

1997-1998

**HOUSE
WELFARE REFORM**

MINUTES

HOUSE COMMITTEE ON WELFARE REFORM

1997-98 SESSION

MEMBER (Clerk)	TEL.#	OFFICE	SEAT
CHERIE BERRY, Chairman Betty Smith	3-5861	1006	41
MARTHA ALEXANDER Margy Blackmon	3-5605	1209	34
DONALD A. BONNER Lucy Johnson	5-9664	617	109
FLOSSIE BOYD MCINTYRE Angel Artis	3-5905	507	84
RUSSELL CAPPS Pamela Ahlin	5-3005	419B	77
DEBBIE A. CLARY Mary Jamison	5-3011	418B	75
BILLY J. CREECH Betty Anne Lennon	3-5829	635	42
BEVERLY EARLE Monica McLain	5-4466	602	95
THERESA H. ESPOSITO Melissa Jackson	5-2530	634	5
CHARLOTTE A. GARDNER Barbara Hocutt	5-3017	417B	7
DEWEY L. HILL Ginny McCann	3-5830	1309	21
JULIA C. HOWARD Gail Stewart	3-5904	1021	8
HOWARD J. HUNTER Barbara Phillips	3-2962	613	68

MAGGIE JEFFUS	3-5191	1013	108

Mary Lee Robinson

FRANKLIN MITCHELL	3-5959	638	9

Susan Thomason

RICHARD L. MOORE	3-5661	1019	101

Kathy Cali

MIA MORRIS	3-5741	1315	99

Monty Morris

EDD NYE	3-5477	639	23

Jo Bobbitt

DAVID REDWINE	3-4948	1204	117

Katie Shull

EDGAR V. STARNES	5-3012	418A	88

Pattie Fleming

CONNIE WILSON	3-7663	529	40

Joanna Mills

GENE WILSON	3-7727	1109	52

Rebecca Jones

EX-OFFICIO MEMBERS

LEO DAUGHTRY	5-0850	2301	30

Bernice Bullard

JULIA C. HOWARD	3-5904	1021	8

Gail Stewart

STEVE W. WOOD	3-5807	2208	12

Sylvia Perkins

STAFF	3-2578	545	

Ms. Carolyn Johnson, STAFF ATTORNEY

Ms. Linda Attarian, STAFF ATTORNEY

Mr. John Young, LEGISLATIVE ANALYST

Ms. Sue Floyd, LEGISLATIVE ANALYST

**HOUSE COMMITTEE ON WELFARE REFORM
1997-98 SESSION**



BERRY
Chairman



ALEXANDER



BONNER



**BOYD-
MCINTYRE**



CAPPS



CLARY



CREECH



EARLE



ESPOSITO



GARDNER



HILL



HOWARD



HUNTER



JEFFUS



MITCHELL



MOORE



MORRIS



NYE



REDWINE



STARNES



C. WILSON



G. WILSON

WELFARE REFORM

(Name of Committee)

[illegible]

(Name of Committee)

[illegible]

WELFARE REFORM

(Name of Committee)

[illegible]

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1997-98 Regular Session

HOUSE: WELFARE REFORM

Valid Through 13-OCT-1998

<u>BILL</u>	<u>INTRODUCER</u>	<u>SHORT TITLE</u>	<u>LATEST ACTION ON BILL</u>	<u>IN DATE</u>	<u>OUT DATE</u>
H 168	ALDRIDGE	CHANGE WELFARE TO CHARITY	H -REF TO COM ON WEL REF	02-13-97	
H 301	GARDNER	CHILD SUPPORT/FED. REQ.	*R -CH. SL 97-0433	02-24-97	04-28-97
H 363	GARDNER	CHILD SUPPORT OPTIONS/FEES	*R -CH. SL 97-0223	03-03-97	03-24-97
H 431=	HOWARD	PUBLIC ASSISTANCE FRAUD	*R -CH. SL 97-0497	03-10-97	03-25-97
H 976	BERRY	CATAWBA WELFARE REFORM ACT	H -REF TO COM ON WEL REF	04-17-97	
H1446=	HOWARD	BIOMETRICS TECHNICAL CORRECTIONS	*H -RE-REF COM ON WEL REF	05-25-98	05-27-98
H1446=	HOWARD	BIOMETRICS TECHNICAL CORRECTIONS	*H -RE-REF COM ON WEL REF	06-03-98	
H1471=	HOWARD	WELFARE LAW CORRECTIONS	H -REF TO COM ON WEL REF	05-25-98	
S 938=	JORDAN	CONSTRUCTION WORKER TRAINING CREDIT	*H -REF TO COM ON WEL REF	06-25-97	
S1015	MARTIN W	WELFARE REFORM ACT OF 1997-2	*H -ASSIGNED TO APP-HRES	05-05-97	05-27-97

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.

* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.

BOLDDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

MEMORANDUM

TO: Representative Cherie Berry
FROM: Welfare Reform Committee
DATE: August 11, 1998
SUBJECT: HB 976 CATAWBA WELFARE REFORM ACT

House Rule 36 speaks to reporting bills out of standing committees or permanent subcommittees by the last adjournment of the 1997-98 legislative session. -- "All House bills and resolutions **shall be reported from** the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair of the standing committee or permanent subcommittee that the bill not be considered.**" If it is your intent that the bill listed above not be considered by committee this legislative session, please **sign** and **date** the form and **return** it to the Committee Clerk, Betty Smith for the Committee on Welfare Reform in Room 1006 LB by Thursday August 20, 1998.

oooooooooooo

Mr. Chairman:

I request that the above-mentioned House Bill # 976, for which I am the principal introducer, not be considered by your committee for the 1997-98 legislative session.

Cherie Berry (Sign)
Representative Cherie Berry

Aug. 11, 1998 (Date)

PLEASE DO NOT DETACH THE FORM FROM THE MEMORANDUM

MEMORANDUM

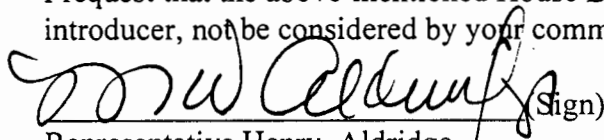
TO: Representative Henry Aldridge
FROM: Representative Cherie Berry
DATE: August 11, 1998
SUBJECT: HB 168 CHANGE WELFARE TO CHARITY

House Rule 36 speaks to reporting bills out of standing committees or permanent subcommittees by the last adjournment of the 1997-98 legislative session. -- "All House bills and resolutions **shall be reported from** the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair of the standing committee or permanent subcommittee that the bill not be considered.**" If it is your intent that the bill listed above not be considered by committee this legislative session, please **sign** and **date** the form and **return** it to the Committee Clerk, Betty Smith, for the Committee on Welfare Reform in Room 1006 LB by Thursday August 20, 1998.

oooooooooooooooo

Mr. Chairman:

I request that the above-mentioned House Bill # 168, for which I am the principal introducer, not be considered by your committee for the 1997-98 legislative session.


(Sign)
Representative Henry Aldridge

8-19-98 (Date)

PLEASE DO NOT DETACH THE FORM FROM THE MEMORANDUM

MEMORANDUM

TO: Representative Julia Howard

FROM: Representative Cherie Berry

DATE: August 11, 1998

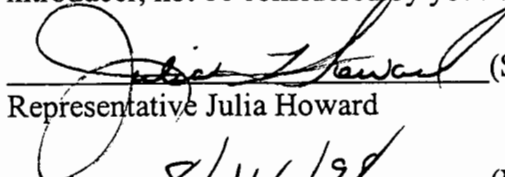
SUBJECT: HB 1446 BIOMETRICS TECHNICAL CORRECTIONS

House Rule 36 speaks to reporting bills out of standing committees or permanent subcommittees by the last adjournment of the 1997-98 legislative session. -- "All House bills and resolutions **shall be reported from** the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair of the standing committee or permanent subcommittee that the bill not be considered.**" If it is your intent that the bill listed above not be considered by committee this legislative session, please **sign** and **date** the form and **return** it to the Committee Clerk, Betty Smith for the Committee on Welfare Reform in Room 1006 LB by Thursday August 20, 1998.

oooooooooooooooo

Mr. Chairman:

I request that the above-mentioned House Bill # 1446, for which I am the principal introducer, not be considered by your committee for the 1997-98 legislative session.

 (Sign)
Representative Julia Howard

8/14/98 (Date)

PLEASE DO NOT DETACH THE FORM FROM THE MEMORANDUM

MEMORANDUM

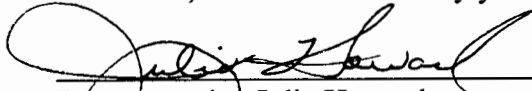
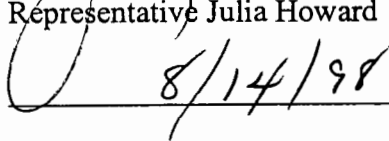
TO: Representative Julia Howard
FROM: Representative Cherie Berry
DATE: August 11, 1998
SUBJECT: HB 1471 WELFARE LAW CORRECTIONS

House Rule 36 speaks to reporting bills out of standing committees or permanent subcommittees by the last adjournment of the 1997-98 legislative session. -- "All House bills and resolutions **shall be reported from** the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make **except in the case where the principal introducer requests in writing to the Chair of the standing committee or permanent subcommittee that the bill not be considered.**" If it is your intent that the bill listed above not be considered by committee this legislative session, please **sign** and **date** the form and **return** it to the Committee Clerk, Betty Smith for the Committee on Welfare Reform in Room 1006 LB by Thursday August 20, 1998.

oooooooooooo

Mr. Chairman:

I request that the above-mentioned House Bill #1471, for which I am the principal introducer, not be considered by your committee for the 1997-98 legislative session.

 (Sign)
Representative Julia Howard
 (Date)

PLEASE DO NOT DETACH THE FORM FROM THE MEMORANDUM

MINUTES

HOUSE COMMITTEE ON WELFARE REFORM FEBRUARY 27, 1997

The House Committee on Welfare Reform met at 12 noon on February 27, 1997 in Room 1327 in the Legislative Building. Representative Cherie Berry presided and the following members were present: Representatives Alexander, Bonner, Boyd-McIntyre, Capps, Earle, Esposito, Gardner, Hill, Hunter, Jeffus, Mitchell, Moore, Morris, Nye, Redwine, Starnes, and G. Wilson. Staff Counsels Carolyn Johnson and John Young were present to assist the Committee. Also in attendance was Representative Culpepper, co-sponsor of today's bill. Visitor registration sheet is attached and made part of the minutes.

Chairman Berry introduced the Pages serving the Committee and welcomed guests. She then called for the first item on the agenda House Bill 301 Child Support/Federal Regulations.

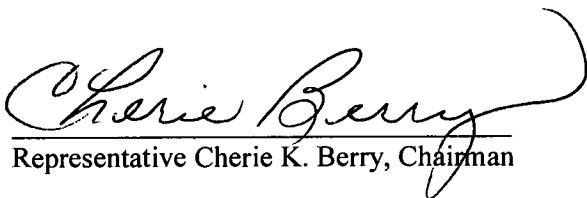
Representatives Gardner and Culpepper, bill co-sponsors, were recognized to explain HB 301. Representative Gardner stated that with the passage of the Federal Welfare Reform Bill, there is need to bring North Carolina into compliance with the Federal regulations. They indicated that there is nothing in this bill that is not federally mandated. Passage of HB 301 is necessary to avoid losing important block grant funds.

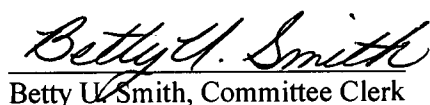
Representatives Gardner and Culpepper gave a brief overview of the bill (see attached synopsis by Carolyn Johnson) stating that this is only a starting point from which to work. Several questions were raised by Representative Redwine concerning the need to involve all agencies that will be affected by this in its drafting. The bill sponsors indicated that this was their intention.

Representative Redwine expressed concern over the enforcement aspects of the bill. Representative Nye questioned a financial institutions obligation's in actually paying owed monies when such funds were available. These and other questions will be addressed by the sub-committee to study HB 301 appointed by Chairman Berry. Serving on the sub-committee are Representative Gardner, Chairman; Representatives Howard, Jeffus, Morris and Bonner.

Representative Moore wanted to know if disclosure of paternity was required before financial aid was made available. It is already law that a mother must identify the father before receiving any funds.

The meeting adjourned at 1p.m.


Representative Cherie K. Berry, Chairman


Betty U. Smith, Committee Clerk

HOUSE COMMITTEE ON WELFARE REFORM

Feb. 27, 1997
Room 1327 LB
12 Noon

OPENING REMARKS

Representative Cherie K. Berry, Chairman

BILLS TO BE CONSIDERED

HB 301 Child Support / Fed. Req.

Sponsor: Representative Charlotte Gardner

Co-Sponsor: Representative Bill Culpepper

ADJOURNMENT

VISITOR REGISTRATION SHEET

WELFARE REFORM

FEB. 27, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Patrice Rouley	NCACE
John Roll	AOC
John	TDA
Brenda Summers	NC Executive
Sandra Chastout	DHR
Ron Abert	TDA
Lynn Galyer	Black Prize
Myra Felt	NRSW-NC
Pat Young	APPCNC / SCSL
Tom Whitaker	ESC
David Clegg	ESC
Rodney Smith	lobbyist
Frank Clark	AMG
Helen Appene	Meck. Co.
James Kanine	BSS
David Robbins	Dept of Justice
Mike Nelson	DHR
Phoebe Little	DHR
Art Withams	Office of Governor
Chris Scott	NC Adm. Serv.
Jonathan Breeden	citizen
Chris Damgren	NCADTO



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Thomas L. Covington, Director
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Donald W. Fulford, Director
Information Systems Division
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300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
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300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

February 26, 1997

Memorandum

To: House Welfare Reform Committee

From: Carolyn D. Johnson, Committee Counsel

Re: HB 301 - Child Support/Federal Requirements

Background: HB 301 amends various general statutes to enhance child support enforcement and paternity establishment in North Carolina as required by federal welfare reform legislation (the Personal Responsibility and Work Reconciliation Act of 1996, P. L. - 104-193). Attached hereto is a chart which compares prior federal law to the new requirements. The chart, obtained from the U. S. Department of Health and Human Services Internet site, provides a working overview of the new requirements.

Bill Analysis: Section 1 establishes the State Directory of New Hires. The Employment Security Commission (ESC), in consultation with the Department of Human Resources (DHR), is required to develop and maintain the directory which will be used to locate persons owing child support. All employers are required to report the hire of any person residing in this State or the return to work of any person furloughed, separated, granted leave without pay or terminated. The report shall be made within 20 days of the hire, or if an employer chooses to transmit magnetically or electronically by two monthly transmissions, not less than 12 nor more than 16 days apart. The report shall contain the employee's name, address and social security number, and the employer's name, address and tax identification number. The report shall be made on the W-4 form, or an equivalent form, and may be transmitted magnetically, electronically or by 1st class mail.

A \$20 civil monetary penalty shall be imposed on employers who fail to report as required. A \$450 civil monetary penalty shall be imposed on employers if there is a finding that the failure to report was due to a conspiracy between the employer and employee not to supply the required information or to supply false or incomplete information.

Report data shall be entered into the directory within 5 business days of receipt, and within 3 business days, the data shall be furnished to the National Directory of New Hires. Within 2 business days, the IV-D agency shall transmit notice to employers

directing the withholding of income equal to the monthly or other periodic child support obligation.

The remainder of Section 1 addresses required quarterly reports to the National Directory of New Hires, automation capabilities required by May 1, 1998, other uses of directory information, and cooperation between ESC and DHR.

Section 2 expands the authority of the Child Support Enforcement Program in DHR to enforce child support orders and establish paternity. Additional powers and duties include authority to: (1) issue subpoenas for the production of information or documents as required for the enforcement of child support orders; (2) access DMV and law enforcement information or data storage and retrieval systems; (3) request reviews and adjustments of child support orders every 3 three years; (4) develop agreements with financial institutions to access financial records of persons owing child support, or in response to notices of child support liens or levies, to encumber or surrender assets held by financial institutions; (5) develop procedures which ensure continuation of health insurance coverage when a noncustodial parent changes employment; (6) develop procedures to administratively establish paternity in contested cases; and (7) establish voluntary paternity establishment procedures.

Section 3 authorizes judges to impose work requirements on child support obligors who are in arrears, and requires parents to provide medical support.

Section 4 requires social security numbers on paternity orders and applications for occupational licenses. Section 4 also requires financial institutions to provide the Child Support Enforcement Program access to financial records of persons the Department certifies as subject to child support orders and required to enforce such orders. Financial institutions who disclose such information in good faith reliance upon the Department's certification shall not be liable for damages resulting from the disclosure.

Section 5 authorizes suspension, revocation or restriction of driver's, hunting, fishing, or trapping licenses, and motor vehicle registration refusal for individuals with outstanding subpoenas or warrants issued pursuant to child support proceedings. The section also make conforming amendments to the license forfeiture and reinstatement provisions.

Section 6 provides for income withholding without judicial or administrative hearing to collect arrears in non-IV-D cases where child support orders were entered prior to October 1, 1996 and income withholding has not been previously ordered or implemented. An obligor, in arrears equal to one month's support or more, is subject to immediate withholding upon notice and entry of an order unless the obligor proves mistake of fact. Section 6 also requires that withheld payments begin within 7 days, instead of 14 days, following the date the notice of obligation to withhold was served on the payor.

Section 7 provides for the establishment of liens on real property of persons owing past-due child support. A general lien is created upon the real property of any person subject to a court order of child support and more than 90 days in arrears. The lien continues from the date of filing until satisfied. A lien shall be filed with the clerk of superior court and contain the name and address of the person against whom a lien is claimed, the name of the governmental agency or obligee claiming the lien, the amount of arrearage as of the date of filing, the date of the court order enforcing support for which the arrearages are asserted and lien claimed. To be valid, a lien must be filed within 90 days of the date the support arrearage arose. A lien may be discharged by a filed statement of the Secretary of DHR indicating obligor is no longer in arrears or has agreed to a payment schedule, by payment to the clerk of court the amount of the claim; or by entry of dismissal or judgment in the lien docket.

Section 8 instructs DHR to develop an automated data processing and information system and a centralized collection and disbursement system that is fully operational by October 1, 2000 as required by federal law.

Section 9 authorizes DHR to discontinue the disregard of the first \$50 of child support collected.

Section 10 makes the act effective October 1, 1997.

Child Support	The state was required to establish paternity and establish and enforce child support orders for AFDC, Medicaid, IV-E recipients, and for all others upon request. States were required to disregard the first \$50 a month in child support payments collected by the state and pass that amount through to the family.	States must operate a child support enforcement program meeting federal requirements in order to be eligible for the Family Assistance Program. Recipients must assign rights to child support and cooperate with paternity establishment efforts. Distribution rules are changed so that families no longer on assistance have priority in receipt of child support arrears. Current law \$50 pass-through is not required. Individuals who fail to cooperate with paternity establishment will have their monthly cash assistance reduced by at least 25%. Streamlines the process for establishing paternity and expands the in-hospital voluntary paternity establishment program. The law requires states to establish central registries of child support orders and centralized collection and disbursement units. Requires states to have expedited procedures for child support enforcement. Establishes a Federal Case Registry and National Directory of New Hires to track delinquent parents across states lines. Requires that employers report all new hires to state agencies and new hire information to be transmitted to the National Directory of New Hires. Expands and streamlines procedures for direct withholding of child support from wages. Provides for uniform rules, procedures, and forms for interstate cases. Requires states to have numerous new enforcement techniques, including the revoking of drivers and professional licenses for delinquent obligors, expanding wage garnishment, and allowing states to seize assets. Provides grants to states for access and visitation programs.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 301

Short Title: Child Support/Fed. Req.

(Public)

Sponsors: Representatives Gardner, Culpepper (Cosponsors); Davis, Capps, Morris, and Shubert.

Referred to: Welfare Reform.

February 24, 1997

1 A BILL TO BE ENTITLED

2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CHILD
3 SUPPORT ENFORCEMENT IN ORDER TO ENHANCE CHILD SUPPORT
4 ENFORCEMENT AND PATERNITY ESTABLISHMENT IN CONFORMANCE
5 WITH FEDERAL WELFARE REFORM REQUIREMENTS.

6 The General Assembly of North Carolina enacts:

7 **PART 1. STATE DIRECTORY OF NEW HIRES.**

8 Section 1. Effective October 1, 1997, Article 1 of Chapter 96 of the
9 General Statutes is amended by adding the following new section to read:

10 **"§ 96-4.1. State Directory of New Hires established; employers required to report;**
11 **civil penalties for noncompliance; definitions.**

12 **(a) Directory Established.** -- There is established the State Directory of New Hires.
13 **The Directory shall be developed and maintained by the Commission, in consultation**
14 **with the Department of Human Resources. The Directory shall be a central**
15 **repository for employment information to assist in the location of persons owing child**
16 **support. The Department of Human Resources shall have direct access to the**
17 **Directory.**

18 **(b) Employer Reporting.** -- Every employer in this State shall report to the
19 **Directory the following information:**

20 **(1) The hiring of any person who resides in this State to whom the**
21 **employer anticipates paying earnings, and**

1 (2) The hiring or return to work of any employee who was laid off,
2 furloughed, separated, granted leave without pay, or terminated
3 from employment.

