 shall be signed by no less than 10,000 registered voters regardless of the voter's political
 17 party affiliation, whichever requirement is greater. The petition must be filed with the
 18 State Board of Elections not later than 12:00 noon on Monday preceding the filing
 19 deadline before the primary in which he seeks to run. The names on the petition shall be
 20 verified by the board of elections of the county where the signer is registered, and the
 21 petition must be presented to the county board of elections at least 15 days before the
 22 petition is due to be filed with the State Board of Elections. When a proper petition has
 23 been filed, the candidate's name shall be printed on the primary ballot."

24 Sec. 317. G.S. 163-111(c) reads as rewritten:

25 "(c) Procedure for Requesting Second Primary. –

26 (1) A candidate who is apparently entitled to demand a second primary,
 27 according to the unofficial results, for one of the offices listed below,
 28 and desiring to do so, shall file a request for a second primary in
 29 writing or by telegram with the Executive Secretary-Director of the
 30 State Board of Elections no later than 12:00 noon on the seventh day
 31 (including Saturdays and Sundays) following the date on which the
 32 primary was conducted, and such request shall be subject to the
 33 certification of the official results by the State Board of Elections. If
 34 the vote certification by the State Board of Elections determines that a
 35 candidate who was not originally thought to be eligible to call for a
 36 second primary is in fact eligible to call for a second primary, the
 37 Executive Secretary-Director of the State Board of Elections shall
 38 immediately notify such candidate and permit him to exercise any
 39 options available to him within a 48-hour period following the
 40 notification:

41 Governor,
 42 Lieutenant Governor,
 43 All State executive officers,

1 ~~Justices, Judges, or Superior and District Court Judges, or~~
 2 District Attorneys of the General Court of Justice,
 3 United States Senators,
 4 Members of the United States House of Representatives,
 5 State Senators in multi-county senatorial districts, and
 6 Members of the State House of Representatives in multi-county
 7 representative districts.

- 8 (2) A candidate who is apparently entitled to demand a second primary,
 9 according to the unofficial results, for one of the offices listed below
 10 and desiring to do so, shall file a request for a second primary in
 11 writing or by telegram with the chairman or supervisor of the county
 12 board of elections no later than 12:00 noon on the seventh day
 13 (including Saturdays and Sundays) following the date on which the
 14 primary was conducted, and such request shall be subject to the
 15 certification of the official results by the county board of elections:

16 State Senators in single-county senatorial districts,
 17 Members of the State House of Representatives in single-
 18 county representative districts, and
 19 All county officers.

- 20 (3) Immediately upon receipt of a request for a second primary the
 21 appropriate board of elections, State or county, shall notify all
 22 candidates entitled to participate in the second primary, by telephone
 23 followed by written notice, that a second primary has been requested
 24 and of the date of the second primary."

25 Sec. 318. G.S. 163-140(a) reads as rewritten:

26 "(a) Kinds of General Election Ballots; Right to Combine. – For purposes of
 27 general elections, there shall be ~~seven~~six kinds of official ballots entitled:

- 28 (1) Ballot for presidential electors
 29 (2) Ballot for United States Senator
 30 (3) Ballot for member of the United States House of Representatives
 31 (4) State ballot
 32 (5) County ballot
 33 (7) Ballot for constitutional amendments and other propositions submitted
 34 to the people.

35 Use of official ballots shall be limited to the purposes indicated by their titles. The
 36 printing on all ballots shall be plain and legible but, unless large type is specified by this
 37 section, type larger than 10-point shall not be used in printing ballots. All general
 38 election ballots shall be prepared in such a way as to leave sufficient blank space
 39 beneath each name printed thereon in which a voter may conveniently write the name of
 40 any person for whom he may desire to vote.

41 Unless prohibited by this section, the board of elections, State or county, charged by
 42 law with printing ballots may, in its discretion, combine any two or more official
 43 ballots. Whenever two or more ballots are combined, the voting instructions for the
 44 State ballot set out in subsection (b)(4) of this section shall be used, except that if the

1 two ballots being combined do not contain a multi-seat race, then the second sentence of
2 instruction b. shall not appear on the ballot.