4 The employer shall report the information required under this section not later
5 than 20 days from the date of hire, or, in the case of an employer who transits new
6 hire reports magnetically or electronically by two monthly transmissions, not less than
7 12 nor more than 16 days apart.

8 (c) Report Contents. -- Each report required by this section shall contain the
9 name, address and social security number of the employee, and the name and address
10 of the employer and the employer's identifying number assigned under section 6109
11 of the Internal Revenue Code of 1986. Reports shall be made on the W-4 form or, at
12 the option of the employer, an equivalent form, and may be transmitted magnetically,
13 electronically, or by first-class mail.

14 (d) Penalties for Failure to Report. -- The Commission shall impose a civil
15 monetary penalty in the amount of twenty dollars (\$20.00) on an employer who fails
16 to comply with the reporting requirements of this section. The Commission shall
17 impose a civil monetary penalty on the employer in the amount of four hundred fifty
18 dollars (\$450.00) upon a finding that the failure to comply is the result of a
19 conspiracy between the employer and the employee to not supply the required report
20 or to supply a false or incomplete report. Penalties collected under this subsection
21 shall be deposited to the General Fund.

22 (e) Entry of Report Data Into Directory. -- Within five business days of receipt of
23 the report from the employer, the Commission shall enter the information from the
24 report into the Directory. Within three business days after the date information
25 regarding newly hired employees is entered into the Directory, the Commission shall
26 furnish the information to the National Directory of New Hires.

27 (f) Notice to Employer to Withhold. -- Within two business days of the date the
28 information was entered into the Directory, the IV-D agency shall transmit notice to
29 the employer of the newly hired employee directing the employer to withhold from
30 the income of the employee an amount equal to the monthly or other periodic child
31 support obligation, including any past-due support obligation of the employee, unless
32 the employee's income is not subject to withholding.

33 (g) Information to National Directory. -- The Commission shall, on a quarterly
34 basis, furnish to the National Directory of New Hires extracts of the reports required
35 to be made to the United States Secretary of Labor concerning the wages and
36 unemployment compensation paid to individuals, by such dates, in such format, and
37 containing such information as required by federal regulations promulgated by the
38 United States Secretary of Health and Human Services.

39 (h) Directory Information Comparisons. -- Not later than May 1, 1998, the
40 Directory shall be capable of conducting automated comparisons of the social security
41 numbers reported by employers to the Directory and the social security numbers
42 appearing in the records of the Automated Case Tracking System (ACTS) operated
43 by the Department of Human Resources.

(i) Other Uses of Directory Information. -- The IV-D agency shall use information received pursuant to subsection (h) of this section to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations. The Commission may access information entered into the Directory from employer reports for the purpose of administering employment security programs. The North Carolina Industrial Commission may access information entered into the Directory from employer reports for the purpose of administering workers' compensation programs.

(j) Cooperation Between Commission and Department of Human Resources. -- The Commission shall develop and implement the Directory established under this section in consultation and cooperation with the Department of Human Resources to ensure that the requirements of this section and federal law are met.

(k) Definitions. -- As used in this section, unless the context clearly requires otherwise, the term:

(1) 'Business day' means a day on which State offices are open for business.

(2) 'Commission' means the Employment Security Commission.

(3) 'Department' means the Department of Human Resources.

(4) 'Employee' means an individual who is an employee within the meaning of Chapter 24 of the Internal Revenue Code of 1986. The term 'employee' does not include an employee of a federal or State agency performing intelligence or counterintelligence functions, if the head of the agency has determined that reporting information as required under this section could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(5) 'Employer' has the meaning given the term in section 3401(d) of the Internal Revenue Code of 1986 and includes persons who are self-employed, independent contractors, governmental entities, and labor organizations. The term 'labor organization' shall have the meaning given that term in section 2(5) of the National Labor Relations Act, and includes any entity which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of the National Labor Relations Act of an agreement between the organization and the employer.

(6) 'IV-D agency' means the Child Support Enforcement Program of the Department of Human Resources."

PART 2. EXPANDED AUTHORITY OF THE DEPARTMENT TO ENFORCE CHILD SUPPORT ORDERS AND TO ESTABLISH PATERNITY.

Section 2. Chapter 110 of the General Statutes is amended by adding the following new section to read:

"§ 110-129.1. Powers and duties of the Child Support Enforcement Program.

1 (a) In addition to other powers and duties conferred upon the Department of
2 Human Resources, Child Support Enforcement Program, by this Chapter or other
3 State law, the Department shall have the following powers and duties:

4 (1) Upon authorization of the Secretary, to issue a subpoena for the
5 production of information or documents required under this
6 Chapter or other State law for the enforcement of child support
7 orders. The subpoena shall be signed by the Secretary and shall
8 state the name of the person or entity required under State law to
9 produce the information, and a description of the papers,
10 documents, or records compelled to be produced. The subpoena
11 may be served by a member of the State Bureau of Investigation,
12 the State Highway Patrol, or within their respective jurisdiction by
13 any sheriff or deputy, or any municipal police officer or other law
14 enforcement officer. In addition, the subpoena may be served in
15 the manner provided for service of subpoenas under the North
16 Carolina Rules of Civil Procedure. The form of subpoena shall
17 generally follow the practice in the General Court of Justice in
18 North Carolina. Return of the subpoena shall be to the Secretary,
19 who shall maintain a permanent record for five years. Upon the
20 refusal of any person to comply with the subpoena, it shall be the
21 duty of any judge of the superior court, upon application by the
22 Secretary or his representative, to order the person to show cause
23 why he should not comply with the requirements, if in the
24 discretion of the judge the requirements are reasonable and proper.
25 Refusal to comply with the order of the judge of the superior court
26 shall be dealt with as for contempt of court.

27 (2) For the purposes of locating persons to establish paternity or to
28 enforce child support or child custody and visitation orders, the
29 Child Support Enforcement Program shall have direct access to
30 any information or data storage and retrieval system maintained
31 and used by the Department of Transportation for drivers license
32 issuance or motor vehicle registration, or by a law enforcement
33 agency of this State for law enforcement purposes.

34 (3) Establish and implement procedures under which either parent or,
35 in the case of an assignment of support, the State may request that
36 a child support order enforced under this Chapter be reviewed
37 and, if appropriate, adjusted in accordance with the most recently
38 adopted uniform statewide child support guidelines prescribed by
39 the Conference of Chief District Court Judges. Notwithstanding
40 G.S. 50-13.7, but subject to the limitations of G.S. 50-13.10, the
41 procedures shall provide that review shall be conducted and an
42 adjustment may be made once every three years upon the request
43 of either parent without a showing of changed circumstances. The
44 procedures shall further provide that upon a showing of changed

1 circumstances and subject to the limitations of G.S. 50-13.10,
2 review and adjustment may be made more frequently than once
3 every three years upon request of either parent or, if there is an
4 assignment of support upon the request of the State.

5 (4) Develop procedures for entering into agreements with financial
6 institutions doing business in this State;

7 a. To develop and operate a data match system. The system
8 shall be designed to enable the financial institution to
9 provide on a quarterly basis the information required under
10 G.S. 110-139 and any other information contained in the
11 financial records of the financial institution concerning a
12 person owing child support, provided that the Department
13 certifies to the financial institution that the person about
14 whom the information is requested is subject to a child
15 support order and the information is necessary to enforce
16 the order; and

17 b. In response to notice of lien or levy, to encumber or
18 surrender, as the case may be, assets held by the institution
19 on behalf of any noncustodial parent who is subject to a
20 child support lien.

21 The Department may pay a reasonable fee to the financial
22 institution for conducting the data match provided that the fee
23 shall not exceed the actual costs incurred by the financial
24 institution to conduct the match.

25 Agreements entered into under this subdivision shall provide that
26 the financial institution shall not be liable under any State law to
27 any person for;

28 c. Disclosure of information to the State agency under this
29 subdivision.

30 d. Encumbering or surrendering any assets held by the
31 financial institution in response to a notice of lien or levy
32 issued by the Department under this subdivision, and

33 e. Any other action taken by the financial institution in good
34 faith to comply with this subdivision.

35 As used in this subdivision, a financial institution includes federal,
36 State, commercial, or savings banks, savings and loan associations
37 and cooperative banks, federal or State chartered credit unions,
38 benefit associations, insurance companies, safe deposit companies,
39 money market mutual funds, and investment companies doing
40 business in this State or incorporated under the laws of this State.

41 (5) Develop procedures for ensuring that when a noncustodial parent
42 providing health care coverage changes employers, and is eligible
43 for health care coverage from the new employer, notice of the
44 medical support order is transferred to the new employer and

operates to enroll the child in the health care plan offered by the new employer.

(6) Develop and implement an administrative process for paternity establishment. Under this process the Department shall:

a. In cases where paternity is contested, order genetic testing of the child and all other parties upon request of any party who submits a sworn statement:

1. Alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties, or

2. Denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties;

b. Pay the costs of genetic tests ordered by the Department, subject to recoupment from the alleged father if paternity is established; and

c. Obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

(7) Establish a voluntary process for the establishment of paternity that includes written notice to both parties of the legal rights of the parties and the legal consequences of paternity acknowledgment and affirmation."

PART 3. AUTHORIZE JUDGES TO IMPOSE WORK REQUIREMENTS ON OBLIGORS WHO ARE IN ARREARS IN CHILD SUPPORT, AND TO REQUIRE PARENTS TO PROVIDE MEDICAL SUPPORT.

Section 3. G.S. 110-136.3 is amended by adding the following new subsection to read:

"(a1) Payment Plan/Work Requirement for Past-Due Support. In any case in which an obligor owes past-due support and income withholding has been ordered but cannot be implemented against the obligor, the court may order the obligor to pay the support in accordance with a payment plan approved by the court and, if the obligor is subject to the payment plan and is not incapacitated, the court may order the obligor to participate in such work activities as the court deems appropriate."

Section 3.1. G.S. 50-13.9(d) reads as rewritten:

"(d) In a non-IV-D case, when an obligor fails to make a required payment of child support and is in arrears, the clerk of superior court shall mail by regular mail to the last known address of the obligor a notice of delinquency. The notice shall set out the amount of child support currently due and shall demand immediate payment of said amount. The notice shall also state that failure to make immediate payment will result in the issuance by the court of an enforcement order requiring the obligor to appear before a district court judge and show cause why the support obligation should not be enforced by income withholding, contempt of court, revocation of licensing privileges, or other appropriate means. Failure to receive the delinquency

1 notice shall not be a defense in any subsequent proceeding. Sending the notice of
2 delinquency shall be in the discretion of the clerk if the clerk has, during the
3 previous 12 months, sent a notice or notices of delinquency to the obligor for
4 nonpayment, or if income withholding has been implemented against the obligor or
5 the obligor has been previously found in contempt for nonpayment under the same
6 child support order.

7 If the arrearage is not paid in full within 21 days after the mailing of the
8 delinquency notice, or without waiting the 21 days if the clerk has elected not to mail
9 a delinquency notice for any of the reasons provided herein, the clerk shall cause an
10 enforcement order to be issued and shall issue a notice of hearing before a district
11 court judge. The enforcement order shall order the obligor to appear and show
12 cause why he should not be subjected to income withholding or adjudged in
13 contempt of court, or both, and shall order the obligor to bring to the hearing records
14 and information relating to his employment, his licensing privileges, and the amount
15 and sources of his disposable income. The enforcement order shall state:

16 (1) That the obligor is under a court order to provide child support,
17 the name of each child for whose benefit support is due, and
18 information sufficient to identify the order;

19 (2) That the obligor is delinquent and the amount of overdue support;

20 (2a) That the court may order the revocation of some or all of the
21 obligor's licensing privileges if the obligor is delinquent in an
22 amount equal to the support due for one month;

23 (3) That the court may order income withholding if the obligor is
24 delinquent in an amount equal to the support due for one month;

25 (3a) That the court may order the obligor to pay the support in
26 accordance with a plan approved by the court and, if the obligor is
27 subject to the payment plan and is not incapacitated, the court may
28 order the obligor to participate in such work activities as the court
29 deems appropriate.

30 (4) That income withholding, if implemented, will apply to the
31 obligor's current payors and all subsequent payors and will be
32 continued until terminated pursuant to G.S. 110-136.10;

33 (5) That failure to bring to the hearing records and information
34 relating to his employment and the amount and sources of his
35 disposable income will be grounds for contempt;

36 (6) That if income withholding is not an available or appropriate
37 remedy, the court may determine whether the obligor is in
38 contempt or whether any other enforcement remedy is appropriate.

39 The enforcement order may be signed by the clerk or a district court judge, and shall
40 be served on the obligor pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure.
41 The clerk shall also notify the party to whom support is owed of the pending hearing.
42 The clerk may withdraw the order to the supporting party upon receipt of the
43 delinquent payment. On motion of the person to whom support is owed, with the

1 approval of the district court judge, if the district court judge finds it is in the best
2 interest of the child, no enforcement order shall be issued.

3 When the matter comes before the court, the court shall proceed as in the case of
4 a motion for income withholding under G.S. 110-136.5. If income withholding is not
5 an available or adequate remedy, the court may proceed with contempt, imposition of
6 a lien, or other available, appropriate enforcement remedies.

7 This subsection shall apply only to non-IV-D cases, except that the clerk shall issue
8 an enforcement order in a IV-D case when requested to do so by an IV-D obligee."

9 Section 3.2. G.S. 50-13.11 reads as rewritten:

10 **"§ 50-13.11. Orders and agreements regarding medical support for minor children.**

11 (a) The court ~~may~~ shall order a parent of a minor child or other responsible party
12 to provide medical support for the child, or the parties may enter into a written
13 agreement regarding medical support for the child. An order or agreement for
14 medical support ~~may~~ shall require one or both parties to maintain health insurance,
15 dental insurance, or both, when insurance is available at a reasonable cost, or to pay
16 the medical, hospital, or dental expenses.

17 (b) The party ordered or under agreement to provide medical insurance shall
18 provide written notice of any change in the applicable insurance coverage to the
19 other party.

20 (c) The employer or insurer of the party required to provide medical, hospital,
21 and dental insurance shall release to the other party, upon written request, any
22 information on a minor child's insurance coverage that the employer or insurer may
23 release to the party required to provide medical, hospital, and dental insurance.

24 (d) When a court order or agreement for medical insurance is in effect, the
25 signature of either party shall be valid authorization to the insurer to process an
26 insurance claim on behalf of a minor child.

27 (e) If the party who is required to provide medical insurance fails to maintain the
28 insurance coverage for the minor child, the party shall be liable for any medical,
29 hospital, or dental expenses incurred from the date of the court order or agreement
30 that would have been covered by insurance if it had been in force."

31 Section 3.3. G.S. 108A-69(b) reads as rewritten:

32 "(b) If a parent is required by a court or administrative order to provide health
33 benefit plan coverage for a child, and the parent is eligible for family health benefit
34 plan coverage through an employer doing business in this State, the employer:

35 (1) Must allow the parent to enroll, under family coverage, the child if
36 the child would be otherwise eligible for coverage without regard
37 to any enrollment season restrictions.

38 (2) Must enroll the child under family coverage upon application of
39 the child's other parent or upon receipt of notice from the
40 Department of Human Resources in connection with its
41 administration of the Medical Assistance or Child Support
42 Enforcement Program if the parent is enrolled but fails to make
43 application to obtain coverage for the child.

44 (3) May not disenroll or eliminate coverage of the child unless:

- a. The employer is provided satisfactory written evidence that:
 1. The court or administrative order is no longer in effect; or
 2. The child is or will be enrolled in comparable health benefit plan coverage that will take effect not later than the effective date of disenrollment; or
 - b. The employer has eliminated family health benefit plan coverage for all of its employees.
- (4) Must withhold from the employee's compensation the employee's share, if any, of premiums for health benefit plan coverage, not to exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, as amended; and must pay this amount to the health insurer; subject to regulations, if any, adopted by the Secretary of the U.S. Department of Health and Human Services."

PART 4. REQUIREMENT TO PROVIDE SOCIAL SECURITY NUMBERS ON PATERNITY ORDERS AND APPLICATIONS FOR OCCUPATIONAL LICENSES; INFORMATION FROM FINANCIAL RECORDS OF FINANCIAL INSTITUTIONS.

Section 4. G.S. 110-132 reads as rewritten:

"§ 110-132. Acknowledgment of paternity and agreement to support.

(a) In lieu of or in conclusion of any legal proceeding instituted to establish paternity, the written acknowledgment of paternity executed by the putative father of the dependent child when accompanied by a written affirmation of paternity executed and sworn to by the mother of the dependent child and filed with and approved by a judge of the district court in the county where the mother of the child resides or is found, or in the county where the putative father resides or is found, or in the county where the child resides or is found shall have the same force and effect as a judgment of that court; and a written agreement to support said child by periodic payments, which may include provision for reimbursement for medical expenses incident to the pregnancy and the birth of the child, accrued maintenance and reasonable expense of prosecution of the paternity action, when acknowledged as provided herein, filed with, and approved by a judge of the district court at any time, shall have the same force and effect as an order of support entered by that court, and shall be enforceable and subject to modification in the same manner as is provided by law for orders of the court in such cases. Such written affirmations, acknowledgments and agreements to support shall contain the social security number of the person executing the affirmation, acknowledgment, or agreement and shall be sworn to before a certifying officer or notary public or the equivalent or corresponding person of the state, territory, or foreign country where the affirmation, acknowledgment, or agreement is made, and shall be binding on the person executing the same whether he is an adult or a minor. Such mother shall not be excused from making such affirmation on the grounds that it may tend to disgrace or incriminate her; nor shall she thereafter be prosecuted for any criminal act involved in the conception of the child as to whose paternity she makes affirmation."

(b) At any time after the filing with the district court of an acknowledgment of paternity, upon the application of any interested party, the court or any judge thereof shall cause a summons signed by him or by the clerk or assistant clerk of superior court, to be issued, requiring the putative father to appear in court at a time and place named therein, to show cause, if any he has, why the court should not enter an order for the support of the child by periodic payments, which order may include provision for reimbursement for medical expenses incident to the pregnancy and the birth of the child, accrued maintenance and reasonable expense of the action under this subsection on the acknowledgment of paternity previously filed with said court. The amount of child support payments so ordered shall be determined as provided in G.S. 50-13.4(c). The order shall include the social security number contained in the acknowledgment. The prior judgment as to paternity shall be res judicata as to that issue and shall not be reconsidered by the court."

Section 4.1. G.S. 110-133 reads as rewritten:

"§ 110-133. Agreements of support.

In lieu of or in conclusion of any legal proceeding instituted to obtain support from a responsible parent for a dependent child born of the marriage, a written agreement to support the child by periodic payments executed by the responsible parent when acknowledged before a certifying officer or notary public or the equivalent or corresponding person of the state, territory, or foreign country where the acknowledgment is made and filed with and approved by a judge of the district court in the county where the custodial parent of the child resides or is found, or in the county where the noncustodial parent resides or is found, or in the county where the child resides or is found shall have the same force and effect, retroactively and prospectively, in accordance with the terms of the agreement, as an order of support entered by the court, and shall be enforceable and subject to modification in the same manner as is provided by law for orders of the court in such cases. Written agreements filed pursuant to this section shall contain the social security number of the responsible parent."

Section 4.2. Chapter 93B of the General Statutes is amended by adding the following new section to read:

"§ 93B-14. Information on applicants for licensure.

Every occupational licensing board shall require applicants for licensure to provide to the Board the applicant's social security number. This information shall be treated as confidential and may be released only to the State Child Support Enforcement Program of the Department of Human Resources upon its request and for the purpose of enforcing a child support order."

Section 4.3. Chapter 110 of the General Statutes is amended by adding the following new section to read:

"§ 110-139.3. Financial institutions to provide information from financial records.

(a) Notwithstanding any provision of law making this information confidential, including Chapter 53B of the General Statutes, a financial institution shall provide access by the Department of Human Resources, Child Support Enforcement Program, to the financial record of any person for whom the financial institution maintains an

1 account. This information shall be provided only upon certification by the
2 Department that the account holder is subject to a child support order and that the
3 information is needed for the full and effective enforcement of the order.

4 (b) A financial institution that discloses information pursuant to this section in
5 good faith reliance upon certification by the Department is not liable for damages
6 resulting from the disclosure.

7 (c) As used in this section, the term 'financial institution' includes federal, State,
8 commercial, or savings banks, savings and loan associations and cooperative banks,
9 federal or State chartered credit unions, benefit associations, insurance companies,
10 safe deposit companies, money market mutual funds, and investment companies
11 doing business in this State or incorporated under the laws of this State."

12 **PART 5. SUSPENSION/REVOCAION OF LICENSES FOR FAILURE TO COMPLY**
13 **WITH OUTSTANDING SUBPOENA OR OUTSTANDING WARRANT ISSUED**
14 **PURSUANT TO CHILD SUPPORT OR PATERNITY ESTABLISHMENT**
15 **PROCEEDINGS.**

16 Section 5. G.S. 110-142.1 reads as rewritten:

17 **"§ 110-142.1. IV-D notified suspension, revocation, and issuance of occupational,**
18 **professional, or business licenses of obligors who are delinquent in court-ordered child**
19 **support or subject to outstanding warrants for failure to appear for failure to comply**
20 **with the terms of a court order for child support: support or for failure to comply**
21 **with outstanding subpoenas or outstanding warrants issued pursuant to child support**
22 **or paternity establishment proceedings.**

23 (a) Effective July 1, 1996, the Department of Human Resources may notify any
24 board that a person licensed by that board is not in compliance with an order for
25 child ~~support~~: support or has failed to comply with an outstanding subpoena or
26 outstanding warrant issued pursuant to child support or paternity establishment
27 proceedings.

28 (b) The designated representative shall maintain a list of those obligors included
29 in a IV-D case for which a child support order has been rendered by, or registered in,
30 a court of this State, and who are not in compliance with that ~~order~~: order or who
31 have failed to comply with an outstanding subpoena or outstanding warrant issued
32 pursuant to child support proceedings. The designated representative shall also
33 maintain a list of those individuals in a IV-D case who have failed to comply with an
34 outstanding subpoena or outstanding warrant issued pursuant to paternity
35 establishment proceedings initiated by the child support enforcement agency. The
36 designated representative shall submit a certified list with the names, social security
37 numbers, and last known address of these obligors and individuals and the name,
38 address, and telephone number of the person who certified the list to the Department
39 of Human Resources, Division of Social Services, Child Support Enforcement Office.
40 The designated representative shall verify, under penalty of perjury, that the obligors
41 listed are subject to an order for the payment of support and that these persons are
42 not in compliance with the ~~order~~: order, or, as applicable, that the individuals listed
43 have failed to comply with an outstanding subpoena or outstanding warrant issued
44 pursuant to paternity establishment proceedings initiated by the child support

1 enforcement agency. An updated certified list shall be submitted to the Department
2 on a monthly basis.

3 The Department of Human Resources, Division of Social Services, Child Support
4 Enforcement Office, shall consolidate the certified lists received from the designated
5 representatives and, within 30 calendar days of receipt, shall furnish each board with
6 a certified list of its ~~obligors~~, obligors or individuals, as specified in this section.

7 (c) Each board shall coordinate with the Department of Human Resources,
8 Division of Social Services, Child Support Enforcement Office, in the development of
9 forms and procedures to implement this section.

10 (d) Promptly after receiving the certified list of obligors or certified list of
11 individuals from the Department of Human Resources, each board shall determine
12 whether its applicant or licensee is an obligor or individual on the list. If the
13 applicant or licensee is an obligor or individual on the list, the board shall
14 immediately send notice as specified in this subsection to the applicant or licensee of
15 the board's intent to revoke or suspend the licensee's license in 20 days from the date
16 of the notice, or that the board is withholding issuance or renewal of an applicant's
17 license, until the designated representative certifies that the applicant or licensee is
18 entitled to be licensed or reinstated. The notice shall be made personally or by
19 certified mail to the obligor's or individual's last known mailing address on file with
20 the board.

21 (e) Unless notified by the designated representative as provided in subsection (h)
22 of this section, the board shall revoke or suspend the obligor's or individual's license
23 20 days from the date of the notice to the obligor or individual of the board's intent
24 to revoke or suspend the license. In the event that a license is revoked or application
25 is denied pursuant to this section, the board is not required to refund fees paid by the
26 ~~obligor~~, obligor or individual.

27 (f) Notices shall be developed by each board in accordance with guidelines
28 provided by the Department of Human Resources and shall be subject to the
29 approval of the Department of Human Resources. The notice shall include the
30 address and telephone number of the designated representative who submitted the
31 name on the certified list, and shall emphasize the necessity of obtaining a
32 certification of compliance from the designated representative or the child support
33 enforcement agency as a condition of issuance, renewal, or reinstatement of the
34 license. The notice shall inform the obligor or individual that if a license is revoked
35 or application is denied pursuant to this subsection, the board is not required to
36 refund fees paid by the ~~obligor~~, obligor or individual. The Department of Human
37 Resources shall also develop a form that the obligor or individual shall use to request
38 a review by the designated representative. A copy of this form shall be included with
39 every notice sent pursuant to subsection (d) of this section.

40 (g) The Department of Human Resources shall establish review procedures
41 consistent with this section to allow an obligor to have the underlying arrearage and
42 any relevant defenses investigated, to provide an obligor information on the process
43 of obtaining a modification of a support order, or, if the circumstances so warrant, to
44 provide an obligor assistance in the establishment of a payment schedule on arrears.

1 The Department of Human Resources shall establish review procedures consistent
2 with this section to provide, as applicable and if the circumstances so warrant, an
3 obligor or individual assistance in complying with the outstanding subpoena or
4 outstanding warrant issued pursuant to child support or paternity establishment
5 proceedings.

6 (h) If the obligor or individual wishes to challenge the submission of the obligor's
7 or individual's name on the certified ~~list~~ list, or if the obligor wishes to negotiate a
8 payment schedule, the obligor or individual shall within 14 days of the date of notice
9 from the board request a review from the designated representative. The designated
10 representative shall within six days of the date of the ~~obligor's~~ request for review
11 notify the appropriate board of the ~~obligor's~~ request for review and direct the board
12 to stay any action revoking or suspending the obligor's or individual's ~~license~~ license,
13 as applicable, until further notice from the designated representative. The designated
14 representative shall review the ~~obligor's~~ case and inform the obligor or individual, as
15 applicable, in writing of the representative's findings and decision upon completion
16 of the review. The designated representative shall immediately send a notice to the
17 appropriate board ~~certifying~~ certifying, as applicable, the ~~obligor's~~ individual's
18 compliance with the outstanding subpoena or outstanding warrant, or the obligor's
19 compliance with this section if the obligor is found to be no longer in arrears or
20 negotiates an agreement with the designated representative for a payment schedule on
21 arrears or reimbursement. The agreement shall also provide for the maintenance of
22 current support obligations and shall be incorporated into a consent order to be
23 entered by the court. If the obligor or individual fails to meet the conditions of this
24 subsection, the designated representative shall notify the appropriate board to
25 immediately revoke or suspend the obligor's or individual's ~~license~~ license, as
26 applicable. Upon receipt of notice from the designated representative, the board
27 shall immediately revoke or suspend the ~~obligor's~~ license.

28 (i) The designated representative shall notify the obligor or individual, as
29 applicable, in writing that the obligor or individual may, by filing a motion, request
30 any or all of the following:

31 (1) Judicial review of the designated representative's decision.

32 (2) A judicial determination of compliance.

33 (3) A modification of the support order.

34 The notice shall also contain the name and address of the court in which the obligor
35 or individual shall file the motion ~~and and,~~ as applicable, shall inform the individual
36 that the individual's name shall remain on the certified list unless the judicial review
37 results in a finding by the court that the individual has complied with or is no longer
38 subject to an outstanding subpoena or outstanding warrant issued pursuant to a
39 paternity establishment proceeding, or, shall inform the obligor that the obligor's
40 name shall remain on the certified list unless the judicial review results in a finding
41 by the court that the obligor is no longer in arrears or that the obligor's license
42 should be reinstated under subsection (k) of this section. The notice shall also inform
43 the obligor or the individual, as applicable, that the obligor or individual must
44 comply with all statutes and rules of court regarding motions and notices of hearing

1 and that any motion filed under this section is subject to the limitations of G.S. 50-
2 13.10.

3 (j) The motion for judicial review of the designated representative's decision shall
4 state the grounds for which review is requested and judicial review shall be limited to
5 those stated grounds. After service of the request for review, the court shall hold an
6 evidentiary hearing at the next regularly scheduled session for the hearing of child
7 support matters in civil district court. The request for judicial review shall be served
8 by the obligor or individual upon the designated representative who submitted the
9 obligor's or individual's name on the certified list within seven calendar days of the
10 filing of the motion.

11 (k) If the judicial review requested by the obligor results in a finding by the court
12 that the obligor is no longer in arrears or that the obligor's license should be
13 reinstated to allow the obligor an opportunity to comply with a payment schedule on
14 arrears or reimbursement and current support obligations, the designated
15 representative shall immediately send a notice to the appropriate board certifying the
16 obligor's compliance with this section. In the event of appeal from the judicial
17 review, the license revocation shall not be stayed unless the court specifically
18 provides otherwise. If the judicial review requested by the individual results in a
19 finding that the individual has complied with or is no longer subject to the
20 outstanding subpoena or outstanding warrant, the designated representative shall
21 immediately send a notice to the appropriate board certifying the individual's
22 compliance with this section. In the event of an appeal from judicial review, the
23 license revocation shall not be stayed unless the court specifically provides otherwise.

24 (l) The Department of Human Resources shall prescribe forms for use by the
25 designated representative. When the obligor is no longer in arrears or negotiates an
26 agreement with the designated representative for a payment schedule on arrears or
27 reimbursement as provided in subsection (h) of this section, the designated
28 representative shall mail to the obligor and the appropriate board a notice certifying
29 that the obligor is in compliance. The receipt of certification shall serve to notify the
30 obligor and the board that, for the purposes of this section, the obligor is in
31 compliance with the order for support. When the individual has complied with or is
32 no longer subject to an outstanding subpoena or outstanding warrant issued pursuant
33 to a paternity establishment proceeding, the designated representative shall mail to
34 the individual and the appropriate board a notice certifying that the individual is in
35 compliance. The receipt of certification shall serve to notify the individual and the
36 board that the individual is in compliance with this section.

37 (m) The Department of Human Resources may enter into interagency agreements
38 with the boards necessary to implement this section.

39 (n) The procedures specified in Articles 3 and 3A of Chapter 150B of the General
40 Statutes, the Administrative Procedure Act, shall not apply to the denial or failure to
41 issue or renew a license pursuant to this section.

42 (o) Any board receiving an inquiry as to the licensed status of an applicant or
43 licensee who has had a license denied or revoked under this section shall respond
44 only that the license was denied or revoked pursuant to this section. Information

1 collected pursuant to this section shall be confidential and shall not be disclosed
2 except in accordance with the laws of this State.

3 (p) If any provision of this section or its application to any person or circumstance
4 is held invalid, that invalidity shall not affect other provisions or applications of this
5 section that can be given effect without the invalid provision or application, and to
6 this end the provisions of this section are severable."

7 Section 5.1. G.S. 110-142.2 reads as rewritten:

8 "**§ 110-142.2. Suspension, revocation, restriction of license to operate a motor vehicle
9 or hunting, fishing, or trapping licenses; refusal of registration of motor vehicle.**

10 (a) Effective December 1, 1996, notwithstanding any other provision of law, when
11 an obligor is at least 90 days in arrears in making child support payments, or when an
12 obligor has failed to comply with an outstanding subpoena or warrant issued pursuant
13 to child support proceedings, or when an individual has failed to comply with an
14 outstanding subpoena or warrant issued pursuant to paternity establishment
15 proceedings, the child support enforcement agency may apply to the court, pursuant
16 to the regular show cause and contempt provisions of G.S. 50-13.9(d), for an order
17 doing any of the following:

- 18 (1) Revoking the obligor's or individual's, as applicable, regular or
19 commercial license to operate a motor vehicle;
- 20 (2) Revoking the obligor's or individual's, as applicable, hunting,
21 fishing, or trapping licenses;
- 22 (3) Directing the Department of Transportation, Division of Motor
23 Vehicles, to refuse, pursuant to G.S. 20-50.4, to register the
24 obligor's or individual's, as applicable, motor vehicle.

25 (b) Upon finding that the obligor has willfully failed to comply with the child
26 support order or with an outstanding subpoena or outstanding warrant issued
27 pursuant to child support proceedings, and that the obligor is at least 90 days in
28 arrears, or upon a finding that an individual subject to an outstanding subpoena or
29 outstanding warrant issued pursuant to paternity establishment proceedings has failed
30 to comply with the outstanding subpoena or outstanding warrant, the court may enter
31 an order instituting the sanctions as provided in subsection (a) of this section. The
32 court may stay the effectiveness of the sanctions against the obligor upon conditions
33 requiring the obligor to make full payment of the delinquency over time. Any such
34 stay shall also be conditioned upon the obligor's maintenance of current child
35 support. The court may stay the effectiveness of the sanctions against the individual
36 subject to an outstanding subpoena or outstanding warrant issued pursuant to
37 paternity establishment proceedings upon a finding that the individual has complied
38 with or is no longer subject to the requirements of the subpoena or warrant. Upon
39 entry of an order pursuant to this section that is not stayed, the ~~obligor~~ obligor, or the
40 individual subject to the outstanding subpoena or outstanding warrant, as applicable,
41 shall surrender any licenses revoked by the court's order to the child support
42 enforcement agency and the agency shall forward a report to the appropriate
43 licensing authority within 30 days of the order.

1 (c) If the ~~obligor's~~ obligor's or individual's regular or commercial drivers license
2 is revoked under this section and the court, after the hearing, makes a finding that a
3 license to operate a motor vehicle is necessary to the ~~obligor's~~ obligor's or
4 individual's livelihood, the court may issue a limited driving privilege, with those
5 terms and conditions applying as the court shall prescribe. An obligor or individual
6 whose license has been revoked for reasons not related to this section and whose
7 license remains revoked at the time of the hearing shall not be eligible and may not
8 be issued a limited driving privilege. The court may modify or revoke the limited
9 driving privilege pursuant to G.S. 20-179.3(i).

10 (d) An obligor may file a request with the child support enforcement agency for
11 certification that the obligor is no longer delinquent in child support payments upon
12 submission of proof satisfactory to the child support enforcement agency that the
13 obligor has paid the delinquent amount in full. An individual subject to an
14 outstanding subpoena or outstanding warrant issued pursuant to a paternity
15 establishment proceeding may file a request with the child support enforcement
16 agency for certification that the individual has complied with an outstanding
17 subpoena or outstanding warrant upon submission of proof satisfactory to the child
18 support enforcement agency of such compliance. The child support enforcement
19 agency shall provide a form to be used by the obligor or individual for a request for
20 certification. If the child support enforcement agency finds that the obligor or
21 individual has met the requirements for reinstatement under this subsection, then the
22 child support enforcement agency shall certify that the obligor is no longer
23 delinquent or that the obligor or individual, as applicable, is no longer subject to an
24 outstanding subpoena or outstanding warrant issued pursuant to child support or
25 paternity establishment proceedings and shall provide a copy of the certification to
26 the ~~obligor.~~ obligor or individual, as applicable.

27 (e) If licensing privileges are revoked under this section, the obligor or individual
28 may petition the district court for a reinstatement of such privileges. The court may
29 order the ~~obligor's~~ privileges reinstated conditioned upon full payment of the
30 delinquency over time. The court may order the individual's privileges reinstated if
31 the court finds that the individual has complied with or is no longer subject to the
32 outstanding subpoena or outstanding warrant issued pursuant to paternity
33 establishment proceedings. Any order allowing license reinstatement shall
34 additionally require the obligor's maintenance of current child support. Upon
35 reinstatement under this subsection, the child support enforcement agency shall
36 certify that the obligor is no longer ~~delinquent~~ delinquent, or, as applicable, that the
37 individual has complied with or is no longer subject to the outstanding subpoena or
38 outstanding warrant issued pursuant to paternity establishment proceedings and shall
39 provide a copy of the certification to the ~~obligor.~~ obligor or individual, as applicable.

40 (f) Upon receipt of certification under subsection (d) or (e) of this section, the
41 Division of Motor Vehicles shall reinstate the license to operate a motor vehicle in
42 accordance with G.S. 20-24.1, and remove any restriction of the obligor's or
43 individual's motor vehicle registration.

(g) Upon receipt of certification under subsection (d) or (e) of this section, the licensing board having jurisdiction over the obligor's or individual's hunting, fishing, or trapping license shall reinstate the license.

(h) If the court imposes sanctions against an obligor under subdivision (3) of subsection (a) of this section and the sanctions are stayed upon conditions as provided in subsection (b) of this section, the child support enforcement agency may, without any further application to the court, notify the Division of Motor Vehicles if the obligor violates the terms and conditions of the stay. The Division shall then take such action as provided in subdivision (3) of subsection (a) of this section. The Division shall not remove any restriction of the obligor's motor vehicle registration, until receipt of certification pursuant to subsection (d) or (e) of this section.

(i) The Department of Human Resources, the Administrative Office of the Courts, the Division of Motor Vehicles, and the Department of Environment, Health, and Natural Resources shall work together to develop the forms and procedures necessary for the implementation of this process."

Section 5.2. G.S. 50-13.12 reads as rewritten:

"§ 50-13.12. Forfeiture of Licensing Privileges for Failure to Pay Child Support.

(a) As used in this section, the term:

- (1) 'Licensing board' means a department, division, agency, officer, board, or other unit of state government that issues hunting, fishing, trapping, drivers, or occupational licenses or licensing privileges.
- (2) 'Licensing privilege' means the privilege of an individual to be authorized to engage in an activity as evidenced by hunting, fishing, or trapping licenses, regular and commercial drivers licenses, and occupational, professional, and business licenses.
- (3) 'Obligee' means the individual or agency to whom a duty of support is owed or the individual's legal representative.
- (4) 'Obligor' means the individual who owes a duty to make child support payments under a court order.
- (5) 'Occupational license' means a license, certificate, permit, registration, or any other authorization issued by a licensing board that allows an obligor to engage in an occupation or profession.

(b) Upon a finding by the district court judge that the obligor is willfully delinquent in child support payments equal to at least one month's child support, or upon a finding that a person has willfully failed to comply with the requirements of an outstanding subpoena or outstanding warrant issued pursuant to a paternity establishment proceeding, and upon findings as to any specific licensing privileges held by the ~~obligor~~, obligor or person subject to such outstanding subpoena or outstanding warrant, the court may revoke some or all of such privileges until the obligor shall have paid the delinquent amount in ~~full~~. full, or, as applicable, until the person subject to such outstanding subpoena or outstanding warrant has complied or is no longer subject to the subpoena or warrant. The court may stay any such revocation pertaining to the obligor upon conditions requiring the obligor to make

1 full payment of the delinquency over time. Any such stay shall further be
2 conditioned upon the obligor's maintenance of current child support. The court may
3 stay any such revocation pertaining to the person subject to the outstanding subpoena
4 or outstanding warrant upon a finding that the person has complied with or is no
5 longer subject to such subpoena or such warrant. Upon an order revoking such
6 privileges of an obligor that does not stay the revocation, the clerk of superior court
7 shall notify the appropriate licensing board that the obligor is delinquent in child
8 support payments and that the obligor's licensing privileges are revoked until such
9 time as the licensing board receives proof of certification by the clerk that the obligor
10 is no longer delinquent in child support payments. Upon an order revoking such
11 privileges of a person subject to the outstanding subpoena or outstanding warrant that
12 does not stay the revocation, the clerk of superior court shall notify the appropriate
13 licensing board that the person has failed to comply with the requirements of an
14 outstanding subpoena or outstanding warrant issued pursuant to a paternity
15 establishment proceeding and that the person's licensing privileges are revoked until
16 such time as the licensing board receives proof of certification by the clerk that the
17 person is in compliance with or no longer subject to the outstanding subpoena or
18 outstanding warrant.

19 (c) An obligor may file a request with the clerk of superior court for certification
20 that the obligor is no longer delinquent in child support payments upon submission of
21 proof satisfactory to the clerk that the obligor has paid the delinquent amount in full.
22 A person whose licensing privileges have been revoked under subsection (b) of this
23 section because of a failure to comply with an outstanding subpoena or outstanding
24 warrant may file a request with the clerk of superior court for certification that the
25 person has met the requirements of or is no longer subject to the outstanding
26 subpoena or outstanding warrant. The clerk shall provide a form to be used ~~by the~~
27 ~~obligor~~ for a request for certification. If the clerk finds that the obligor has met the
28 requirements for reinstatement under this subsection, then the clerk shall certify that
29 the obligor is no longer delinquent and shall provide a copy of the certification to the
30 obligor. Upon request of the obligor, the clerk shall mail a copy of the certification to
31 the appropriate licensing board. If the clerk finds that the person whose licensing
32 privileges have been revoked under subsection (b) of this section for failure to
33 comply with an outstanding subpoena or outstanding warrant has complied with or is
34 no longer subject to such subpoena or such warrant, then the clerk shall certify that
35 the person has met the requirements of or is no longer subject to such subpoena or
36 such warrant and shall provide a copy of the certification to the person. Upon
37 request of such person, the clerk shall mail a copy of the certification to the
38 appropriate licensing board.