3 If the State Board of Elections divides the State ballot into two or more ballots, all
4 candidates for superior court shall appear on the same ballot except that the State Board
5 of Elections may divide the election of superior court judges into two ballots either
6 because of length of the ballot or to provide a separate ballot for multi-seat races but
7 only superior court judges shall be on those ballots, ~~and all candidates for the Appellate~~
8 ~~Division shall appear on the same ballot."~~

9 Sec. 319. G.S. 163-177 reads as rewritten:

10 **"§ 163-177. Disposition of duplicate abstracts.**

11 Within six hours after the returns of a primary or election have been canvassed and
12 the results judicially determined, the chairman of the county board of elections shall
13 mail, or otherwise deliver, to the State Board of Elections the duplicate-original
14 abstracts prepared in accordance with G.S. 163-176 for all offices and referenda for
15 which the State Board of Elections is required to canvass the votes and declare the
16 results including:

17 President and Vice-President of the United States

18 Governor, Lieutenant Governor, and all other State executive officers

19 United States Senators

20 Members of the House of Representatives of the United States Congress

21 ~~Justices, Judges, and~~ Superior and District Court Judges and District

22 Attorneys of the General Court of Justice

23 State Senators in multi-county senatorial districts

24 Members of the State House of Representatives in multi-county
25 representative districts

26 Constitutional amendments and propositions submitted to the voters of the
27 State.

28 One duplicate abstract prepared in accordance with G.S. 163-176 for all offices and
29 referenda for which the county board of elections is required to canvass the votes and
30 declare the results (and which are listed below) shall be retained by the county board,
31 which shall forthwith publish and declare the results; the second duplicate abstract shall
32 be mailed to the chairman of the State Board of Elections, to the end that there be one
33 set of all primary and election returns available at the seat of government.

34 All county offices

35 State Senators in single-county senatorial districts

36 Members of the State House of Representatives in single-county
37 representative districts

38 Propositions submitted to the voters of one county.

39 If the chairman of the county board of elections fails or neglects to transmit
40 duplicate abstracts to the chairman of the State Board of Elections within the time
41 prescribed in this section, he shall be guilty of a misdemeanor. Provided, that the
42 penalty shall not apply if the chairman was prevented from performing the prescribed
43 duty because of sickness or other unavoidable delay, but the burden of proof shall be on

1 the chairman to show that his failure to perform was due to sickness or unavoidable
2 delay."

3 Sec. 320. G.S. 163-192 reads as rewritten:

4 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**
5 **primaries and elections.**

6 (a) After Primary. – At the conclusion of its canvass of the primary election, the
7 State Board of Elections shall prepare separate abstracts of the votes cast:

8 (1) For Governor and all State officers, ~~justices of the Supreme Court,~~
9 ~~judges of the Court of Appeals,~~ judges of the superior court, and
10 United States Senators.

11 (2) For members of the United States House of Representatives for the
12 several congressional districts in the State.

13 (3) For district court judges for the several district court districts in the
14 State.

15 (4) For district attorney in the several prosecutorial districts in the State.

16 (5) For State Senators in the several senatorial districts in the State
17 composed of more than one county.

18 (6) For members of the State House of Representatives in the several
19 representative districts in the State composed of more than one county.

20 Abstracts prepared by the State Board of Elections under this subsection shall state
21 the total number of votes cast for each candidate of each political party for each of the
22 various offices canvassed by the State Board of Elections. They shall also state the
23 name or names of the person or persons whom the State Board of Elections shall
24 ascertain and judicially determine by the count to be nominated for each office.

25 Abstracts prepared under this subsection shall be signed by the members of the State
26 Board of Elections in their official capacity and shall have the great seal of the State
27 affixed thereto.

28 (b) After General Election. – At the conclusion of its canvass of the general
29 election, the State Board of Elections shall prepare abstracts of the votes cast:

30 (1) For President and Vice-President of the United States, when an
31 election is held for those offices.

32 (2) For Governor and all State officers, ~~justices of the Supreme Court,~~
33 ~~judges of the Court of Appeals,~~ judges of the superior court, and
34 United States Senators.

35 (3) For members of the United States House of Representatives for the
36 several congressional districts in the State.

37 (4) For district court judges for the several district court districts as
38 defined in G.S. 7A-133 in the State.

39 (5) For district attorney in the several prosecutorial districts in the State.

40 (6) For State Senators in the several senatorial districts in the State
41 composed of more than one county.

42 (7) For members of the State House of Representatives in the several
43 representative districts in the State composed of more than one county.

1 (8) For and against any constitutional amendments or propositions
2 submitted to the people.

3 Abstracts prepared by the State Board of Elections under this subsection shall state
4 the names of all persons voted for, the office for which each received votes, and the
5 number of legal ballots cast for each candidate for each office canvassed by the State
6 Board of Elections. They shall also state the name or names of the person or persons
7 whom the State Board of Elections shall ascertain and judicially determine by the count
8 to be elected to each office.

9 Abstracts prepared under this subsection shall be signed by the members of the State
10 Board of Elections in their official capacity and shall have the great seal of the State
11 affixed thereto.

12 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file
13 with the Secretary of State the original abstracts of returns prepared by it under the
14 provisions of subsections (a) and (b) of this section, and also the duplicate county
15 abstracts transmitted to the State Board of Elections under the provisions of G.S. 163-
16 177."

17 Sec. 321. G.S. 163-194 reads as rewritten:

18 **"§ 163-194. Governor to issue commissions to certain elected officials.**

19 Every person duly elected to one of the offices listed below, upon obtaining a
20 certificate of his election from the Secretary of State under the provisions of G.S. 163-
21 193, shall procure from the Governor a commission attesting his election to the
22 specified office, which the Governor shall issue upon production of the Secretary of
23 State's certificate:

24 Members of the United States House of Representatives,

25 ~~Justices, Judges, and Superior and District Court Judges and District Attorneys of~~
26 the General Court of Justice."

27 Sec. 322. G.S. 163-1 is amended in the table by deleting the entries for
28 "Justices and Judges of the Appellate Division".

29 Sec. 323. G.S. 163-9 reads as rewritten:

30 **"§ 163-9. Filling vacancies in State and district judicial offices.**

31 Vacancies occurring in the offices of ~~Justice of the Supreme Court, judge of the~~
32 ~~Court of Appeals, and judge of the superior court~~ for causes other than expiration of
33 term shall be filled by appointment of the Governor. An appointee shall hold his place
34 until the next election for members of the General Assembly that is held more than 60
35 days after the vacancy occurs, at which time an election shall be held to fill the
36 unexpired term of the office: Provided, that when the unexpired term of the office in
37 which the vacancy has occurred expires on the first day of January succeeding the next
38 election for members of the General Assembly, the Governor shall appoint to fill that
39 vacancy for the unexpired term of the office.

40 Vacancies in the office of district judge which occur before the expiration of a term
41 shall not be filled by election. Vacancies in the office of district judge shall be filled in
42 accordance with G.S. 7A-142."

43 Sec. 324. This act shall become effective only if the amendments to the
44 Constitution of North Carolina proposed by Sections 301 through 306 of this act are

1 approved by the voters, and if so approved, this Title becomes effective January 15,
2 1993.

3 4 TITLE IV. EDUCATION GOVERNANCE

5
6 Sec. 401. Section 7(1) of Article III of the Constitution reads as rewritten:

7 "(1) **Officers.** A Secretary of State, an Auditor, a Treasurer, a ~~Superintendent of~~
8 ~~Public Instruction,~~ an Attorney General, a Commissioner of Agriculture, a
9 Commissioner of Labor, and a Commissioner of Insurance shall be elected by the
10 qualified voters of the State in 1972 and every four years thereafter, at the same time
11 and places as members of the General Assembly are elected. Their term of office shall
12 be four years and shall commence on the first day of January next after their election
13 and continue until their successors are elected and qualified."

14 Sec. 402. Section 4 of Article IX of the Constitution reads as rewritten:

15 "Sec. 4. State Board of Education.

16 (1) **Board.** The State Board of Education shall consist of the ~~Lieutenant~~
17 ~~Governor, the Treasurer, and eleven members appointed by the Governor, subject to~~
18 ~~confirmation by the General Assembly in joint session.~~ Governor, six members
19 appointed by the Governor, six members elected by the Senate, and six members elected
20 by the House of Representatives. The General Assembly shall divide the State into
21 eight ~~twelve~~ educational districts. Of the ~~appointive~~ elected members of the Board, one
22 shall be ~~appointed~~ elected from each of the ~~eight~~ twelve educational districts ~~and three~~
23 ~~shall be appointed from the State at large.~~ districts. ~~Appointments~~ Terms shall be for
24 ~~overlapping terms of eight years.~~ four years, except that three members elected by the
25 Senate, three members elected by the House of Representatives, and three members
26 appointed by the Governor in 1993 shall serve for a two-year term. Appointments to fill
27 vacancies shall be made ~~by the Governor for the unexpired terms and shall not be~~
28 ~~subject to confirmation.~~ as provided by law. The General Assembly may authorize a
29 member of the General Assembly, a member of the General Assembly after the
30 expiration of his term but before his successor is qualified, a committee of the General
31 Assembly, or a committee of the Senate or the House of Representatives to fill
32 vacancies in positions filled by the Senate or the House of Representatives.