39 (d) If licensing privileges are revoked under this section, the obligor may petition
40 the district court for a reinstatement of such privileges. The court may order the
41 privileges reinstated conditioned upon full payment of the delinquency over time.
42 Any order allowing license reinstatement shall additionally require the obligor's
43 maintenance of current child support. If the licensing privileges of a person other
44 than the obligor are revoked under this section, such person may petition the district

1 court for reinstatement of the privileges. The court may order the privileges
2 reinstated if the person has complied with or is no longer subject to the outstanding
3 subpoena or outstanding warrant that was the basis for revocation. Upon
4 reinstatement under this subsection, the clerk of superior court shall certify that the
5 obligor is no longer delinquent and provide a copy of the certification to the obligor.
6 Upon request of the obligor, the clerk shall mail a copy of the certification to the
7 appropriate licensing board. Upon reinstatement of the person whose licensing
8 privileges were revoked based on failure to comply with an outstanding subpoena or
9 outstanding warrant, the clerk of superior court shall certify that such person has
10 complied with or is no longer subject to, as applicable, such subpoena or such
11 warrant. Upon request of the person whose licensing privileges are reinstated, the
12 clerk shall mail a copy of the certification to the appropriate licensing board.

13 (e) ~~The obligor~~ An obligor or person whose licensing privileges are reinstated
14 under this section may provide a copy of the certification set forth in either
15 subsection (c) or (d) to each licensing agency to which the obligor or person applies
16 for reinstatement of licensing privileges. Upon request of the ~~obligor~~, obligor or
17 person, the clerk shall mail a copy of the certification to the appropriate licensing
18 board. Upon receipt of a copy of the certification, the licensing board shall reinstate
19 the license.

20 (f) Upon receipt of notification by the clerk that ~~the obligor's~~ an obligor's or other
21 person's licensing privileges are ~~revoked~~, revoked pursuant to this section, the board
22 shall note the revocation on its records and take all necessary steps to implement and
23 enforce the revocation. These steps shall not include the board's independent
24 revocation process pursuant to Chapter 150B of the General Statutes, the
25 Administrative Procedure Act, which process is replaced by the court process
26 prescribed by this section. The revocation pertaining to an obligor shall remain in
27 full force and effect until the board receives certification under this section that the
28 obligor is no longer delinquent in child support payments. The revocation pertaining
29 to the person whose licensing privileges were revoked on the basis of outstanding
30 subpoena or outstanding warrant shall remain in full force and effect until the board
31 receives certification of reinstatement under subsection (d) of this section."

32 Section 5.3. G.S. 93B-13 reads as rewritten:

33 **"§ 93B-13. Revocation when licensing privilege forfeited for nonpayment of child**
34 **support.**

35 (a) Upon receipt of a court order, pursuant to G.S. 50-13.12, revoking the
36 occupational license of a licensee under its jurisdiction, an occupational licensing
37 board shall note the revocation in its records and follow the normal postrevocation
38 rules and procedures of the board as if the revocation had been ordered by the
39 board. The revocation shall remain in effect until the board receives certification by
40 the clerk of superior court that the licensee is no longer delinquent in child support
41 payments. payments, or, as applicable, that the licensee is in compliance with or no
42 longer subject to an outstanding subpoena or outstanding warrant issued pursuant to
43 paternity establishment proceedings.

1 (b) Upon receipt of notification from the Department of Human Resources that a
2 licensee under an occupational licensing board's jurisdiction has forfeited the
3 licensee's occupational license pursuant to G.S. 110-142.1, then the occupational
4 licensing board shall send a notice of intent to revoke or suspend the occupational
5 license of that licensee as provided by G.S. 110-142.1(d). If the license is revoked as
6 provided by the provisions of G.S. 110-142.1, the revocation shall remain in effect
7 until the board receives certification by the designated representative or the child
8 support enforcement agency that the licensee is no longer delinquent in child support
9 ~~payments.~~ payments, or, as applicable, that the licensee is in compliance with or no
10 longer subject to an outstanding subpoena or outstanding warrant issued pursuant to
11 paternity establishment proceedings.

12 (c) If at the time the court revokes a license pursuant to subsection (a) of this
13 section, or if at the time the occupational licensing board revokes a license pursuant
14 to subsection (b) of this section, the occupational licensing board has revoked the
15 same license under the licensing board's disciplinary authority over licensees under
16 its jurisdiction, and that revocation period is greater than the revocation period
17 resulting from forfeiture pursuant to G.S. 50-13.12 or G.S. 110-142.1 then the
18 revocation period imposed by the occupational licensing board applies.

19 (d) Immediately upon certification by the clerk of superior court or the child
20 support enforcement agency that the licensee whose license was revoked pursuant to
21 subsection (a) or (b) of this section is no longer delinquent in child support payments,
22 the occupational licensing board shall reinstate the license. Immediately upon
23 certification by the clerk of superior court or the child support enforcement agency
24 that the licensee whose license was revoked because of failure to comply with an
25 outstanding subpoena or outstanding warrant pursuant to subsection (a) or (b) of this
26 section is in compliance with or is no longer subject to an outstanding subpoena or
27 outstanding warrant issued pursuant to a paternity establishment proceeding, the
28 occupational licensing board shall reinstate the license. Reinstatement of a license
29 pursuant to this section shall be made at no additional cost to the licensee."

30 Section 5.4. G.S. 150B-3(d) reads as rewritten:

31 "(d) This section does not apply to revocations of occupational licenses based
32 solely on a court order of child support delinquency or a Department of Human
33 Resources determination of child support delinquency issued pursuant to G.S. 110-
34 142, 110-142.1, ~~110-142.2.~~ 110-142.2, or based on failure to comply with an
35 outstanding subpoena or outstanding warrant issued pursuant to paternity
36 establishment proceedings."

37 **PART 6. INCOME WITHHOLDING WITHOUT JUDICIAL OR ADMINISTRATIVE**
38 **HEARING IN CERTAIN CASES; EMPLOYER MUST BEGIN WITHHOLDING**
39 **WITHIN SEVEN DAYS OF NOTICE TO WITHHOLD.**

40 Section 6. G.S. 110-136.5(c) reads as rewritten:

41 "(c) Order for withholding. If the district court judge finds after hearing evidence
42 that the obligor, at the time of the filing of the motion or complaint was, or at the
43 time of the hearing is, delinquent in child support payments or that the obligor has
44 been erratic in making child support payments in accordance with G.S. 110-136.5(a),

1 or that the obligor has requested that income withholding begin in accordance with
2 G.S. 110-136.5(b), the court shall enter an order for income withholding, unless:

- 3 (1) The obligor proves a mistake of fact, except that G.S. 110-
4 129(10)(a) is not applicable if withholding is based on the obligee's
5 motion or independent action alleging that the obligor is
6 delinquent or has been erratic in making child support payments;
7 or
- 8 (2) The court finds that the child support obligation can be enforced
9 and the child's right to receive support can be ensured without
10 entry of an order for income withholding; or
- 11 (3) The court finds that the obligor has no disposable income subject
12 to withholding or that withholding is not feasible for any other
13 reason.

14 If the obligor fails to respond or appear, the court shall hear evidence and enter an
15 order as provided herein.

16 In non-IV-D cases in which a child support order was initially entered prior to
17 October 1, 1996, and in which income withholding was not ordered or implemented
18 pursuant to this subsection, and the obligor is in arrears in an amount equal to one
19 month's support or more, then the obligor is subject to immediate income
20 withholding upon notice to the obligor and upon entry of the order unless the obligor
21 proves mistake of fact."

22 Section 6.1. G.S. 110-136.8(b) reads as rewritten:

23 "(b) Payor's responsibilities. A payor who has been properly served with a notice
24 to withhold is required to:

- 25 (1) Withhold from the obligor's disposable income and, within 10 days
26 of the date the obligor is paid, send to the clerk of superior court
27 specified in the notice, the amount specified in the notice and the
28 date the amount was withheld, but in no event more than the
29 amount allowed by G.S. 110-136.6; however, if a lesser amount of
30 disposable income is available for any pay period, the payor shall
31 either: (a) compute and send the appropriate amount to the clerk
32 of court, using the percentages as provided in G.S. 110-136.6, or
33 (b) request the initiating party to inform the payor of the proper
34 amount to be withheld for that period;
- 35 (2) Continue withholding until further notice from the IV-D agency or
36 the clerk of superior court;
- 37 (3) Withhold for child support before withholding pursuant to any
38 other legal process under State law against the same disposable
39 income;
- 40 (4) Begin withholding from the first payment due the obligor in the
41 first pay period that occurs ~~14~~ 7 days following the date the notice
42 of the obligation to withhold was served on the payor;
- 43 (5) Promptly notify the obligee in a IV-D case, or the clerk of superior
44 court in a non-IV-D case, in writing:

- a. If there is more than one child support withholding for the obligor;
- b. When the obligor terminates employment or otherwise ceases to be entitled to disposable income from the payor, and provide the obligor's last known address, and the name and address of his new employer, if known;
- c. Of the payor's inability to comply with the withholding for any reason; and

(6) Cooperate fully with the initiating party in the verification of the amount of the obligor's disposable income."

PART 7. ESTABLISHMENT OF A LIEN ON REAL PROPERTY OF PERSON OWING PAST-DUE CHILD SUPPORT.

Section 7. Chapter 44 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 15.

"Liens for Overdue Child Support.

"§ 44-86. Lien on real and personal property of person owing past-due child support.

There is hereby created a general lien upon the real property of any person who is subject to a court order of child support and who is more than 90 days in arrears in the payment of child support pursuant to an order for enforcement of child support. The lien created by this section shall continue from the date of filing until satisfied.

"§ 44-87. Filing required.

No lien created by G.S. 44-86 shall be valid but from the time of filing in the office of the clerk of superior court a statement containing the name and address of the person against whom the lien is claimed, the name of the governmental agency or other obligee, as defined under G.S. 110-129, claiming the lien, the amount of the arrearage as of the date of the filing, and the date of the court order enforcing support for which arrearages are asserted and the lien claimed. No lien under this Article shall be valid unless filed in accordance with this section within 90 days of the date the support arrearage arose.

"§ 44-88. Discharge of lien.

Liens created by this Article may be discharged as follows:

- (1) By filing with the clerk of superior court a receipt or acknowledgment, signed by the Secretary of Human Resources, that the obligor is no longer in arrears in child support or that the obligor has entered into an agreement with the Department for a payment schedule on arrears or reimbursement.
- (2) By depositing with the clerk of superior court money equal to the amount of the claim, which money shall be held for the benefit of the claimant; or
- (3) By an entry in the lien docket that the action on the part of the lien claimant to enforce the lien has been dismissed, or a judgment has been rendered against the claimant in such action."

**1 PART 8. DEPARTMENT OF HUMAN RESOURCES TO DEVELOP AUTOMATED
2 DATA PROCESSING AND INFORMATION SYSTEM, AND CENTRALIZED
3 COLLECTION AND DISBURSEMENT SYSTEM FOR THE ENHANCEMENT OF
4 CHILD SUPPORT COLLECTION AND DISBURSEMENT.**

5 Section 8. (a) Automated System. The Department of Human
6 Resources shall develop a single statewide automated data processing and information
7 retrieval system to enhance enforcement of child support obligations. Except as
8 earlier required by federal law, the system shall be fully operational by October 1,
9 2000, and shall have the capability to perform the following tasks:

- 10 (1) Program management, including the controlling and accounting for
11 use of federal, State, and local funds in carrying out the State child
12 support enforcement program, and maintaining the data necessary
13 to meet federal reporting requirements on a timely basis;
- 14 (2) Maintenance of requisite data on State performance with respect to
15 paternity establishment and child support enforcement, including
16 systems controls to ensure completeness and reliability of and
17 ready access to this data;
- 18 (3) Establishment of safeguards on the integrity, accuracy, and
19 completeness of, access to, and use of data in the system.
20 Safeguards shall include policies restricting, controlling, and
21 monitoring access to the system and database;
- 22 (4) Maintenance of the State's automated case tracking system (ACTS)
23 in accordance with federal requirements;
- 24 (5) Information retrieval, comparisons, and disclosure, including the
25 sharing and comparison of information from other databases and
26 information comparison services. Comparison services shall
27 include information retrieval and sharing with such databases as
28 the Federal Case Registry of Child Support Orders, the Federal
29 Parent Locator Service, temporary family assistance and medicaid
30 agencies, and other agencies of this State and agencies of other
31 states and interstate information networks;
- 32 (5) Collection and distribution of support payments through the State
33 Collection Disbursement Unit as required by federal law; and
- 34 (6) Implement expedited administrative procedures for the
35 establishment of paternity and the enforcement of child support
36 orders.

37 In addition, the system shall include procedures to ensure that all personnel who
38 have access to confidential program data are trained in and informed of applicable
39 requirements and penalties. The Department shall impose administrative penalties
40 authorized by State law for unauthorized access to or disclosure or use of confidential
41 data in the system.

42 (b) Collection and Disbursement Unit. The Department shall develop
43 and provide for the operation of a centralized State Collection and Disbursement
44 Unit for the collection and disbursement of child support payments. The Unit shall

1 be operated by the Department in coordination with the automated system developed
2 under subsection (a) of this section. The Unit shall use automated procedures,
3 electronic processes, and computer-driven technology to the maximum extent
4 feasible, efficient, and economical, for collection and disbursement activities,
5 including procedures for:

- 6 (1) Receiving payments from parents, employers, and other states, and
7 for disbursements to custodial parents and other obligees, the State
8 agency, and the agencies of other states;
- 9 (2) Accurately identifying payments;
- 10 (3) Ensuring prompt disbursement of the custodial parent's share of
11 the payment;
- 12 (4) Furnishing to any parent, upon request, timely information on the
13 current status of support payments under an order requiring
14 payments to be made by or to the parent, in accordance with
15 federal requirements; and
- 16 (5) Timely disbursements and retention of arrearages, as authorized by
17 federal law.

18 (c) Progress Reports on Development. The Department shall provide
19 periodic written progress reports to the Cochairs of the House and Senate
20 Appropriations subcommittees on Human Resources, and to the Fiscal Research
21 Division, not later than October 1, 1997, March 1, 1998, and October 1, 1998. Each
22 progress report shall include a separate section on the development of the automated
23 system and one on the development of the collection and disbursement unit.
24 Information contained in each report shall include, but not be limited to:

- 25 (1) Federal requirements for the automated system and collection and
26 disbursements units;
- 27 (2) Status of development as of the date of the progress report, and
28 whether the development plan is on schedule, behind schedule, or
29 ahead of schedule, and the reasons therefor;
- 30 (3) Projected costs to develop and operate the automated system; and
31 projected savings, if any, from full implementation of the system;
- 32 (4) Projected costs to develop and operate the collection and
33 disbursement unit, including recommendations on whether the
34 Department should operate the unit or whether it should be
35 operated by an outside contractor; and
- 36 (5) Other information requested by the Cochairs or that the
37 Department considers relevant and useful.

38 **PART 9. DEPARTMENT TO DISCONTINUE DISREGARD OF FIRST \$50.00 OF**
39 **CHILD SUPPORT PAYMENT COLLECTED.**

40 Section 9. The Department of Human Resources shall not disregard the
41 first fifty dollars (\$50.00) of any child support payments received each month for a
42 family receiving cash assistance under the State Plan for TANF grant funds.

43 **PART 10. MISCELLANEOUS AND EFFECTIVE DATE.**

1 Section 10. The headings to the parts of this act are a convenience to the
2 reader and are for reference only. The headings do not expand, limit, or define the
3 text of the act.

4 Section 10.1. This act becomes effective October 1, 1997.



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February 26, 1997

Memorandum

To: House Welfare Reform Committee

From: Carolyn D. Johnson, Committee Counsel

Re: HB 301 - Child Support/Federal Requirements

Background: HB 301 amends various general statutes to enhance child support enforcement and paternity establishment in North Carolina as required by federal welfare reform legislation (the Personal Responsibility and Work Reconciliation Act of 1996, P. L. - 104-193). Attached hereto is a chart which compares prior federal law to the new requirements. The chart, obtained from the U. S. Department of Health and Human Services Internet site, provides a working overview of the new requirements.

Bill Analysis: Section 1 establishes the State Directory of New Hires. The Employment Security Commission (ESC), in consultation with the Department of Human Resources (DHR), is required to develop and maintain the directory which will be used to locate persons owing child support. All employers are required to report the hire of any person residing in this State or the return to work of any person furloughed, separated, granted leave without pay or terminated. The report shall be made within 20 days of the hire, or if an employer chooses to transmit magnetically or electronically by two monthly transmissions, not less than 12 nor more than 16 days apart. The report shall contain the employee's name, address and social security number, and the employer's name, address and tax identification number. The report shall be made on the W-4 form, or an equivalent form, and may be transmitted magnetically, electronically or by 1st class mail.

A \$20 civil monetary penalty shall be imposed on employers who fail to report as required. A \$450 civil monetary penalty shall be imposed on employers if there is a finding that the failure to report was due to a conspiracy between the employer and employee not to supply the required information or to supply false or incomplete information.

Report data shall be entered into the directory within 5 business days of receipt, and within 3 business days, the data shall be furnished to the National Directory of New Hires. Within 2 business days, the IV-D agency shall transmit notice to employers

directing the withholding of income equal to the monthly or other periodic child support obligation.

The remainder of Section 1 addresses required quarterly reports to the National Directory of New Hires, automation capabilities required by May 1, 1998, other uses of directory information, and cooperation between ESC and DHR.

Section 2 expands the authority of the Child Support Enforcement Program in DHR to enforce child support orders and establish paternity. Additional powers and duties include authority to: (1) issue subpoenas for the production of information or documents as required for the enforcement of child support orders; (2) access DMV and law enforcement information or data storage and retrieval systems; (3) request reviews and adjustments of child support orders every 3 three years; (4) develop agreements with financial institutions to access financial records of persons owing child support, or in response to notices of child support liens or levies, to encumber or surrender assets held by financial institutions; (5) develop procedures which ensure continuation of health insurance coverage when a noncustodial parent changes employment; (6) develop procedures to administratively establish paternity in contested cases; and (7) establish voluntary paternity establishment procedures.

Section 3 authorizes judges to impose work requirements on child support obligors who are in arrears, and requires parents to provide medical support.

Section 4 requires social security numbers on paternity orders and applications for occupational licenses. Section 4 also requires financial institutions to provide the Child Support Enforcement Program access to financial records of persons the Department certifies as subject to child support orders and required to enforce such orders. Financial institutions who disclose such information in good faith reliance upon the Department's certification shall not be liable for damages resulting from the disclosure.

Section 5 authorizes suspension, revocation or restriction of driver's, hunting, fishing, or trapping licenses, and motor vehicle registration refusal for individuals with outstanding subpoenas or warrants issued pursuant to child support proceedings. The section also make conforming amendments to the license forfeiture and reinstatement provisions.

Section 6 provides for income withholding without judicial or administrative hearing to collect arrears in non-IV-D cases where child support orders were entered prior to October 1, 1996 and income withholding has not been previously ordered or implemented. An obligor, in arrears equal to one month's support or more, is subject to immediate withholding upon notice and entry of an order unless the obligor proves mistake of fact. Section 6 also requires that withheld payments begin within 7 days, instead of 14 days, following the date the notice of obligation to withhold was served on the payor.

Section 7 provides for the establishment of liens on real property of persons owing past-due child support. A general lien is created upon the real property of any person subject to a court order of child support and more than 90 days in arrears. The lien continues from the date of filing until satisfied. A lien shall be filed with the clerk of superior court and contain the name and address of the person against whom a lien is claimed, the name of the governmental agency or obligee claiming the lien, the amount of arrearage as of the date of filing, the date of the court order enforcing support for which the arrearages are asserted and lien claimed. To be valid, a lien must be filed within 90 days of the date the support arrearage arose. A lien may be discharged by a filed statement of the Secretary of DHR indicating obligor is no longer in arrears or has agreed to a payment schedule, by payment to the clerk of court the amount of the claim; or by entry of dismissal or judgment in the lien docket.

Section 8 instructs DHR to develop an automated data processing and information system and a centralized collection and disbursement system that is fully operational by October 1, 2000 as required by federal law.

Section 9 authorizes DHR to discontinue the disregard of the first \$50 of child support collected.

Section 10 makes the act effective October 1, 1997.

Child Support	The state was required to establish paternity and establish and enforce child support orders for AFDC, Medicaid, IV-E recipients, and for all others upon request. States were required to disregard the first \$50 a month in child support payments collected by the state and pass that amount through to the family.	States must operate a child support enforcement program meeting federal requirements in order to be eligible for the Family Assistance Program. Recipients must assign rights to child support and cooperate with paternity establishment efforts. Distribution rules are changed so that families no longer on assistance have priority in receipt of child support arrears. Current law \$50 pass-through is not required. Individuals who fail to cooperate with paternity establishment will have their monthly cash assistance reduced by at least 25%. Streamlines the process for establishing paternity and expands the in-hospital voluntary paternity establishment program. The law requires states to establish central registries of child support orders and centralized collection and disbursement units. Requires states to have expedited procedures for child support enforcement. Establishes a Federal Case Registry and National Directory of New Hires to track delinquent parents across states lines. Requires that employers report all new hires to state agencies and new hire information to be transmitted to the National Directory of New Hires. Expands and streamlines procedures for direct withholding of child support from wages. Provides for uniform rules, procedures, and forms for interstate cases. Requires states to have numerous new enforcement techniques, including the revoking of drivers and professional licenses for delinquent obligors, expanding wage garnishment, and allowing states to seize assets. Provides grants to states for access and visitation programs.