33 (2) **Superintendent of Public Instruction.** The Superintendent of Public
34 Instruction shall be the secretary and chief administrative officer of the State Board of
35 Education. He shall be appointed by the State Board of Education and shall serve at the
36 pleasure of the State Board of Education."

37 Sec. 403. G.S. 115C-10 reads as rewritten:

38 "**§ 115C-10. Appointment of Board.**

39 (a) The State Board of Education shall consist of the ~~Lieutenant Governor, the~~
40 ~~State Treasurer, and 11 members appointed by the Governor, subject to confirmation by~~
41 ~~the General Assembly in joint session.~~ the Governor, six members appointed by the
42 Governor, six members elected by the Senate, and six members elected by the House of
43 Representatives. Not more than one public school employee paid from State or local
44 funds ~~may~~ shall serve as an appointive or elective member of the State Board of

1 Education. No spouse of any public school employee paid from State or local funds and
2 no employee of the Department of Public Instruction or his spouse, ~~may shall~~ serve as
3 an appointive or elective member of the State Board of Education. No appointive or
4 elective member shall serve on the Board within two years of having served in the
5 General Assembly. Of the appointive members of the State Board of Education, one
6 shall be appointed from each of the eight educational districts and three shall be
7 appointed as members at large. Appointments shall be for terms of eight years and shall
8 be made in four classes. Appointments to fill vacancies shall be made by the Governor
9 for the unexpired terms and shall not be subject to confirmation.

10 (b) Appointments and elections shall be for four-year terms, except as provided as
11 follows for initial terms. In 1993 the Governor shall designate three of the members he
12 appoints to serve for two-year terms. In 1993 the Senate shall elect members from the
13 first, third, and fifth educational districts for a two-year term, and in 1993 the Senate
14 shall elect members from the seventh, ninth, and eleventh educational districts for a
15 four-year term. In 1993 the House of Representatives shall elect members from the
16 second, fourth, and sixth educational districts for a two-year term, and in 1993 the
17 House of Representatives shall elect members from the eighth, tenth, and twelfth
18 educational districts for a four-year term. For subsequent elections of the members
19 elected by the Senate and House of Representatives, the Senate and House of
20 Representatives shall alternate the educational districts from which to elect the
21 members.

22 (c) The Senate and the House of Representatives, in electing members of the
23 State Board of Education, shall select from a slate of nominees made in each house as
24 provided by resolution of that house. In the event there is more than one individual who
25 is seeking nomination, the slate of nominees shall contain at least two nominations for
26 any vacancy.

27 (d) Appointments to fill vacancies in positions filled by the Governor shall be
28 made by the Governor for the unexpired terms. Appointments to fill vacancies in
29 positions filled by the Senate shall be made by the President Pro Tempore of the Senate
30 when the General Assembly has adjourned a regular session to a date certain, which
31 date is more than 10 days after the date of adjournment, after **sine die** adjournment of
32 the regular session, or after the beginning of the terms of members of the General
33 Assembly but before convening of the regular session; otherwise, the appointments shall
34 be made by the Senate. Appointments to fill vacancies in positions filled by the House
35 of Representatives shall be made by the Speaker of the House of Representatives when
36 the General Assembly has adjourned a regular session to a date certain, which date is
37 more than 10 days after the date of adjournment, after **sine die** adjournment of the
38 regular session, or after the beginning of the terms of members of the General Assembly
39 but before convening of the regular session; otherwise, the appointments shall be made
40 by the House of Representatives. The President Pro Tempore of the Senate and the
41 Speaker of the House of Representatives shall continue to exercise their authority to fill
42 vacancies under this section until each of their successors in office is selected.

43 ~~The Governor shall transmit to the presiding officers of the Senate and the House of~~
44 ~~Representatives, on or before the sixtieth legislative day of the General Assembly, the~~

1 names of the persons appointed by him and submitted to the General Assembly for
2 confirmation; thereafter, pursuant to joint resolution, the Senate and the House of
3 Representatives shall meet in joint session for consideration of an action upon such
4 appointments."