HOUSE BILL 310
CHILD SUPPORT ENFORCEMENT/WELFARE REFORM REQUIREMENTS

BILL SUMMARY

H310

Section #	Text	US Code
1.	State Directory of New Hires This establishes a New Hire Directory to be developed and maintained by the Employment Security Commission in consultation with DHR.	43 USC 653A

DHR and ESC have direct access to the Directory.

Employers must report to the Directory:

- name, address, social security number
- of each person newly hired
- within 20 days of hiring
- reports can be on W4 or equivalent form
- reports can be made electronically or by mail
- \$20 penalty for failure to report
- \$450 penalty for conspiracy not to report

ESC must enter data w/in 5 days of receipt from employer

ESC must send data to National Directory w/in days
of entry into State Directory

IV-D agency must direct employer to withhold
w/in 2 days of entry of info into Directory

ESC must report on a quarterly basis to National
NH Directory info on wages and unemployment
compensation of individuals

By May 1, 1998, Directory must have capability to
compare social security numbers in Directory with
those in State automated case tracking system (ACTS).

ESC may use Directory information to administer
employment security programs; NC Industrial Commission
may use Directory for administering workers' comp.

ESC and DHR work cooperatively in the development and
implementation of the Directory.

2. Expansion of DHR authority to enforce child support orders and establish paternity: 42 USC 666
- Issue subpoenas for financial and other information 666(c)
 - Have direct access to DMV and law enforcement records
 - Automatic review of child support orders every 3 years upon request of either parent w/o change of circumstances
 - Contract with financial institutions for data match of information in financial records
 - Issue notice of transfer to employers to ensure continuous health care coverage when obligor changes employers
 - Develop administrative process for paternity establishment where paternity is contested
 - Develop process for voluntary paternity establishment
3. Authorize judges to impose work requirements on obligors in arrears in child support. 42 USC 666 (a)(15)
- In cases where an obligor is in arrears and income withholding has not been implemented, the judge may order the obligor to participate in work activities (in addition to paying the support owed).
- 3.2 Requires the judge to order responsible parents to provide health care coverage when such coverage is available at a reasonable cost. 42 USC 666 (a)(19)
- 3.3 When an obligor is under court order to provide health care coverage, changes employers, and has coverage under the new employer, the new employer must enroll the child pursuant to notice from the IV-D agency of the medical support order. (a)(19)
4. SOCIAL SECURITY NUMBERS REQUIRED ON CERTAIN DOCUMENTS. 42 USC 666 (a)(11)
- Federal law requires social security numbers to be on divorce orders, marriage license applications, death certificates, child support orders, paternity establishment agreements and orders, and applications for occupational licenses. North Carolina vital statistics already records social security numbers on: death certificates, marriage license records, and divorce records (as of December 1, 1997). Civil process forms require social security number on all actions filed - this would cover

actions for child support and paternity establishment. This section amends sections to ensure that social security numbers are provided on acknowledgments/affirmations of paternity, agreements of support, and on applications for occupational licenses.

5. Suspension or revocation of licenses for failure to comply with subpoenas or warrants relating to paternity establishment or child support enforcement proceedings. 42 USC 666 (a)(16)

This Part amends the sections of Chapters 50, 93B, and 110 to authorize the revocation or suspension of licenses not only for being in arrears in child support, but also for failure to respond to subpoenas or warrants issued pursuant to paternity establishment proceedings and child support proceedings. 42 USC 666
6. Income withholding. 42 USC 666 (a)(1)(A)
State must establish procedures for withholding income of obligor under support order issued prior to 10/1/96 if income withholding not being implemented.
- 6.1 Employers must begin withholding from obligor's income 7 days following notice was served on employer to withhold. 666(a)(6)
7. Liens on real property owing past-due support. 42 USC 666 (a)(4)
Federal law requires that a lien arise by operation of law on both real and person property of obligor residing in this State who is in arrears. This section creates a lien only on real property.
8. Automated Data Processing System 42 USC 654A
States have until 10/1/2000 to develop a single statewide automated data processing and information retrieval system that is capable of performing specified tasks.

State has until September 1999 to develop and implement a centralized collection and disbursement unit for the collection and disbursement of child support payments. 42 USC 654B

This section directs the Department to work on the development and implementation of these systems and to report to the Fiscal Research Division and to the House and Senate appropriations subcommittees on Human Resources

9. Federal law used to require a disregard or pass-through of the first \$50 of any child support payments each month for a family receiving cash assistance. Feds and States shared in cost to government of the disregard. As of 10/1/96, feds no longer share in the cost. State could not discontinue the disregard until it submits new welfare reform plan. NC has already submitted its plan. This section directs the Department to discontinue the disregard..

North Carolina Child Support Guidelines

Effective October 1, 1994

Commentary

North Carolina G.S. 50-13.4 provides that the Conference of Chief District Judges prescribe uniform statewide presumptive guidelines for the computation of child support obligations of each parent. The statute further provides that the Conference periodically, but at least once every four years, review the guidelines to determine whether their application results in appropriate child support award amounts, and modify the guidelines accordingly.

The North Carolina Child Support Guidelines are based on the Income Shares model, which was developed under the Child Support Guidelines Project funded by the U.S. Office of Child Support Enforcement and administered by the National Center for State Courts. The Income Shares model is based on the concept that child support is a shared parental obligation and that a child should receive the same proportion of parental income he or she would have received if the parents lived together. The Schedule of Basic Child Support Obligations is based primarily on economic research performed pursuant to the Family Support Act of 1988 [P.L. 100-485, §128] which required the U.S. Department of Health and Human Services to conduct a study of the patterns of expenditures on children.

The Guidelines contained herein are the product of the ongoing review process conducted by the Conference of Chief District Judges. A public hearing was conducted by the Conference to provide interested citizens an opportunity to comment on the Guidelines, and written comment was received from agencies, attorneys, judges and members of the public. These Guidelines are intended to provide adequate awards of child support which are equitable to all parties.

The North Carolina Child Support Guidelines, promulgated by the Conference of Chief District Judges, are published jointly by the North Carolina Administrative Office of the Courts and the Department of Human Resources in accordance with G.S. 50-13.4(c). Additional copies of these Guidelines and worksheets for applying the guidelines are available from the offices of the Clerk of Superior Court. For information regarding the use of the Child Support Guidelines, please refer to G.S. 50-13.4(c).

NORTH CAROLINA CHILD SUPPORT GUIDELINES

Pursuant to G.S. 50-13.4(c), The North Carolina Child Support Guidelines apply as a rebuttable presumption to all child support orders North Carolina, except as discussed below. The Guidelines must be used for temporary and permanent child support orders. The Guidelines must be used by the Court as the basis for reviewing the adequacy of child support levels in non-contested cases as well as contested hearings. The Court may deviate from the Guidelines in cases where application would be inequitable to one of the parties or to the child(ren). If the Court orders an amount other than the amount determined by application of the Guidelines, the Court must make written findings of fact that justify the deviation, that state the amount of the award which would have resulted from application of the Guidelines, and that justify the amount of support awarded by the Court.

Self-Support Reserve; Obligers With Low Incomes

The Guidelines include a self support reserve which ensures that obligors have sufficient income to maintain a minimum standard of living based on the 1993 federal poverty level for one person. For obligors with an adjusted gross income of less than \$700, the Guidelines require, absent a deviation, the establishment of a minimum support order (\$50). For obligors with adjusted gross incomes above \$700, the Schedule of Basic Support Obligations incorporates a further adjustment to maintain the self support reserve for the obligor.

If the obligor's adjusted gross income falls within the shaded area of Schedule, the basic child support obligation and the obligor's total child support obligation are computed using only the obligor's income. This approach prevents disproportionate increases in the child support obligation with moderate increases in income and protects the integrity of the self support reserve. In all other cases, the basic child support obligation is computed using the combined adjusted gross incomes of both parents.

Determination of Support in Cases Involving High Combined Incomes

The Guidelines apply in cases in which the parents' combined adjusted gross income is equal to or less than \$12,500 per month (\$150,000 per year). For cases with higher combined adjusted gross income, child support should be determined on a case-by-case basis, provided that the amount of support awarded may not be lower than the maximum basic child support obligation shown in the Schedule of Basic Child Support Obligations.

Assumptions and Expenses Included In Schedule of Basic Child Support Obligations

The Schedule is based on economic data which represent estimates of total expenditures on child rearing costs to age 18, except for child care, health insurance, and health care costs in excess of \$100 per year. Expenses incurred in the exercise of visitation are not factored into the Schedule.

The Schedule presumes that the custodial parent claims the tax exemptions for child(ren) due support. If the custodial parent has no income tax liability, the Court may consider assigning the exemption for the child(ren) to the non-custodial parent, and deviate from the Guidelines by increasing the obligor's support obligation.

Income

The Schedule of Basic Child Support Obligations is based upon net income converted to gross annual income for ease of application.

For the purposes of these Guidelines, "income" is defined as actual gross income of the parent, if employed to full capacity, or potential income if unemployed or underemployed. All income is assumed to be taxable. Gross income of each parent should be determined as specified below.

(1) Gross income: Gross income includes income from any source, except as excluded below, and includes but is not limited to income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers compensation benefits, unemployment insurance benefits, disability pay and insurance benefits, gifts, prizes and alimony or maintenance received from persons other than the parties to the instant action. While includable as income, non-recurring, one-time payments should be distinguished from ongoing income.

Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Food Stamps and General Assistance.

Payments received for the benefit of the child(ren) as a result of the disability of the obligor are not considered in determining the amount of the basic child support obligation. However, after determining the amount of the obligor's support obligation under the Guidelines, the Court should compare the obligor's support obligation under the guidelines with the benefits received by the child(ren) due to the obligor's disability, and determine whether an award of child support in addition to the child(ren) disability-related benefits is warranted.

(2) **Income from self-employment or operation of a business:** For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses for purposes of these Guidelines are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the Court to be inappropriate for determining gross income for purposes of calculating child support. In general, income and expenses from self-employment or operation of a business should be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes.

Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business should be counted as income if they are significant and reduce personal living expenses. Such payments might include a company car, free housing, or reimbursed meals.

(3) **Potential income:** If a parent is voluntarily unemployed or underemployed, child support may be calculated based on a determination of potential income, except that a determination of potential income should not be made for a parent who is physically or mentally incapacitated or is caring for a child who is under the age of three years and for whom the parents owe a joint legal responsibility.

Determination of potential income shall be made by determining employment potential and probable earnings level based on the parent's recent work history, occupational qualifications and prevailing job opportunities and earning levels in the community. If the parent has no recent work history and/or vocational training, it is suggested that the Court determine potential income in an amount not less than the minimum hourly wage for a 40-hour work week.

In each case, the Court should consider the prior circumstances of the parties in determining whether or not to impute income.

Income verification: Income statements of the parents should be verified with documentation of both current and past income. Suitable documentation of current earnings (at least one full month) includes pay stubs, employer statements, or receipts and expenses if self-employed. Documentation of current income must be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period. Sanctions may be imposed for failure to comply with this provision on the motion of either party or by the Court on its own motion.

Pre-existing Child Support Obligations and Responsibility for Other Child(ren)

The amount of child support payments actually made by a party under any pre-existing court order(s) or separation agreement(s) should be deducted from the party's gross income. Actual payments of alimony should not be considered as a deduction from gross income but may be considered as a factor to vary from the final presumptive child support obligation.

The amount of a party's financial responsibility (as determined below) for his or her natural or adopted child(ren) currently residing in the household who are not involved in this action should be deducted from gross income. Use of this deduction is appropriate at the time of the establishment of a child support order or in a proceeding to modify an existing order. However, in a proceeding to modify, it may not be the sole basis for a reduction.

The deduction for a party's financial responsibility for other child(ren) is one-half of the basic child support obligation for the number of child(ren) who live with the party and for whom the party owes a duty of support (other than the child(ren) involved in the instant action). For purposes of this deduction, the basic child support obligation for the other child(ren) living with the party is based on the combined adjusted gross incomes of the party and the other responsible parent of such child(ren).

Basic Child Support Obligation

The basic child support obligation is determined using the attached Schedule of Basic Child Support Obligations. For combined monthly adjusted gross income amounts falling between amounts shown in the Schedule, the basic child support obligation should be interpolated.

The number of child(ren) refers to child(ren) for whom the parents share joint legal responsibility and for whom support is being sought.

Child Care Costs

Reasonable child care costs incurred due to employment or job search are added to the basic obligation as follows:

When the gross monthly income of the party paying such costs falls below the level indicated below, 100% of child care costs are added.

1 child = \$1,100	4 children = \$1,900
2 children = \$1,500	5 children = \$2,100
3 children = \$1,700	6 children = \$2,300

At these income levels, the party paying child care costs does not benefit from the tax credit for child care.

(2) When the income of the party exceeds the level indicated above, 75% of child care costs are included since the party would be entitled to the income tax credit for child care expenses.

Health Insurance

The cost of health (medical, or medical and dental) insurance for the child(ren) due support is added to the basic child support obligation. The amount included in the child support calculation is the amount of the health insurance premium actually attributable to the child(ren) subject to the order. If this amount is not available or cannot be verified, the total cost of the premium is divided by the total number of persons covered by the policy and then multiplied by the number of child(ren) covered by the policy who are subject to the order.

If coverage is provided through an employer, only the employee's portion of cost should be considered. Medical or dental expenses in excess of \$100 per year and uncompensated by insurance should be divided between the parties in proportion to their respective incomes.

Extraordinary Expenses

The Court may make adjustments for extraordinary expenses and order payments for such term and in such manner as the Court deems necessary. Extraordinary medical expenses are uninsured expenses in excess of \$100 for a single illness or condition. Extraordinary medical expenses include, but are not limited to, such costs as are reasonably necessary for orthodontia, dental treatments, asthma treatments, physical therapy and any uninsured chronic health problem. At the discretion of the Court, professional counseling or psychiatric therapy for diagnosed mental disorders may also be considered as an extraordinary medical expense. Payments for such expenses shall be apportioned in the same manner as the basic child support obligation and ordered paid as the Court deems equitable.

Other extraordinary expenses are added to the basic child support obligation. Other extraordinary expenses include:

(1) Any expenses for attending any special or private elementary or secondary schools to meet the particular educational needs of the child(ren); (2) Any expenses for transportation of the child(ren) between the homes of the parents.

Determination of Child Support Obligation and Presumptive Award

Except in cases in which the obligor's income falls within the shaded area of the Schedule, the non-custodial parent's total child support obligation is determined by adding the basic child support obligation plus the amount of work-related child care costs, health insurance premiums for the child(ren), and extraordinary expenses. The non-custodial parent's total child support obligation is determined by multiplying the total child support obligation by the non-custodial parent's percentage of combined adjusted income. The non-custodial parent receives credit for the amount of child care costs, health insurance premiums, and extraordinary expenses that he or she pays out-of-pocket. The recommended child support order is determined by subtracting the amount of child care costs, health insurance premiums for the child(ren), and extraordinary expenses paid by the non-custodial parent from the non-custodial parent's total child support obligation.

Modification

In any proceeding to modify an existing order which is three years old or older, a deviation of 15% or more between the amount of the existing order and the amount of child support resulting from application of the Guidelines shall be presumed to constitute a substantial change of circumstances warranting modification. If the order is less than three years old, this presumption does not apply.

**NORTH CAROLINA CHILD SUPPORT GUIDELINES
SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS**

NOTE: If the obligor's income and corresponding number of children fall into a shaded area, compute the support obligation using obligor's income only.

COMBINED GROSS MONTHLY INCOME	Effective October 1, 1994					
	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
700	50	50	50	50	50	50
750	62	63	64	65	65	66
800	95	96	97	98	99	100
850	127	128	129	131	132	134
900	159	161	162	164	166	168
950	191	193	195	197	199	201
1000	202	225	228	230	233	235
1050	211	258	261	264	266	269
1100	219	290	294	297	300	303
1150	228	323	326	330	333	337
1200	237	346	359	363	367	371
1250	246	357	392	396	401	405
1300	254	370	425	429	434	439
1350	262	381	451	463	468	473
1400	270	393	465	496	501	506
1450	278	404	478	528	535	540
1500	286	416	492	543	568	574
1550	293	427	505	558	601	607
1600	301	438	518	572	620	641
1650	309	450	531	587	638	674
1700	317	461	544	602	652	698
1750	325	472	558	616	688	715
1800	332	483	571	631	684	732
1850	340	495	584	646	700	749
1900	348	506	598	660	716	766
1950	356	518	611	675	732	783
2000	364	529	625	690	748	801
2050	373	541	638	706	765	818
2100	381	553	652	721	781	836
2150	389	564	666	736	797	853
2200	397	576	679	751	814	871
2250	405	588	693	766	830	888
2300	413	599	707	781	847	906
2350	421	611	720	796	863	923
2400	428	620	731	808	876	937

**NORTH CAROLINA
SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS**

COMBINED GROSS MONTHLY INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
2450	434	630	742	820	889	952
2500	441	639	754	833	903	966
2550	447	649	764	845	916	980
2600	454	658	775	857	929	994
2650	460	667	786	869	942	1007
2700	467	677	797	881	955	1021
2750	473	686	808	893	968	1035
2800	480	695	819	904	980	1049
2850	486	704	829	916	993	1063
2900	493	714	840	928	1006	1077
2950	499	723	851	940	1019	1091
3000	506	732	862	952	1032	1105
3050	512	742	873	964	1045	1118
3100	519	751	883	976	1058	1132
3150	525	760	894	988	1071	1146
3200	532	769	905	1000	1084	1160
3250	538	778	915	1011	1096	1173
3300	542	784	922	1019	1105	1182
3350	548	790	930	1027	1114	1192
3400	551	796	937	1036	1123	1201
3450	555	803	944	1044	1131	1211
3500	559	809	952	1052	1140	1220
3550	563	815	959	1060	1149	1229
3600	567	821	966	1068	1158	1239
3650	572	827	974	1076	1166	1248
3700	576	834	981	1084	1175	1258
3750	580	840	989	1092	1184	1267
3800	584	848	996	1100	1193	1276
3850	589	852	1003	1109	1202	1286
3900	593	858	1011	1117	1210	1295
3950	597	864	1018	1125	1219	1305
4000	601	869	1023	1131	1226	1311
4050	604	874	1028	1136	1231	1318
4100	607	878	1033	1141	1237	1324
4150	610	882	1038	1147	1243	1330
4200	613	886	1042	1152	1249	1336
4250	616	891	1047	1157	1254	1342
4300	619	895	1052	1162	1260	1348

**NORTH CAROLINA
SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS**

COMBINED GROSS MONTHLY INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
4350	623	899	1057	1168	1266	1355
4400	626	904	1062	1173	1272	1361
4450	629	908	1066	1178	1277	1367
4500	632	912	1071	1184	1283	1373
4550	635	916	1076	1189	1288	1379
4600	638	920	1080	1194	1294	1384
4650	641	924	1085	1199	1299	1390
4700	644	928	1089	1204	1305	1396
4750	647	933	1094	1209	1311	1403
4800	650	937	1099	1215	1317	1409
4850	653	942	1105	1221	1324	1416
4900	657	947	1111	1227	1331	1424
4950	660	952	1116	1234	1337	1431
5000	663	957	1122	1240	1344	1438
5050	667	961	1128	1246	1351	1445
5100	670	966	1133	1253	1358	1453
5150	674	971	1139	1259	1365	1460
5200	677	976	1145	1265	1371	1467
5250	680	981	1150	1271	1378	1475
5300	684	986	1156	1278	1385	1482
5350	687	991	1162	1284	1392	1489
5400	691	996	1168	1290	1398	1496
5450	695	1002	1175	1299	1408	1506
5500	700	1009	1183	1307	1417	1516
5550	705	1016	1191	1316	1426	1526
5600	710	1022	1199	1324	1436	1536
5650	714	1029	1206	1333	1445	1546
5700	719	1036	1214	1342	1454	1556
5750	724	1042	1222	1350	1464	1566
5800	728	1049	1230	1359	1473	1576
5850	733	1056	1237	1367	1482	1586
5900	738	1063	1245	1376	1492	1596
5950	743	1069	1253	1385	1501	1606
6000	747	1076	1261	1393	1510	1616
6050	752	1083	1269	1402	1520	1626
6100	757	1090	1276	1410	1529	1636
6150	761	1096	1284	1418	1538	1645
6200	766	1102	1291	1426	1546	1655