5 Sec. 404. G.S. 115C-18 reads as rewritten:

6 "**§ 115C-18. Election-Appointment of Superintendent of Public Instruction.**

7 The Superintendent of Public Instruction shall be elected by the qualified voters of
8 the State in 1972 and every four years thereafter at the same time and places as
9 members of the General Assembly are elected. His term of office shall be four years and
10 shall commence on the first day of January next after election and continue until his
11 successor is elected and qualified.

12 If the office of the Superintendent of Public Instruction is vacated by death,
13 resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve
14 until his successor is elected and qualified. Every such vacancy shall be filled by
15 election at the first election for members of the General Assembly that occurs more than
16 30 days after the vacancy has taken place, and the person chosen shall hold the office
17 for the remainder of the unexpired term fixed in Article III, Sec. 7 of the Constitution of
18 North Carolina. When a vacancy occurs in the office and the term expires on the first
19 day of January succeeding the next election for members of the General Assembly, the
20 Governor shall appoint to fill the vacancy for the unexpired term of the office. Upon the
21 occurrence of a vacancy in the office for any of the causes stated herein, the Governor
22 may appoint an interim officer to perform the duties of that office until a person is
23 appointed or elected pursuant to Article III, Sec. 7 of the Constitution of North Carolina
24 to fill the vacancy and is qualified.

25 The time of the election of the Superintendent of Public Instruction shall be in
26 accordance with the provisions of Article 1 of Subchapter I of Chapter 163 of the
27 General Statutes.

28 The election, term and induction into office of the Superintendent of Public
29 Instruction shall be in accordance with the provisions of G.S. 147-4. appointed by the
30 State Board of Education and shall serve at the pleasure of the State Board of
31 Education."

32 Sec. 405. G.S. 115C-21(a) reads as rewritten:

33 "(a) Administrative Duties. – It shall be the duty of the Superintendent of Public
34 Instruction:

- 35 (1) To organize and establish a Department of Public Instruction which
36 shall include such divisions and departments as are necessary for
37 supervision and administration of the public school system, to
38 administer the funds for the operation of the Department of Public
39 Instruction, and to enter into contracts for the operations of the
40 Department of Public Instruction.
- 41 (2) To keep the public informed as to the problems and needs of the public
42 schools by constant contact with all school administrators and
43 teachers, by his personal appearance at public gatherings, and by
44 information furnished to the press of the State.

- 1 (3) To report biennially to the Governor 30 days prior to each regular
 2 session of the General Assembly, such report to include information
 3 and statistics of the public schools, with recommendations for their
 4 improvement and for such changes in the school law as shall occur to
 5 him.
- 6 (4) To have printed and distributed such educational bulletins as he shall
 7 deem necessary for the professional improvement of teachers and for
 8 the cultivation of public sentiment for public education, and to have
 9 printed all forms necessary and proper for the administration of the
 10 Department of Public Instruction.
- 11 (5) To have under his direction, in his capacity as the ~~constitutional head~~
 12 ~~of the public school system,~~ chief administrative officer of the State
 13 Board of Education, all those matters relating to the supervision and
 14 administration of the public school system.
- 15 (6) To create a special fund within the Department of Public Instruction to
 16 manage funds received as grants from nongovernmental sources in
 17 support of public education. The Superintendent may accept grants and
 18 gifts from corporations and other sources made in support of public
 19 education and may hold and disburse such funds, in accordance with
 20 the purposes, conditions, and limitations associated with such grants
 21 and gifts. Any special fund created pursuant to this subdivision shall
 22 be subject to audit by the State Auditor."

23 Sec. 406. G.S. 115C-65 reads as rewritten:

24 "**§ 115C-65. State divided into districts.**

25 The State of North Carolina shall be divided into ~~eight~~ 12 educational ~~districts~~
 26 ~~embracing the counties herein set forth:~~

27
 28 **FIRST DISTRICT**

29
 30 ~~Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin,~~
 31 ~~Pasquotank, Perquimans, Pitt, Tyrrell, Washington.~~

32
 33 **SECOND DISTRICT**

34
 35 ~~Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow,~~
 36 ~~Pamlico, Pender, Sampson, Wayne.~~

37
 38 **THIRD DISTRICT**

39
 40 ~~Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Nash, Northampton,~~
 41 ~~Vance, Wake, Warren, Wilson.~~

42
 43 **FOURTH DISTRICT**

1 ~~Bladen, Columbus, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore,~~
2 ~~Richmond, Robeson, Scotland.~~

3
4 **FIFTH DISTRICT**

5
6 ~~Alamance, Caswell, Chatham, Davidson, Forsyth, Guilford, Orange, Person,~~
7 ~~Randolph, Rockingham, Stokes.~~

8
9 **SIXTH DISTRICT**

10
11 ~~Anson, Cabarrus, Cleveland, Gaston, Lincoln, Mecklenburg, Stanly, Union.~~

12
13 **SEVENTH DISTRICT**

14
15 ~~Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell,~~
16 ~~Rowan, Surry, Watauga, Wilkes, Yadkin.~~

17
18 **EIGHTH DISTRICT**

19
20 ~~Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon,~~
21 ~~Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey.~~
22 districts. The 12 educational districts are the same as the districts specified for the
23 purpose of nominating and electing members of the House of Representatives of the
24 Congress of the United States in 1992."