**NORTH CAROLINA
SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS**

COMBINED GROSS MONTHLY INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
6250	770	1108	1298	1435	1555	1684
6300	774	1115	1308	1443	1564	1673
6350	779	1121	1313	1451	1573	1683
6400	783	1127	1320	1459	1581	1692
6450	788	1134	1328	1467	1590	1702
6500	792	1140	1335	1475	1599	1711
6550	796	1146	1342	1483	1608	1720
6600	801	1152	1350	1491	1617	1730
6650	805	1159	1357	1499	1625	1739
6700	810	1165	1364	1507	1634	1748
6750	814	1171	1372	1516	1643	1758
6800	818	1178	1379	1524	1652	1767
6850	823	1184	1386	1532	1660	1777
6900	827	1190	1394	1540	1669	1786
6950	832	1197	1401	1548	1678	1795
7000	836	1203	1408	1556	1687	1805
7050	840	1209	1415	1564	1696	1814
7100	845	1215	1423	1572	1704	1824
7150	849	1222	1430	1580	1713	1833
7200	853	1228	1437	1588	1721	1842
7250	857	1233	1444	1595	1729	1850
7300	862	1239	1451	1603	1738	1859
7350	866	1245	1458	1611	1746	1868
7400	870	1251	1464	1618	1754	1877
7450	874	1257	1471	1626	1762	1886
7500	878	1263	1478	1633	1771	1894
7550	882	1269	1485	1641	1779	1903
7600	886	1275	1492	1649	1787	1912
7650	890	1281	1499	1656	1795	1921
7700	894	1286	1506	1664	1803	1930
7750	898	1292	1512	1671	1812	1938
7800	902	1298	1519	1679	1820	1947
7850	907	1304	1526	1686	1828	1956
7900	911	1310	1533	1694	1836	1965
7950	915	1316	1540	1702	1845	1974
8000	919	1322	1547	1709	1853	1983
8050	923	1328	1554	1717	1861	1991
8100	927	1334	1561	1724	1869	2000

**NORTH CAROLINA
SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS**

COMBINED GROSS MONTHLY INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
8150	931	1339	1567	1732	1877	2009
8200	935	1345	1574	1740	1888	2018
8250	939	1351	1581	1747	1894	2027
8300	943	1357	1588	1755	1902	2035
8350	947	1363	1595	1762	1910	2044
8400	952	1369	1602	1770	1919	2053
8450	956	1375	1609	1778	1927	2062
8500	960	1381	1615	1785	1935	2071
8550	964	1387	1623	1793	1944	2080
8600	968	1393	1630	1801	1953	2089
8650	972	1399	1638	1810	1962	2099
8700	977	1406	1646	1818	1971	2109
8750	981	1412	1653	1827	1980	2119
8800	985	1418	1661	1835	1989	2129
8850	989	1424	1668	1844	1999	2138
8900	994	1431	1676	1852	2008	2148
8950	998	1437	1684	1861	2017	2158
9000	1002	1443	1691	1869	2026	2168
9050	1006	1450	1699	1877	2035	2178
9100	1010	1456	1707	1886	2044	2187
9150	1015	1462	1714	1894	2053	2197
9200	1019	1468	1722	1903	2063	2207
9250	1023	1475	1730	1911	2072	2217
9300	1027	1481	1737	1920	2081	2227
9350	1032	1487	1745	1928	2090	2236
9400	1036	1494	1752	1938	2099	2246
9450	1040	1500	1760	1945	2108	2256
9500	1044	1506	1768	1953	2117	2266
9550	1048	1512	1775	1962	2127	2276
9600	1053	1519	1783	1970	2136	2285
9650	1057	1525	1791	1979	2145	2295
9700	1061	1531	1798	1987	2154	2305
9750	1065	1538	1806	1996	2163	2315
9800	1070	1544	1814	2004	2172	2324
9850	1074	1550	1821	2012	2181	2334
9900	1078	1556	1829	2021	2191	2344
9950	1081	1561	1835	2027	2198	2351
10000	1083	1564	1838	2031	2201	2355

**NORTH CAROLINA
SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS**

COMBINED GROSS MONTHLY INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
10050	1085	1588	1841	2034	2205	2359
10100	1087	1589	1844	2037	2208	2363
10150	1088	1572	1847	2041	2212	2367
10200	1090	1574	1850	2044	2216	2371
10250	1092	1577	1853	2047	2219	2375
10300	1094	1579	1856	2051	2223	2379
10350	1096	1582	1859	2054	2227	2383
10400	1097	1585	1862	2057	2230	2386
10450	1099	1587	1865	2061	2234	2390
10500	1101	1590	1868	2064	2238	2394
10550	1103	1592	1871	2068	2241	2398
10600	1105	1595	1874	2071	2245	2402
10650	1106	1598	1877	2074	2249	2406
10700	1108	1600	1880	2078	2252	2410
10750	1110	1603	1883	2081	2256	2414
10800	1112	1605	1886	2084	2259	2418
10850	1114	1608	1889	2088	2263	2422
10900	1115	1611	1892	2091	2267	2426
10950	1117	1613	1895	2094	2270	2429
11000	1119	1616	1898	2098	2274	2433
11050	1121	1618	1902	2101	2278	2437
11100	1123	1621	1905	2105	2281	2441
11150	1124	1624	1908	2108	2285	2445
11200	1126	1626	1911	2111	2289	2448
11250	1128	1628	1914	2115	2292	2453
11300	1130	1631	1917	2118	2296	2457
11350	1133	1636	1922	2124	2302	2463
11400	1137	1641	1929	2131	2310	2472
11450	1140	1647	1935	2139	2318	2481
11500	1144	1653	1942	2146	2326	2489
11550	1148	1658	1949	2154	2334	2498
11600	1152	1664	1956	2161	2343	2507
11650	1156	1670	1962	2168	2351	2516
11700	1160	1675	1969	2176	2359	2524
11750	1164	1681	1976	2183	2367	2532
11800	1168	1687	1983	2191	2375	2541
11850	1172	1692	1989	2198	2383	2550
11900	1175	1698	1996	2206	2391	2558

**NORTH CAROLINA
SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS**

COMBINED GROSS MONTHLY INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
11950	1179	1704	2003	2213	2399	2587
12000	1183	1709	2010	2221	2407	2578
12050	1187	1715	2018	2228	2415	2584
12100	1191	1721	2023	2236	2423	2593
12150	1195	1726	2030	2243	2431	2602
12200	1199	1732	2037	2250	2439	2610
12250	1203	1737	2043	2258	2448	2619
12300	1208	1743	2050	2265	2456	2628
12350	1210	1749	2057	2273	2464	2638
12400	1214	1754	2064	2280	2472	2645
12450	1218	1760	2070	2288	2480	2653
12500	1222	1766	2077	2295	2488	2662

STATE OF NORTH CAROLINA

File No.

IV-D Case No.

Case Type (Code)

URES Case No.

County

In The General Court Of Justice
☐ District ☐ Superior Court Division

☐ Civil: Plaintiff _____
☐ Criminal: STATE
 Defendant _____
 VERSUS

WORKSHEET A CHILD SUPPORT OBLIGATION SOLE CUSTODY

G.S. 50-13.4(u)

Children	Date Of Birth	Children	Date Of Birth

	Plaintiff	Defendant	Combined
1. MONTHLY GROSS INCOME	\$	\$	
a. Minus pre-existing child support payment	-	-	
b. Minus responsibility for other children	-	-	
2. MONTHLY ADJUSTED GROSS INCOME	\$	\$	\$
3. PERCENTAGE SHARE OF INCOME (line 2 for each parent's income divided by Combined Income)	%	%	
4. BASIC CHILD SUPPORT OBLIGATION (apply line 2 Combined to Child Support Schedule)			\$
5. ADJUSTMENTS (expenses paid by each parent)			
a. Work-related child care costs (see instructions)	\$	\$	
b. Health insurance premium costs—child(ren) portion only (Total premium ÷ # of persons covered × # of children subject to order = children's portion)	\$	\$	
c. Extraordinary expenses (note duration at bottom if time for adjustment differs from duration of child support obligation)	\$	\$	
d. Total Adjustments (add two totals for combined amount)	\$	\$	\$
6. TOTAL CHILD SUPPORT OBLIGATION (add lines 4 and 5d combined)			\$
7. EACH PARENT'S CHILD SUPPORT OBLIGATION (line 3 x line 6 for each parent)	\$	\$	
8. NONCUSTODIAL PARENT ADJUSTMENT (enter noncustodial parent's line 5d)	\$	\$	
9. RECOMMENDED CHILD SUPPORT ORDER (Subtract line 8 from line 7 for the noncustodial parent only. Leave custodial parent column blank.)	\$	\$	

Date

Prepared By (Type Or Print)

STATE OF NORTH CAROLINA

File No.

IV-D Case No.

Case Type (Code)

URES Case No.

County

In The General Court Of Justice

☐ District ☐ Superior Court Division

☐ Civil: Plaintiff

☐ Criminal:

STATE

VERSUS

Defendant

WORKSHEET B CHILD SUPPORT OBLIGATION JOINT OR SHARED PHYSICAL CUSTODY

G.S. 50-13.4(c)

Children

Date Of Birth

Children

Date Of Birth



STOP HERE IF the number of overnights with either parent is less than 123, shared physical custody does not apply (see Worksheet A)

Plaintiff

Defendant

Combined

1. MONTHLY GROSS INCOME

\$

\$

a. Minus pre-existing child support payment

-

-

b. Minus responsibility for other children

-

-

2. MONTHLY ADJUSTED GROSS INCOME

\$

\$

\$

3. PERCENTAGE SHARE OF INCOME (line 2 for each parent's income divided by Combined income)

%

%

4. BASIC CHILD SUPPORT OBLIGATION (apply line 2 Combined to Child Support Schedule, see AOC-A-162, Rev. 10/94)

\$

\$

\$

5. SHARED CUSTODY BASIC OBLIGATION (multiply line 4 x 1.5)

\$

\$

\$

6. EACH PARENT'S PORTION OF SHARED CUSTODY SUPPORT OBLIGATION (line 3 x line 5 for each parent)

\$

\$

7. OVERNIGHTS with each parent (must total 365)

= 365

8. PERCENTAGE WITH EACH PARENT (line 7 divided by 365)

%

%

9. SUPPORT OBLIGATION FOR TIME WITH OTHER PARENT (line 6 x other parent's line 8)

\$

\$

10. ADJUSTMENTS (expenses paid directly by each parent)

a. Work-related child care costs

\$

\$

b. Health Insurance premium costs - children's portion only

\$

\$

c. Extraordinary expenses

\$

\$

d. Total adjustments (For each col., add 10a, 10b, and 10c. Add two totals for combined amount.)

\$

\$

\$

11. EACH PARENT'S FAIR SHARE OF ADJUSTMENTS (line 10d combined x line 3 for each parent)

\$

\$

12. ADJUSTMENTS PAID IN EXCESS OF FAIR SHARE (Line 10d minus line 11. If negative number, enter zero.)

\$

\$

13. EACH PARENT'S ADJUSTED SUPPORT OBLIGATION (line 9 minus line 12)

\$

\$

14. RECOMMENDED CHILD SUPPORT ORDER (subtract lesser amount from greater amount in line 13 and enter result under greater amount)

\$

\$

Prepared By (Type Or Print)

STATE OF NORTH CAROLINA

File No.

IV-D Case No.

Case Type (Code)

IRFSA Case No.

County

In The General Court Of Justice
☐ District ☐ Superior Court Division

☐ Civil: Plaintiff

☐ Criminal: STATE

VERSUS

Defendant

WORKSHEET C CHILD SUPPORT OBLIGATION SPLIT CUSTODY

C.B. 60-13.4(c)

Children

Date Of Birth

Children

Date Of Birth

	Plaintiff	Defendant	Combined
1a. MONTHLY GROSS INCOME	\$	\$	
1b. Minus pre-existing child support payment	-	-	
1c. Minus responsibility for other children	-	-	
2. MONTHLY ADJUSTED GROSS INCOME	\$	\$	\$
3. PERCENTAGE SHARE OF INCOME (line 2 for each parent's income divided by Combined Income)	%	%	
4. BASIC CHILD SUPPORT OBLIGATION (apply line 2 Combined to Child Support Schedule, see AOC-A-182 Rev. 10/94)			\$
5a. SPLIT CUSTODY ADJUSTMENT (enter number of children living with each parent & total number of children)			
5b. Number of children with each parent divided by total number of children	%	%	
5c. Multiply line 4 times line 5b for each parent	\$	\$	
6a. PLAINTIFF'S SUPPORT FOR CHILDREN WITH DEFENDANT (Multiply defendant's line 5c times plaintiff's line 3)	\$		
6b. DEFENDANT'S SUPPORT FOR CHILDREN WITH PLAINTIFF (Multiply plaintiff's line 5c times defendant's line 3)		\$	
7a. Work-Related Child Care Costs Adjustments (expenses paid directly by each parent)	\$	\$	
7b. Health Insurance Premium Costs - Children's Portion	\$	\$	
7c. Extraordinary expenses	\$	\$	
7d. TOTAL ADJUSTMENTS (For each column add 7a, 7b, and 7c. Add two totals for combined amount.)	\$	\$	\$
8. EACH PARENT'S FAIR SHARE OF ADJUSTMENTS (line 7d combined times line 3 for each parent)	\$	\$	
9. ADJUSTMENTS PAID IN EXCESS OF FAIR SHARE (Line 7d minus line 8. If negative number, enter zero.)	\$	\$	
10. EACH PARENT'S ADJUSTED SUPPORT OBLIGATION (Line 6a or 6b minus line 9 for each parent)	\$	\$	
11. RECOMMENDED CHILD SUPPORT ORDER (subtract lesser amount from greater amount on line 10 and enter result under greater amount)	\$	\$	

Date

Prepared By (Type Or Print)

Comparison of PRIOR LAW and the PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (P.L. 104-193)

Note: This document does not include information about provisions added by "Making Omnibus Consolidated Appropriations for Fiscal Year 1997", Public Law 104-208, signed September 30, 1996. It reflects editorial changes made through October 31, 1996.

PROVISION	PRIOR LAW	P.L. 104 -193
Title I: Block Grants for Temporary Assistance for Needy Families		
AFDC, EA, and JOBS	AFDC provided income support to families with children deprived of parental support. JOBS was an employment and training program for AFDC recipients. Emergency Assistance (EA) provided short term emergency services and benefits to needy families. The federal government established eligibility criteria for AFDC and EA benefits and guidelines for the JOBS program. States determined benefit levels which were required to be applied uniformly to all families in similar circumstances.	The law block grants AFDC, Emergency Assistance (EA), and JOBS into a single capped entitlement to states -- Temporary Assistance to Needy Families (TANF). States are required to implement their block grants programs by 7/1/97. States have the option to submit plans immediately subsequent to the President's signing of the bill (8/22/96). After the Department of Health and Human Services reviews the plan for completeness, the state plan is retroactive to the date of receipt.
Funding	Open-ended funding was on a matching basis for AFDC benefits and administration and EA. JOBS was an entitlement requiring state match and was capped at \$1 billion in FY 1996.	The total cash assistance block grant is estimated to be \$16.4 billion for each year from FY 1996 to FY 2003. Each state receives a fixed amount -- based on historical expenditures for AFDC benefits and administration, EA, and JOBS -- equal to the greater of: (1) the average of federal payments for these programs in FYs 1992- 1994; (2) federal payments in FY 1994, plus additional EA funding for some states; or (3) estimated federal payments in FY 1995. States can carry over unused grant funds to subsequent fiscal years.

AFDC Entitlement	AFDC was an entitlement to states. Recipients of SSI and Foster Care payments were not eligible for AFDC. Eligible individuals were guaranteed aid at state-established benefit levels, although benefits could not fall below May 1988 levels. Certain individuals also received guaranteed child care benefits. States received federal matching dollars for expenditures, without a cap. Benefits were guaranteed to eligible individuals even in recessions and fiscal downturns.	No individual guarantee of benefits, but the state plan must have "objective criteria for delivery of benefits and determining eligibility" and provide an "explanation of how the state will provide opportunities for recipients who have been adversely affected to be heard in an appeal process."
Time Limits for Cash Assistance	Recipients remained eligible for benefits as long as they met program eligibility rules.	Families who have received federally-funded assistance for 5 cumulative years (or less at state option) would be ineligible for federally-funded cash aid. States are permitted to exempt up to 20% of the caseload from this time limit. Months spent living on Indian reservations with populations of at least 1,000 and unemployment rates of at least 50% do not count against the time limit. Block grant money transferred to Title XX can be used to provide non-cash assistance to families after the federal time limit. State funds that are used to count toward the maintenance of effort requirements may be used to provide assistance to families beyond the federal time limit.

Work Requirements	For FY 1994, 15% of non-exempt caseload was required to participate in JOBS activities for at least 20 hours per week. This increased to 20% in FY 1995. (There were no statutory single-parent standards after FY 1995). For FY 1994, 40% of two-parent families were required to participate in work activities for at least 16 hours per week. This was scheduled to increase to 75% by FY 1997. Matching rate on JOBS dollars could have been reduced for failing to meet general or AFDC-UP participation rates. Individuals were exempt from JOBS if they were: ill, incapacitated, or aged; had a child under age 3 (or 1 at state option); were under age 16 and in school full time; were in 2nd or 3rd trimester of pregnancy; were needed in the home to care for ill or incapacitated family member; were employed 30 hours or more per week; resided in an area where the program was not available; was a child under 16 attending school; or was providing care to a child under 6 and child care would not be guaranteed.	General Requirements: As part of their state plan, states must demonstrate that they will require families to work after two years on assistance. Work Rates: A state's required work participation rate for all families is set at 25% in FY 1997, rising to 50% by FY 2002 (states will be penalized for not meeting these rates). The rate for two-parent families increases to 90% by FY 1999. The law provides pro rata reduction in the participation rate for reductions in caseload levels below FY 1995 that are not due to eligibility or federal law changes. Work Hours: Single-parent recipients are required to participate 20 hours per week upon implementation of the law, increasing to at least 30 hours per week by FY 2000. Single parents with a child under age 6 are deemed to be meeting the work requirements if they work 20 hours per week. Two-parent families must work 35 hours per week. Exemptions: Single parents of children under age 6 who cannot find child care cannot be penalized for failure to meet work requirements. States can exempt from the work requirement single parents with children under age one and disregard these individuals in the calculation of participation rates for up to 12 months. Other: For two-parent families, the second spouse is required to participate 20 hours per week in work activities if they receive federally funded child care (and are not disabled or caring for a disabled child). Individuals who receive assistance for 2 months and are not working or exempt for the work requirements are required to participate in community service, with the hours and tasks to be determined by the state (states can opt- out of this provision).

Work Activities	States were required to provide basic and secondary education, ESL, job skills training, and job readiness. States were required to offer 2 of the following work activities: job search, on-the-job-training, work supplementation, or the community work experience program. Post-secondary education was optional. Two-parent families were required to participate in work activities.	To count toward the work requirement, single-parent families are required to participate at least 20 hours per week and two-parent families 30 hours per week in unsubsidized or subsidized employment, on-the-job training, work experience, community service, up to 12 months of vocational training, or provide child care services to individuals who are participating in community service. Up to 6 weeks of job search (no more than 4 consecutive weeks) counts toward the requirement, except that states with unemployment rates at least 50% above the national average may count up to 12 weeks of job search. Beyond 20 hours per week for single-parent families (or 30 hours per week for two-parent families), participation may also include job skills training related to employment, education directly related to employment (for someone without high school or Graduate Equivalency Degree [GED]), and secondary school or GED (for someone without high school or GED). Teen heads of household (up to age 19) in secondary school also count toward work requirement. However, no more than 20% of the caseload can count vocational training toward meeting the work requirement (including teen parents in secondary school). Individuals who had been sanctioned (for not more than 3 of 12 months) are not included in the denominator of the rate.

Supplemental Funds	For AFDC and EA, open-ended funds were available as needed. No provision for JOBS.	Establishes a \$2 billion contingency fund. For eligible states, state TANF spending in excess of FY 1994 levels of AFDC-related spending is matched to draw down contingency fund dollars. If a state draws down matching child care funds (for which it must exceed its FY 1994 level of child care spending), its child care spending under TANF would not be eligible for a contingency fund match and AFDC-related child care would be subtracted from the FY 1994 base. States can meet one of two triggers to access the contingency fund: 1) an unemployment rate for a 3-month period that was at least 6.5% and equal to 110% of the rate for the corresponding period in either of the two preceding calendar years; or 2) a trigger based on food stamps. Under the second trigger, a state is eligible for the contingency fund if its food stamp caseload increased by 10% over the FY 1994 or 1995 level (adjusted for the impact of the law's immigrant and food stamp provisions on the food stamp caseload). Payments from the fund for any fiscal year is limited to 20% of the state's base grant for that year. A state can draw down no more than 1/12 of its maximum annual contingency fund amount in a given month. The match rate for the contingency fund is the state's Medicaid match rate, times the number of months the state received contingency funds in a fiscal year, divided by 12. The law also includes: 1) an \$800 million grant fund for states with exceptionally high population growth, benefits lower than 35% of the national average, or above average growth and below average AFDC benefits (no state match); and 2) a \$1.7 billion loan fund.
Maintenance of Effort	States were required to match the federal dollars provided for AFDC, EA, and JOBS. There was no maintenance of effort requirement in AFDC and EA. For JOBS, states were required to spend no less than total state and local expenditures for FY 1986 for training, employment, and education programs whose purpose was preventing welfare dependency.	Each state is required to maintain 80% of FY 1994 state spending on AFDC and related programs, including JOBS, EA, and child care. For states who meet the work participation requirements, the maintenance of effort provision may be reduced to 75%. States must maintain 100% MOE for access to the contingency fund.

Transfers	No provision.	A state is permitted to transfer up to 30% of the cash assistance block grant to the child care block grant and/or the Title XX block grant. No more than one-third of transferred amounts can be transferred to Title XX, and all such funds transferred must be spent on children and their families whose income is less than 200% of the poverty line.
Persons Convicted of Drug-Related Crimes	No provision.	Individuals who after the date of enactment are convicted of drug-related felonies are prohibited for life from receiving benefits under the TANF and Food Stamps programs. States may opt out of this provision or limit the length of the sanction. Federal benefits specifically exempted: emergency medical services; short-term, noncash disaster; public health for immunizations and communicable diseases; prenatal care; job training programs; and drug treatment programs.

Penalties	Penalties could have been imposed for JOBS and Quality Control. If a state failed to achieve general and two- parent participation rates, the federal matching rate for JOBS spending (which generally ranged from 60% to 79% among states) was to be reduced to 50%. In addition, states faced a reduced federal match unless 55% of JOBS funds were spent on long-term recipients, those under age 24 with no high school diploma, or those who were within two years of becoming ineligible for aid because of the age of their child. A state could also have been penalized if its payment error rate (based on Quality Control) exceeded national standards.	The following penalties can be imposed on states: (1) for failure to meet the work participation rate, a penalty of 5% of the state's block grant in the first year increasing by 2 percentage points per year for each consecutive failure (with a cap of 21%); (2) a 4% reduction for failure to submit required reports; (3) up to a 2% reduction for failure to participate in the Income and Eligibility Verification System; (4) for the misuse of funds, the amount of funds misused (if the Secretary of HHS was able to prove that the misuse was intentional, an additional penalty equal to 5% of the block grant will be imposed); (5) up to a 5% penalty for failure, by the agency administering the cash assistance program, to impose penalties requested by the child support enforcement agency; (6) escalating penalties of 1% to 5% of block grant payments for poor performance with respect to child support enforcement, (7) a 5% penalty for failing to comply with the 5- year limit on federally-funded assistance; (8) a 5% penalty for failing to maintain assistance to a parent who cannot obtain child care for a child under age 6; and (9) penalties for failure to meet conditions for loan and contingency funds received. States that are penalized must expend additional state funds to replace federal grant penalty reductions.
Individual Responsibility Plans	An employability plan was required in JOBS.	States are required to make an initial assessment of recipients' skills. At state option, Individual Responsibility Plans can be required.

Teen Parent Provisions	AFDC benefits were available to each eligible dependent child and parent, regardless of whether the mother was under age 18. States were given the option to require minor parents to reside in their parents' household, with a legal guardian, or in another supervised living arrangement, with certain exceptions. Teens who were not in school were required to participate in educational activities. No provision to locate adult-supervised homes.	Unmarried minor parents are required to live with an adult or in an adult-supervised setting and participate in educational and training activities in order to receive assistance. States are responsible for locating or assisting in locating adult-supervised setting for teens. The Secretary of HHS is required to establish and implement a strategy to: (1) prevent non-marital teen pregnancies; and (2) assure that at least 25% of communities have teen pregnancy prevention programs. The Department will report to Congress annually on progress in these areas. No later than January 1, 1997, the Attorney General shall establish and implement a program that provides research, education, and training on the prevention and prosecution of statutory rape.
Performance Bonus to Reward Work	No provision.	The Secretary of HHS, in consultation with NGA and APWA, is required to develop a formula measuring state performance relative to block grant goals. States will receive a bonus based on their score on the measure(s) in the previous year, but the bonus can not exceed 5% of the family assistance grant. \$200 million per year is available for performance bonuses (in addition to the block grant), for a total of \$1 billion between FYs 1999 and 2003.
Family Cap	Families on welfare received additional AFDC benefits whenever they had another child.	No provision, so state option.
Illegitimacy Bonus	No provision for Illegitimacy Bonus, however states were required to provide family planning services (to prevent/reduce the incidence of births out of wedlock) to any AFDC recipient who requested the services. The law required a reduction of 1% in AFDC matching funds if a state failed to offer and provide family planning.	The law establishes a bonus for states who demonstrate that the number of out-of wedlock births and abortions that occurred in the state in the most recent two-year period decreased compared to the number of such births in the previous period. The top five states will receive a bonus of up to \$20 million each. If less than five states qualify, the grant will be up to \$25 million each. Bonuses are authorized in FYs 1999-2002.

Waivers	The Secretary of HHS had the authority under Section 1115 of the Social Security Act to waive specified provisions of the Act in the case of demonstration projects that were likely to promote the objectives of the Act. Such demonstration projects were required to be cost-neutral to the federal government and rigorously evaluated.	Under the new law, states which receive approval for welfare reform waivers before July 1, 1997 have the option to operate their cash assistance program under some or all of these waivers. For states electing this option, provisions of the new law which are inconsistent with the waivers will not take effect until the expiration of the applicable waivers in the geographical areas covered by the waivers.
Medicaid Guarantee	These policies remain in effect in P.L. 104-193. Federal Medicaid law mandates that state Medicaid programs cover specified categories of individuals, including members of families receiving AFDC; other low-income families, children and pregnant women; low-income Medicare beneficiaries; and, in general, recipients of SSI. Federal law also specifies numerous groups whom states could, at their option, have made eligible for Medicaid. These groups include those whose medical costs impoverish them ("medically needy"), as well as persons who are in nursing facilities or other institutions, or who required institutional care if they are not receiving care in the community.	Regardless of a state's TANF eligibility requirements, for purposes of Medicaid eligibility the new law requires states to provide medical assistance to individuals based on AFDC income and resource eligibility requirements they had in place on 7/16/96; however, states may terminate Medicaid eligibility for adults who are terminated from TANF for failure to work. (The new law does not change other Medicaid eligibility categories). States have the option of using more liberal income and resource standards or methodologies for Medicaid eligibility. States are not permitted to reduce income standards below those in place in 5/1/88. States are not permitted to increase the income standard above that of 7/16/96 by more than the percentage increase in the consumer price index for all urban consumers over the same period.
Transitional Medicaid	These policies remain in effect in P.L. 104-193. AFDC recipients are entitled to one year of transitional Medicaid when they lose welfare due to increased earnings from work. This provision sunsets 9/30/98. Families who lose welfare due to collection of child or spousal support are entitled to 4 months of transitional Medicaid.	Families losing Medicaid benefits due to increased earnings from work, child support, or spousal support will receive transitional Medicaid benefits as under prior law. The sunset has been extended to 9/30/01.

Reductions in Federal Government	No provision.	The Secretary of HHS is required to reduce the number of positions at HHS related to the conversion of AFDC, JOBS, and EA into the TANF block grant by 75% or by 245 full-time equivalent program positions and 60 managerial positions.
Title II: Supplemental Security Income		

SSI for Children	Children with disabilities who did not meet or equal the Listing of Medical Impairments were determined to be disabled (thereby eligible for cash benefits if all other criteria were satisfied) if they suffered from any medically determinable physical or mental impairment of comparable severity to an adult. Comparable severity was found if the child was not functioning at an age appropriate level as measured by the Individual Functional Assessment (IFA) and evaluated by SSA.	Provides a new definition of disability for children. Under this new definition, a child will be considered to be disabled if he or she has a medically determinable physical or mental impairment which results in marked and severe functional limitations, which can be expected to result in death or which has lasted or can be expected to last for at least 12 months. In addition, this law instructs SSA to remove references to maladaptive behavior as a medical criteria in its listing of impairments used for evaluating mental disabilities in children. All of these provisions will apply to new claims filed on or after enactment and to all claims that have not been finally adjudicated (including cases pending in the courts) prior to enactment. SSA is also required to redetermine the cases of children currently receiving SSI to determine whether they meet the new definition of disability. Redeterminations of current recipients must be completed during the year following the enactment. The earliest that a child currently receiving SSI can lose benefits is July 1, 1997. If the redetermination is made after that date, then benefits will end the month following the month in which the redetermination is made. SSA is required to notify all children potentially affected by the change in the definition by January 1, 1997. An additional \$150 million for FY 1997, and \$100 million for FY 1998 is authorized for continuing disability reviews and redeterminations. For privately insured, institutionalized children, cash benefits will be limited to \$30 per month. The law requires that large retroactive SSI payments due to child recipients be deposited into dedicated savings accounts, to be used only for certain specified needs appropriate to the child's condition. The law provides that large retroactive benefit amounts will be paid in installments (applies to children and adults).

SSI Continuing Disability Reviews (CDRs)	Required the Social Security Administration (SSA) to conduct CDRs on at least 100,00 SSI cases (including both adults and children) in each of FYs 1996-1998.	Requires CDRs once every 3 years for recipients under age 18 with non-permanent impairments and not later than 12 months after birth for low-birth weight babies. Requires that the representative payee of a recipient whose continuing eligibility is being reviewed to present evidence, at the time of the review, that the recipient is receiving medical treatment, unless the Commissioner of SSA determines that such treatment would be inappropriate or unnecessary. The Commissioner may change the payee if he/she refuses to cooperate. Applies to benefits for months beginning on or after enactment.
SSI Redetermination Upon Attainment of Age 18	Required redeterminations, using the adult initial eligibility criteria, of the eligibility of one-third of the recipients who attain age 18 in or after May 1995 in each of the FYs 1996 through 1998. Required SSA to submit a report regarding these reviews to Congress not later than 10/1/98.	Requires eligibility determinations, using adult initial eligibility criteria during the one-year period beginning on a recipients' 18th birthday. No provision for reports to Congress regarding these reviews.
Title III: Child Support		

Child Support	The state was required to establish paternity and establish and enforce child support orders for AFDC, Medicaid, IV-E recipients, and for all others upon request. States were required to disregard the first \$50 a month in child support payments collected by the state and pass that amount through to the family.	States must operate a child support enforcement program meeting federal requirements in order to be eligible for the Family Assistance Program. Recipients must assign rights to child support and cooperate with paternity establishment efforts. Distribution rules are changed so that families no longer on assistance have priority in receipt of child support arrears. Current law \$50 pass-through is not required. Individuals who fail to cooperate with paternity establishment will have their monthly cash assistance reduced by at least 25%. Streamlines the process for establishing paternity and expands the in-hospital voluntary paternity establishment program. The law requires states to establish central registries of child support orders and centralized collection and disbursement units. Requires states to have expedited procedures for child support enforcement. Establishes a Federal Case Registry and National Directory of New Hires to track delinquent parents across states lines. Requires that employers report all new hires to state agencies and new hire information to be transmitted to the National Directory of New Hires. Expands and streamlines procedures for direct withholding of child support from wages. Provides for uniform rules, procedures, and forms for interstate cases. Requires states to have numerous new enforcement techniques, including the revoking of drivers and professional licenses for delinquent obligors, expanding wage garnishment, and allowing states to seize assets. Provides grants to states for access and visitation programs.

**Title IV:
Restricting
Welfare and
Public Benefits for
Aliens**

Immigrants	Legal immigrants were eligible for SSI benefits (subject to deeming); illegal immigrants were not eligible. Legal immigrants were eligible for AFDC, Medicaid, Food Stamp, and Social Services benefits (subject to deeming in AFDC and Food Stamps); illegal immigrants were not eligible, except for emergency Medicaid services. The Social Services block grant did not take immigration status into account. A portion of a sponsor's income and resources was "deemed" available to a sponsored immigrant for 3 years under AFDC, Food Stamps, and SSI (although deeming was temporarily extended 3 to 5 years in SSI (from 1/1/94 to 10/1/96). Some immigrants were required to satisfy State Department or INS that they were not likely to become a public charge. Courts ruled affidavits of support (which were used by AFDC, SSI, and Food Stamps to determine when sponsor deeming was applied) to be morally, rather than legally, binding.	Most legal immigrants (both current and future, and including current recipients) will be ineligible for SSI until citizenship. Exemptions are made for refugees and persons whose deportation has been withheld under section 243(h) of the INA for first 5 years in country; asylees until 5 years after granting of asylee status; Active Armed Forces personnel, veterans, and their spouses and dependent children; and people with 40 quarters of work). Eliminates eligibility of legal immigrants for SSI and Food Stamps immediately at the time of recertification (no later than one year after enactment). Medicaid, TANF block grants, Title XX Social Services, State-funded Assistance: States have the option to make most current legal immigrants already in the U.S. ineligible for Medicaid, TANF, Title XX Social Services, and state-funded assistance until citizenship (with same refugee/asylees and other exemptions as described above). Current recipients are eligible to continue receiving benefits until January 1, 1997. Future immigrants (entering on or after enactment) will be ineligible for 5 years for certain federal means-tested programs, including Medicaid, with same refugee/asylee and other exemptions as described above. All applicants for most federal, state and local programs would be subject to new verification requirements (with certain exceptions) to determine if they are qualified and eligible for benefits. Not later than 18 months after enactment, the Attorney General in consultation with the Secretary of Health and Human Services, shall issue regulations on programs requiring verification. States that administer a program that provides a federal public benefit have 24 months after such regulations are issued to implement a verification system that complies with the regulations.

Immigrants, continued	States were generally determined to be constitutionally prohibited from denying benefits to legal immigrants, due primarily to the equal protection clauses of the 14th Amendment to the Constitution. Illegal immigrants were ineligible for major means-tested entitlement benefits (except emergency Medicaid). Immigration status was required to be verified. Eligibility criteria for most discretionary-funded programs (e.g., Head Start, public health clinics) did not take into consideration immigration status. Health and welfare workers were generally prohibited from reporting illegal immigrants to law enforcement agencies.	Future sponsors/immigrants will be required to sign new, legally binding affidavits of support (which are to be promulgated by the Attorney General 90 days after enactment). For these future immigrants, the law extends deeming to citizenship or 40 work quarters; changes deeming to count 100% of a sponsor's income and resources; and expands the number of programs that are required to deem, including Medicaid (except emergency Medicaid). These rules are effective immediately with regard to programs that currently deem, and effective 180 days after enactment for programs that do not currently deem. People exempted from 5-year ban on future immigrants and deeming: Refugees/asylees, veterans, and Cuban/Haitian entrants receiving refugee/entrant assistance.
Title V: Child Protection		

Child Protection and Adoption	States received entitlement funds under several programs for a variety of purposes. Most funds were reimbursements to states for a portion of their costs incurred in maintaining eligible children in foster care or assisted adoptions, as well as related administrative and child placement services. States also received funds from formula grants for the provision of child welfare services, family preservation and support services, independent living services, and child abuse prevention and treatment services. Some of these programs were capped entitlements while others were appropriated funds. Several demonstration authorities were aimed at providing funds for innovative programs through which new knowledge may be developed. The states were required to have in place approved plans with regard to funds provided under IV-B (Child Welfare Services and Family Preservation and Support Services), and IV-E (Foster Care and Adoption Assistance). Eligibility for CAPTA state grant program was tied principally to the existence of laws and procedures regarding child abuse and neglect reports and investigations. States were required to comply with a series of protections designed to assure children were not removed from their parents unnecessarily and that efforts were made to assure that children in the state's care were quickly placed in a permanent home, either through reunification or adoption. Every child was required to have a case plan, the child's status to be reviewed periodically, and reasonable efforts must have been made to reunify the family.	Child Protection Block grant provisions have been dropped. Current provisions are: (1) authority for states to make foster care maintenance payments using IV-E funds on behalf of children in for-profit child care institutions; (2) extension of the enhanced federal match for statewide automated child welfare information systems through 1997; (3) appropriation of \$6 million per year in each of FYs 1996-2002 for a national random sample study of abused and neglected children or children at risk of abuse and neglect; and (4) a requirement that states consider giving preference for kinship placements, provided that the relative meets state standards for child protection.
Title VI: Child Care		

Child Care	There are two child care funding types: • Title IV-A welfare-related child care entitlement -- AFDC/JOBS, Transitional (TCC), and At-Risk Child Care. • Discretionary Child Care and Development Block Grant (CCDBG). Open-ended entitlement funding for AFDC & TCC in FY 1995 equaled approximately \$893 million. At-Risk was capped at \$300 million per year. \$935 million was authorized in FY 1995 for CCDBG. Child care was guaranteed for working AFDC recipients, those participating in JOBS or state- approved training or education programs, as well as for up to one year during transition off welfare due to employment. Provided good cause exception from participation in JOBS to parents who did not have child care.	There is a separate allocation specifically for child care. The law authorizes \$13.9 billion in mandatory funding for FYs 1997-2002. States receive approximately \$1.2 billion of the mandatory funds each year. The remainder is available subject to state match (at the 1995 Medicaid rate). Also, states must maintain 100% of FY 1994 or FY 1995 child care expenditures (whichever is greater) to draw down the matching funds. Also authorizes \$7 billion in discretionary funding for FYs 1996- 2002. The law provides no child care guarantee, but single parents with children under 6 who cannot find child care may not be penalized for failure to engage in work activities.
Child Care -- Health and Safety/Quality and Supply	Child care providers receiving federal child care subsidy were required to meet health and safety standards set by the states. Under CCDBG, states were required to protect health and safety of children in child care by setting standards in three areas: 1) building and physical premises safety; 2) control of infectious disease; 3) health and safety training for providers. Required states to use 25% of CCDBG funds to improve the quality of child care and to increase the availability of early childhood development and before- and after-school programs. Appropriate quality expenses included: 1) resource and referral; 2) grants or loans to assist in meeting state standards; 3) monitoring of compliance with licensing and regulatory requirements; 4) training; and 5) compensation.	Extends current law requirement that all states establish health and safety standards for prevention and control of infectious diseases, including immunizations, building and physical premises safety, and minimum health and safety training. Extends health and safety protections to all federally funded child care (including mandatory funding). Requires states to use not less than 4% of total federal (mandatory and discretionary) child care funds to provide consumer education to parents and the public, to increase parental choice, and to improve the quality and availability of child care (such as resource and referral services).
Title VII: Child Nutrition Programs		

Child Nutrition	Eligibility criteria did not take into account immigration/citizenship status. Prior law rates were \$2.235 for each lunch/supper, \$1.245 for each breakfast, and \$.5875 for each snack. Rates were rounded to the nearest quarter cent. All meals served in family or group day care homes received the same reimbursement rates of \$1.625 for each lunch/supper, \$.8875 for each breakfast, and \$.485 for each snack. Reimbursement rates for full price meals rounded down to the nearest quarter cent.	The law makes individuals who are eligible for free public education benefits under state or local law also eligible for school meal benefits under the National School Lunch Act and the Child Nutrition Act of 1966, regardless of citizenship or immigrant status. States have the option to determine whether to provide WIC and other child nutrition benefits to illegal aliens and certain other noncitizens. Effective for the summer of 1997, reduces maximum reimbursement rates for institutions participating in the Summer Food Service Program to \$1.97 for each lunch/supper, \$1.13 for each breakfast, and 46 cents for each snack/supplement. Rates are adjusted each January and rounded to the nearest lower cent. Restructures reimbursements for family or group day care homes under the Child Care Food Program to better target benefits to homes serving low-income children and reduces reimbursement rates for higher income children to 95 cents for lunches/suppers, 27 cents for breakfasts, and 13 cents for supplements. Rounds down to the nearest cent when indexed the reimbursement rates for full price meals in the school breakfast and school lunch programs and in child care centers. Eliminates School Breakfast start-up and expansion grants. Makes funding for the Nutrition Education and Training (NET) Program discretionary.
Title VIII: Food Stamps and Commodity Distribution		

Food Stamps	Six categories of legal aliens were allowed to receive food stamp benefits if they met eligibility criteria. The income and resources of an alien's sponsor and the sponsor's spouse, less a pro-rated share for the sponsor and spouse, were attributed to aliens for 3 years. Maximum benefit levels were based on 103% of the cost of the Thrifty Food Plan and were indexed annually. The Shelter deduction cap was \$247; it would have increased October 1, 1996 and each October 1 thereafter. The standard deduction was \$134; it would have increased October 1, 1996 and each October 1 thereafter. All governmental energy assistance was excluded as income. Earnings of elementary and high school students under 22 were excluded as income. Individuals under 22 who lived with their parents could be certified as separate households if they also lived with their spouses and/or children.	Most legal immigrants (both current and future, and including current recipients) will be ineligible for Food Stamps until citizenship (exemptions for: refugees/asylees, but only for the first five years in the U.S.; veterans; and people with 40 quarters of work). Eliminates eligibility of legal immigrants at the time of redetermination. (Implementation of this provision was delayed until April 1, 1997 by the subsequently passed immigration provisions in the 1997 appropriations law.) Redeterminations must take place by August 22, 1997. Future immigrants entering after enactment will be ineligible for five years (same exemptions as noted earlier). For sponsors/immigrants signing new legally binding affidavits of support: extends deeming until citizenship and changes deeming to count 100% of sponsor's income and resources. Reduces maximum benefit levels to the cost of the Thrifty Food Plan and maintains indexing. Retains the cap on the excess shelter deduction and sets it at \$247 through 12/31/96; \$250 from 1/1/97 through 9/30/98; \$275 for FYs 1999 and 2000; and \$300 from FY 2001 and thereafter. Freezes the standard deduction at the FY 1995 level of \$134 for the 48 states and DC, and makes similar reductions for other areas. Includes as income for the Food Stamp Program energy assistance provided by state and local government entities. Lowers the age for excluding from income the earnings of elementary and secondary students to those who are 17 and under. Requires individuals 21 and under living with a parent to be part of the parent's household.
Food Stamps, continued	Able-bodied adults between 16 and 60 were expected to register for and accept jobs or participate in the Employment and Training Program unless they were already working, subject to the requirements of other work programs, students, or responsible for dependents	Establishes a new work requirement under which non-exempt 18-50 year olds without dependent children or not responsible for dependent children will be ineligible to continue to receive food stamps after 3 months in 36 unless they are working or participating in a

under six or incapacitated people.