25 Sec. 407. G.S. 143A-42 reads as rewritten:

26 **"§ 143A-42. Superintendent of Public Instruction; transfer of office and**
27 **Department of Public Instruction; powers and duties.**

28 The office of the Superintendent of Public Instruction, as provided for by ~~Article III,~~
29 ~~Sec. 7, Article IX, Sec. 4(2),~~ of the Constitution, and the Department of Public
30 Instruction are hereby transferred to the Department of Public Education. The
31 Superintendent of Public Instruction shall be the secretary and chief administrative
32 officer of the State Board of Education, and shall have such powers and duties as are
33 conferred by the Constitution, by the State Board of Education, Chapter 115C of the
34 General Statutes, and the laws of this State."

35 Sec. 408. G.S. 147-3(c) reads as rewritten:

36 "(c) The general civil executive officers of this State are as follows:

- 37 (1) A Governor;
38 (2) A Lieutenant Governor;
39 (3) Private secretary for the Governor;
40 (4) A Secretary of State;
41 (5) An Auditor;
42 (6) A Treasurer;
43 (7) An Attorney General;
44 (8) ~~A Superintendent of Public Instruction;~~

- 1 (9) The members of the Governor's Council;
2 (10) A Commissioner of Agriculture;
3 (11) A Commissioner of Labor;
4 (12) A Commissioner of Insurance."

5 Sec. 409. G.S. 147-4 reads as rewritten:

6 **"§ 147-4. Executive officers – election; term; induction into office.**

7 The executive department shall consist of a Governor, a Lieutenant Governor, a
8 Secretary of State, an Auditor, a Treasurer, a ~~Superintendent of Public Instruction~~, an
9 Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a
10 Commissioner of Labor, who shall be elected for a term of four years, by the qualified
11 electors of the State, at the same time and places, and in the same manner, as members
12 of the General Assembly are elected. Their term of office shall commence on the first
13 day of January next after their election and continue until their successors are elected
14 and qualified. The persons having the highest number of votes, respectively, shall be
15 declared duly elected, but if two or more be equal and highest in votes for the same
16 office, then one of them shall be chosen by joint ballot of both houses of the General
17 Assembly. Contested elections shall be determined by a joint ballot of both houses of
18 the General Assembly in such manner as shall be prescribed by law."

19 Sec. 410. G.S. 147-11.1 reads as rewritten:

20 **"§ 147-11.1. Succession to office of Governor; Acting Governor.**

21 (a) Lieutenant Governor. –

22 (1) The Lieutenant Governor-elect shall become Governor upon the
23 failure of the Governor-elect to qualify. The Lieutenant Governor shall
24 become Governor upon the death, resignation, or removal from office
25 of the Governor. The further order of succession to the office of
26 Governor shall be prescribed by law. A successor shall serve for the
27 remainder of the term of the Governor whom he succeeds and until a
28 new Governor is elected and qualified.

29 (2) During the absence of the Governor from the State, or during the
30 physical or mental incapacity of the Governor to perform the duties of
31 his office, the Lieutenant Governor shall be Acting Governor. The
32 further order of succession as Acting Governor shall be prescribed by
33 law.

34 (b) President of Senate, Speaker of the House and Other Officers. –

35 (1) If, by reason of failure to qualify, death, resignation, or removal from
36 office, there is neither a Governor nor a Lieutenant Governor to
37 discharge the powers and duties of the office of Governor, then the
38 President of the Senate shall, upon his resignation as President of the
39 Senate and as Senator, become Governor.

40 (2) If, at the time when under subdivision (1) of this subsection the
41 President of the Senate is to become Governor, there is no President of
42 the Senate, or the President of the Senate fails to qualify as Governor,
43 then the Speaker of the House of Representatives shall, upon his
44 resignation as Speaker and as Representative, become Governor.

1 (3) If, at the time when under subdivision (2) of this subsection the
2 Speaker of the House of Representatives is to become Governor, there
3 is no Speaker of the House of Representatives, or the Speaker of the
4 House of Representatives fails to qualify as Governor, then that officer
5 of the State of North Carolina who is highest on the following list, and
6 who is not under disability to serve as Governor, shall, upon his
7 resignation of the office which places him in the order of succession,
8 become Governor: Secretary of State, Auditor, Treasurer,
9 ~~Superintendent of Public Instruction~~, Attorney General, Commissioner
10 of Agriculture, Commissioner of Labor, and Commissioner of
11 Insurance.

12 (c) Acting Governor Generally. –

13 (1) If, by reason of absence from the State or physical or mental
14 incapacity, there is neither a Governor nor a Lieutenant Governor
15 qualified to discharge the powers and duties of the office of Governor,
16 then the President of the Senate shall become Acting Governor.

17 (2) If, at the time when under subdivision (1) of this subsection the
18 President of the Senate is to become Acting Governor, there is no
19 President of the Senate, or the President of the Senate fails to qualify
20 as Acting Governor, then the Speaker of the House of Representatives
21 shall become Acting Governor.

22 (3) If, at the time when under subdivision (2) of this subsection the
23 Speaker of the House of Representatives is to become Acting
24 Governor, there is no Speaker of the House of Representatives, or the
25 Speaker of the House of Representatives fails to qualify as Acting
26 Governor, then that officer of the State of North Carolina who is
27 highest on the following list, and who is not under disability to serve
28 as Acting Governor, shall become Acting Governor: Secretary of
29 State, Auditor, Treasurer, ~~Superintendent of Public Instruction~~,
30 Attorney General, Commissioner of Agriculture, Commissioner of
31 Labor, and Commissioner of Insurance.

32 (d) Governor Serving under Subsection (c). – An individual serving as Acting
33 Governor under subsection (c) of this section shall continue to act for the remainder of
34 the term of the Governor whom he succeeds and until a new Governor is elected and
35 qualified, except that:

36 (1) If his tenure as Acting Governor is founded in whole or in part upon
37 the absence of both the Governor and Lieutenant Governor from the
38 State, then he shall act only until the Governor or Lieutenant Governor
39 returns to the State; and

40 (2) If his tenure as Acting Governor is founded in whole or in part upon
41 the physical or mental incapacity of the Governor or Lieutenant
42 Governor, then he shall act only until the removal of the incapacity of
43 the Governor or Lieutenant Governor.

1 (e) Officers to Which Subsections (b), (c) and (d) Applicable. – Subsections (b),
2 (c), and (d) of this section shall apply only to such officers as are eligible to the office of
3 Governor under the Constitution of North Carolina, and only to officers who are not
4 under impeachment by the House of Representatives at the time they are to become
5 Governor or Acting Governor.

6 (f) Compensation of Acting Governor. – During the period that any individual
7 serves as Acting Governor under subsection (c) of this section, his compensation shall
8 be at the rate then provided by law in the case of the Governor."

9 Sec. 411. G.S. 163-1 is amended by deleting the entries in the table for
10 "Superintendent of Public Instruction".

11 Sec. 412. G.S. 163-8 reads as rewritten:

12 **"§ 163-8. Filling vacancies in State executive offices.**

13 If the office of Governor or Lieutenant Governor shall become vacant, the
14 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers
15 shall be vacated by death, resignation, or otherwise than by expiration of term, it shall
16 be the duty of the Governor to appoint another to serve until his successor is elected and
17 qualified: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~
18 Attorney General, Commissioner of Agriculture, Commissioner of Labor, and
19 Commissioner of Insurance. Each such vacancy shall be filled by election at the first
20 election for members of the General Assembly that occurs more than 60 days after the
21 vacancy has taken place, and the person chosen shall hold the office for the remainder
22 of the unexpired four-year term: Provided, that when a vacancy occurs in any of the
23 offices named in this section and the term expires on the first day of January succeeding
24 the next election for members of the General Assembly, the Governor shall appoint to
25 fill the vacancy for the unexpired term of the office.

26 Upon the occurrence of a vacancy in the office of any one of these officers for any
27 of the causes stated in the preceding paragraph, the Governor may appoint an acting
28 officer to perform the duties of that office until a person is appointed or elected pursuant
29 to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and
30 is qualified."

31 Sec. 413. G.S. 163-278.27 reads as rewritten:

32 **"§ 163-278.27. Penalty for violations; duty to report and prosecute.**

33 (a) Any individual, candidate, political committee, referendum committee,
34 treasurer, person or media who violates the provisions of G.S. 163-278.7, 163-278.8,
35 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.14, 163-278.16, 163-278.17,
36 163-278.18, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-278.40E is
37 guilty of a misdemeanor.

38 (b) Whenever the Board has knowledge of or has reason to believe there has been
39 a violation of any section of this Article, it shall report that fact, together with
40 accompanying details, to the following prosecuting authorities:

- 41 (1) In the case of a candidate for nomination or election to the State Senate
42 or State House of Representatives: report to the district attorney of the
43 prosecutorial district in which the candidate for nomination or election
44 resides;

- 1 (2) In the case of a candidate for nomination or election to the office of
2 Governor, Lieutenant Governor, Secretary of State, State Auditor,
3 State Treasurer, ~~State Superintendent of Public Instruction, State~~
4 Attorney General, State Commissioner of Agriculture, State
5 Commissioner of Labor, State Commissioner of Insurance, and all
6 other State elective offices, Justice of the Supreme Court, Judge of the
7 Court of Appeals, judge of a superior court, judge of a district court,
8 and district attorney of the superior court: report to the district attorney
9 of the prosecutorial district in which Wake County is located;
- 10 (3) In the case of an individual other than a candidate, including, without
11 limitation, violations by members of political committees, referendum
12 committees or treasurers: report to the district attorney of the
13 prosecutorial district in which the individual resides; and
- 14 (4) In the case of a person or any group of individuals: report to the
15 district attorney or district attorneys of the prosecutorial district or
16 districts in which any of the officers, directors, agents, employees or
17 members of the person or group reside.

18 (c) Upon receipt of such a report from the Board, the appropriate district attorney
19 shall prosecute the individual or persons alleged to have violated a section or sections of
20 this Article."

21 Sec. 414. The amendments set out in Sections 401 and 402 of this act shall
22 be submitted to the qualified voters of the State at an election to be held on November 3,
23 1992, which election shall be conducted under the laws then governing elections in the
24 State. At that election, each qualified voter desiring to vote shall be provided a ballot on
25 which shall be printed the following:

26 " FOR Constitutional amendments to change the composition of the
27 State Board of Education and to make the Superintendent of Public
28 Instruction an appointee of the State Board of Education.

29 AGAINST Constitutional amendments to change the composition of
30 the State Board of Education and to make the Superintendent of Public
31 Instruction an appointee of the State Board of Education."

32 Those qualified voters favoring the amendments set out in Sections 401 and
33 402 of this act shall vote by making an "X" or a check mark in the square beside the
34 statement beginning "FOR", and those qualified voters opposed to those amendments
35 shall vote by making an "X" or check mark in the square beside the statement beginning
36 "AGAINST".

37 Notwithstanding the foregoing provisions of this section, voting machines
38 may be used in accordance with rules prescribed by the State Board of Elections.

39 Sec. 415. If a majority of votes cast thereon are in favor of the amendments
40 set out in Sections 401 and 402 of this act, the State Board of Elections shall certify the
41 amendments to the Secretary of State, who shall enroll the amendments so certified
42 among the permanent records of his office, and the amendments shall become effective
43 upon such certification, except that:

- 1 (1) Until March 31, 1993, such amendments do not affect the manner of
2 filling vacancies of the Superintendent of Public Instruction for the
3 term that commenced January 1, 1993;
4 (2) The term of office of the Superintendent of Public Instruction for the
5 term that commenced January 1, 1993, is terminated March 31, 1993,
6 except that he shall continue to serve until a superintendent of public
7 instruction is appointed under G.S. 115C-18, and he shall continue to
8 serve as a member of the Council of State until March 31, 1993; and
9 (3) The term of office of all members of the State Board of Education who
10 were appointed or elected prior to March 31, 1993, and the terms of
11 the Lieutenant Governor and State Treasurer on the State Board of
12 Education shall expire on March 31, 1993.

13 Sec. 416. Sections 403 through 413 of this act shall become effective only if
14 the Constitutional amendments set out in Sections 401 and 402 of this act are approved
15 by the voters. If the Constitutional amendments are approved by the voters, Sections
16 403 through 413 of this act shall become effective March 31, 1993. Sections 414 and
17 415 of this act are effective upon ratification.

18 Sec. 417. This Title is effective upon ratification.