Disqualified recipients for 6 months for first intentional violations; 1 year for second violations or first drug violations; and permanently for third violations, second drug violations, or first violations involving firearms. States were required to collect claims resulting from overissuances to households but could not require households whose claims were due to state errors to repay claims through allotment reductions; states could retain 50% of amounts recovered from fraud claims and 25% of nonfraud recoveries.

USDA had limited tools for insuring that only qualified stores were authorized to accept and redeem food stamps, monitoring their participation, and deterring violations.

No prior law counterpart.

No prior law counterpart.

workfare, work, or employment and training program. Individuals may qualify for three additional months in the same 36-month period if they have worked or participated in a work or workfare program for 30 days and lose that placement. Permits states with waiver requests denied by August 1, 1996 to lower the age at which a child exempts a parent/caretaker from food stamp work rules from 6 years to 1 year old for up to 3 years.

Program Integrity and Additional Retailer Management Controls: Doubles recipient penalties for fraud violations to one year for first offense and two years for second offense; permanently disqualifies individuals convicted of trafficking in food stamp benefits of \$500 or more; disqualifies for 10 years those convicted of fraudulently receiving multiple benefits; mandates that states collect claims by various means including the Federal Tax Refund Offset Program (FTROP); allows retention of 35% of collections for fraud claims and 20% for other client error claims; and allows allotment reductions for claims arising from state agency errors.

The law also requires a waiting period for retailers denied approval; permits disqualification of retailers disqualified under WIC; expands criminal forfeiture; disqualifies up to permanently retailers who intentionally submit falsified applications; and improves USDA's ability to monitor authorized stores.

Gives states the option to require cooperation with Child Support Enforcement agencies for custodial and non-custodial parents. Permits states to disqualify non-custodial parents with child support orders who are not paying support.

Work Supplementation: Permits use of food stamp benefits to subsidize jobs for Title IV-A food stamp recipients.

Food Stamps, continued	The Food Stamp Act contained many prescriptive requirements related to states' administration of the FSP, particularly in the areas of client services, but also related to verification methods and training of states' employees. Demonstration project waiver authority prohibited approving project that would lower or further restrict FSP income or resource standards or benefit levels. A few demonstration projects cashed out food stamp benefits to specific populations (SSI, elderly) to provided benefits in the form of wages, or provided cash benefits as part of welfare reform. The Fair Market Value of most licensed vehicles was counted toward households' resource limit to the extent that the value exceeded \$4600. This amount would have increased to \$5000 October 1, 1996 and was indexed thereafter. USDA has been moving expeditiously to implement electronic benefit issuance.	Simplifies program administration by expanding states' flexibility. Allows states to submit standard cost allowances to use in calculating self-employment income; deletes detailed federal requirements over application form; deletes detailed federal customer service requirements over areas such as toll-free telephone numbers; extends expedited service processing period to seven days and eliminates requirement to provide expedited service to homeless persons; makes use of the income and eligibility verification system (IEVS) and the immigration status verification system (SAVE) optional; permits states to determine their own training needs; and authorizes the Simplified Food Stamp Program, through which states can employ a single set of rules for their state cash assistance programs and the Food Stamp Program. Expands Food Stamp waiver authority to permit projects that reduce, within set parameters, benefits to families. New demonstration projects testing cash-out of benefits are prohibited under the new waiver authority. Sets and freezes the Fair Market Value for the vehicle allowance at \$4650. Requires EBT implementation by all states by October 1, 2002, unless waived by USDA. Exempts Food Stamp EBT from the requirements of Regulation E. Consolidates the Emergency Food Assistance Program and the Soup Kitchen/Food Bank Program; provides for \$100 million in mandatory spending in the Food Stamp Act to purchase commodities. Provides for state option to restrict benefits to illegal aliens.
Title IX: Miscellaneous		

Title XX -- Social Services Block Grant

Title XX social services block grant program provided assistance to states to enable them to furnish services directed at: 1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency; 2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency; preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving rehabilitating or reuniting families; 4) preventing or reducing inappropriate institutional care by providing for community- based care, home-based care, or other forms of less intensive care; and 5) securing referral or admission for institutional care when other forms of care were not appropriate, or providing services to individuals in institutions. Funding for the Social Services Block Grant was capped at \$2.8 billion a year. Funds were allocated among states according to the state's share of its total population.

Annual funding for the Social Services Block Grant is \$2.38 billion in FYs 1996-2002, and \$2.8 billion in FY 2003 and each succeeding fiscal year. Non-cash vouchers for families that become ineligible for cash assistance under family caps or Title IV-A time limits are authorized as an allowable use of Title XX funds.

Drug Testing

No provision.

Nothing in federal law prohibits states from performing drug tests on recipients or from sanctioning recipients who test positive for controlled substances.

Abstinence Education

No provision.

Starting in FY 1998, \$50 million a year in mandatory funds will be added to the appropriations of the Maternal and Child Health (MCH) Block Grant. The funds will be allocated to states using the same formula used for Title V MCH block grant funds. Funds will enable states to provide abstinence education with the option of targeting the funds to high risk groups (i.e. groups most likely to bear children out-of-wedlock). Education activities are explicitly defined.

Note: This document does not include information about provisions added by "Making Omnibus Consolidated Appropriations for Fiscal Year 1997", Public Law 104-208, signed September 30, 1996. It reflects editorial changes made through October 31, 1996.

MINUTES

HOUSE COMMITTEE ON WELFARE REFORM MARCH 20, 1997

The House Committee on Welfare Reform met at 12 noon on March 20, 1997 in Room 1327 in the Legislative Building. Representative Theresa Esposito presided in the absence of Chairman Cherie Berry. The Following members were present: Representatives Alexander, Boyd-McIntyre, Capps, Clary, Creech, Earle, Gardner, Hill, Howard, Hunter, Jeffus, Mitchell, Moore, Morris, Nye, Redwine, Starnes, C. Wilson and G. Wilson. Staff Counsel, Carolyn Johnson, was present to assist the Committee. Visitor registration sheet is attached and made part of the minutes.

Representative Esposito introduced the page and staff serving the committee, as well as eight visiting Social Work students from Campbell College. She then called for the first item on the agenda, House Bill 363 - AMEND UIFSA.

Representative Gardner, the bill sponsor, was recognized to explain HB 363. She put forth a proposed committee substitute and Representative Capps moved that the proposed committee substitute for HB 363 be adopted for committee consideration. The motion passed. The proposed committee substitute for HB 363 provides that the Department Of Human Resources shall not elect any child support distribution option for families on public assistance for which the federal government does not provide funding for the State to exercise the option. Committee counsel, Carolyn Johnson, prepared a synopsis of the bill which is attached and made part of the minutes.

Representative Starnes moved that the committee give a favorable report to the committee substitute, unfavorable as to the original and recommend that the bill be referred to the Committee on Finance. The motion passed.

Representative Esposito then called for the next item on the agenda, HB 431 - PUBLIC ASSISTANCE FRAUD/AB. Representative Howard, bill sponsor, was recognized to explain the bill. She had prepared a committee substitute and offered it for consideration. Representative Hunter made a motion that the committee substitute be adopted for committee consideration. The motion passed. Representative Howard explained that this was simply a "tool" bill. It provided three tools for local departments of social services or the Department of Human Resources to recoup fraudulent or erroneous payment of public assistance program payments through wage garnishment, administrative subpoenas and creating a criminal offense for the illegal possession of food stamps. This bill is recommended by the Fraud and Abuse Work Group of the Human Resources Task Force. Committee Counsel, Carolyn Johnson, prepared a synopsis which is attached and made part of the minutes.

Representative Starnes questioned the language on page 4, lines 11-12, as to whether it would strengthen the bill to strike these lines? Committee Counsel felt that the language was more a procedural safeguard and protection for local departments. Counsel's opinion was that it was better to offer assistance and collect overpayment later if fraud was determined. Representative Capps expressed that he was still uncomfortable with this sentence and that it created a loophole.

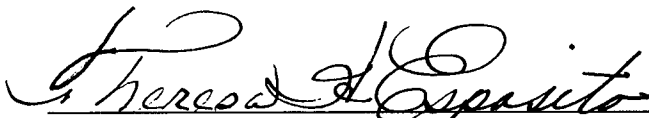
Representative Moore stated that it might be beneficial to put this in place for new participants in the system. Representative Howard said she would be amenable if the committee was more comfortable with an amendment to read "on initial application."

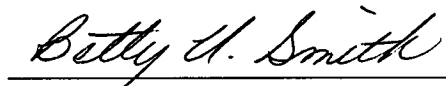
Representative Redwine questioned the 20% garnishment. Mr. Ben Watts from the Department of Human Resources was recognized from the floor to respond to this question. He stated that the bill reads "up to 20%" and thus is consistent with the Federal Rules. He further stated that you do not want to garnish an amount that will throw someone back into the program. The department is comfortable with the figure of 20%. Representative Howard also reiterated that 20% is consistent with other programs of garnishment and is the standard that is used for recapture. This was looked at in depth by the Task Force.

Representative Starnes moved to adopt an amendment that would amend the bill on page 4, lines 11 and 12 by rewriting those lines to read: "(C) The refusal of a third party to cooperate shall not affect the eligibility of an initial application to receive public assistance." The amendment was adopted.

Representative Connie Wilson moved that the committee give a favorable report to the committee substitute, as amended and that it be rolled into the committee substitute, and an unfavorable report to the original bill. Motion carried.

The meeting was adjourned at 1pm.


Representative Theresa Esposito (Acting Chairman)


Betty U. Smith, Committee Clerk

Attachments:
Visitor Registration Sheet
Synopsis of HB 363 and HB 431
Committee Report

HOUSE COMMITTEE ON WELFARE REFORM

March 20, 1997

Room 1327 LB

12 Noon

OPENING REMARKS

Representative Cherie K. Berry, Chairman

BILLS TO BE CONSIDERED

HB 431 Public Assistance Fraud/AB.

Sponsor: Rep. Howard

HB 363 Amend UIFSA

Spnosor: Rep. Gardner

ADJOURNMENT

VISITOR REGISTRATION SHEET

WELFARE REFORM

March 20

, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
<i>ERAN ROSEN</i>	<i>NCRMF</i>
<i>Don M^cCorquodale</i>	<i>NCRMF</i>
<i>Mike Hum</i>	<i>PAZ</i>
<i>Benny Scharon</i>	<i>WIPFLA</i>
<i>Larry Heckner</i>	<i>Household Financial Group</i>
<i>Errol R. Robbins</i>	<i>Dept of Justice</i>
<i>Glenda Little</i>	<i>Child Support Enforcement</i>
<i>Patricia Rosner</i>	<i>DAACC</i>
<i>Paula A. Wolf</i>	<i>Covenant with NC's Children</i>
<i>Julie Rehder</i>	<i>NC Child Advocacy Institute</i>
<i>Nancy Bradley</i>	<i>NCCBS</i>
<i>Ben Watts</i>	<i>NC Division of Social Services</i>
<i>Lya Aycock</i>	<i>DHR-DSS</i>
<i>James Kaname</i>	<i>DSS</i>
<i>J. B. McCants</i>	<i>Admin. Office of Courts</i>
<i>Melissa Quiter</i>	<i>Campbell University, BSW Student</i>
<i>James Ben</i>	<i>United Transportation Union</i>
<i>Bess Dean</i>	<i>Campbell University - Social Work Student</i>
<i>Lynette King</i>	<i>Campbell University - BSW Student</i>
<i>Elizabeth Hill</i>	<i>NASW-NC</i>
<i>Myra Hall</i>	<i>NASW-NC</i>
<i>Tamara Comeau</i>	<i>Campbell University - BSW Student</i>
<i>Patricia C. Zealand</i>	<i>Campbell Univ. - BSW Student</i>
<i>David F. Huth</i>	<i>Campbell Univ - BSW Student</i>
<i>John Stobbs</i>	<i>Campbell Univ - BSW Student</i>
<i>Ann Loney</i>	<i>Campbell Univ - BSW Student</i>
<i>Roslyn Smith</i>	<i> lobbyist</i>

Kevin FitzGerald

Angie McWilliam

Soreen Schmidt

Patricia A. Yancey

Diana Summers

DHR-DSS

DHR

NCJCDC

APPCMC/SCSL

NC Egent



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March 20, 1997

To: House Welfare Reform Committee

From: Carolyn D. Johnson, Committee Counsel

Re: House Bill 363 - Child Support Options/Fees
Proposed Committee Substitute

The proposed committee substitute for House Bill 363 provides that the Department of Human Resources shall not elect any child support distribution option for families on public assistance for which the federal government does not provide funding for the State to exercise the option. (Section 1)

The bill also increases the fee charged for child support enforcement services provided to non-public assistance families. The fee currently is \$10, and pursuant to the amendment the fee would become \$25. (Section 2)

Section 1 of the bill becomes effective 30 days after the act becomes law. Section 2 of the bill becomes effective July 1, 1997.





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March 19, 1997

To: House Welfare Reform Committee

From: Carolyn D. Johnson, Committee Counsel

Re: House Bill 431 - Public Assistance Fraud

House Bill 431 provides authority to local departments of social services or the Department of Human Resources to: (1) recoup fraudulent or erroneous payment public assistance program payments through wage garnishment, and (2) issue administrative subpoenas for the purpose of investigating fraudulent or erroneous applications for or receipt of public assistance. The bill also creates a criminal offense for the illegal possession or use of food stamps.

Section 1 creates two new sections in Part 1 of Article 2 of Chapter 108A. G.S. 108A-25.1 provides that up to 20% of the disposable income of a recipient or former recipient of public assistance may be subject to wage garnishment to recoup fraudulent or erroneous program payments. The district court in the county where the recipient or former recipient resides or is found, or in the county where the payment is made, may order garnishment upon a hearing. Any order of garnishment must also comply with all applicable federal and State laws or regulations. The Social Services Commission is directed to adopt rules and regulations to implement the section.

G.S. 108A-25.2 provides for the issuance of administrative subpoenas to third parties to investigate fraudulent or erroneous applications for or receipt of public assistance. This power shall be available to local departments of social services and the Department of Human Resources when all other reasonable means of investigation have been exhausted. On the local level, the power may be exercised by the Director of Social Services or the Director's designee. On the State level, the power may be exercised by the Secretary of Human Resources or the Secretary's designee. The failure of a third party to cooperate with a subpoena shall not affect a person's eligibility to receive public assistance. The Social Services Commission is directed to adopt rules and regulations to implement the section.

Section 2 of the bill establishes an offense for illegal possession or use of food stamps. G.S. 108A.53.1 provides that any person who knowingly uses, transfers acquires, alters or



possesses food stamp coupons, authorization cards or access devices in any manner contrary to that authorized by the Food Stamp Program shall be guilty of a Class 1 misdemeanor if the value is less than \$100; guilty of a Class I felony if the value is equal to \$100, but less than \$1,000; and guilty of a Class H felony if the value equals or exceeds \$1,000.

The bill becomes effective December 1, 1997.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 431

DATE 3/20/97

S. B. No. _____

Amendment No. 1

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Starnes
Sen.) _____

1 moves to amend the bill on page 4, line 5 11 and 12

2 () WHICH CHANGES THE TITLE

3 by rewriting those lines to read:

4 "(c) The refusal of a third party to
5 cooperate shall not affect the eligibility
6 of an initial application to receive
7 public assistance."

8 _____

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SIGNED E.V. Starnes

ADOPTED ☒ FAILED ☐ TABLED ☐

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Cherie K. Berry** for the Committee on **WELFARE REFORM.**

☐ Committee Substitute for

H.B. 363 A BILL TO BE ENTITLED AN ACT TO AMEND THE UNIFORM INTERSTATE FAMILY SUPPORT ACT AS APPROVED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS AND AS REQUIRED BY THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
☐ Appropriations ☐ Finance ☐
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐
- ☒ With a favorable report as to committee substitute bill, ☒ which changes the title, unfavorable as to original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Finance.)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ And having received a unanimous vote in committee, is placed on the Consent Calendar.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Cherie Berry** for the Committee on **WELFARE REFORM.**

☐ Committee Substitute for

HB 431 A BILL TO BE ENTITLED AN ACT TO PERMIT THE GARNISHMENT OF WAGES TO RECOUP FRAUDULENT OR ERRONEOUS PUBLIC ASSISTANCE PROGRAM PAYMENTS, TO PROVIDE INVESTIGATORY SUBPEONA POWER TO LOCAL DEPARTMENTS OF SOCIAL SERVICES AND THE DEPARTMENT OF HUMAN RESOURCES, AND TO CREATE AN OFFENSE FOR ILLEGAL POSSESSION OR USE OF FOOD STAMPS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill, unfavorable as to original bill.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 363
Proposed Committee Substitute H363-PCS6129

Short Title: Child Support Options/Fees.

(Public)

Sponsors:

Referred to:

March 3, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DEPARTMENT OF HUMAN RESOURCES NOT TO
3 ELECT ANY CHILD SUPPORT DISTRIBUTION OPTION FOR WHICH
4 FEDERAL FUNDS ARE NOT PROVIDED AND TO INCREASE THE
5 APPLICATION FEE FOR NONPUBLIC ASSISTANCE CHILD SUPPORT
6 ENFORCEMENT SERVICES.

7 The General Assembly of North Carolina enacts:

8 Section 1. Effective 30 days after this act becomes law, the Department
9 of Human Resources shall not elect any child support distribution option for families
10 receiving cash assistance under the State Plan for the Temporary Assistance for
11 Needy Families (TANF) Block Grant Program for which the federal government does
12 not provide funding to the State to exercise the option.

13 Section 2. G.S. 110-130.1(a) reads as rewritten:

14 "(a) All child support collection and paternity determination services provided
15 under this Article to recipients of public assistance shall be made available to any
16 individual not receiving public assistance in accordance with federal law and as
17 contractually authorized by the nonrecipient, upon proper application and payment
18 of a nonrefundable application fee of ~~ten dollars (\$10.00)~~ twenty-five dollars
19 (\$25.00)."

20 Section 3. Section 1 of this act is effective when it becomes law. Section
21 2 of this act becomes effective July 1, 1997.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 431
Proposed Committee Substitute H431-PCS8099

Short Title: Public Assistance Fraud/AB.

(Public)

Sponsors:

Referred to:

March 10, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT THE GARNISHMENT OF WAGES TO RECOUP
3 FRAUDULENT OR ERRONEOUS PUBLIC ASSISTANCE PROGRAM
4 PAYMENTS, TO PROVIDE INVESTIGATORY SUBPOENA POWER TO
5 LOCAL DEPARTMENTS OF SOCIAL SERVICES AND THE DEPARTMENT
6 OF HUMAN RESOURCES, AND TO CREATE AN OFFENSE FOR ILLEGAL
7 POSSESSION OR USE OF FOOD STAMPS.

8 The General Assembly of North Carolina enacts:

9 Section 1. Part 1 of Article 2 of Chapter 108A of the General Statutes is
10 amended by adding new sections as follows:

11 "§ 108A-25.1. Garnishment of wages to recoup fraudulent or erroneous public
12 assistance program payment.

13 (a) The following definitions apply in this section:

14 (1) Disposable income. -- The part of the compensation paid or
15 payable for personal services, whether denominated as wages,
16 salary, commission, bonus, or otherwise (including periodic
17 payments pursuant to a pension, retirement, or other deferred
18 compensation program) which remains after the deduction of any
19 amounts required by law to be withheld.

20 (2) Erroneous payment. -- Any public assistance program payment
21 made because of a recipient's, a recipient's representative's or
22 recipient household member's misunderstanding or unintentional
23 error, or any action or inaction of the local department of social

services or Department of Human Resources which results in an erroneous public assistance program payment.

(3) Fraudulent payment. -- Any public assistance program payment made because of a recipient's false statement or representation or failure to disclose a material fact which occurs willfully and knowingly and with intent to deceive.

(4) Garnishee. -- The person, firm, association, or corporation owing compensation for personal services, whether denominated as wages, salary, commission, bonus, or otherwise (including periodic payments pursuant to a pension, retirement, or other deferred compensation program).

(5) Public assistance program. -- Any means-tested benefit program administered or supervised by a local department of social services or the Department of Human Resources which is funded in whole or in part by federal, State, or local resources.

(b) In any case in which a recipient or former recipient of a public assistance program, who while a recipient, obtained or benefited from a fraudulent or erroneous payment, a judge of the district court in the county where the recipient or former recipient resides or is found, or in the county where the payment was made, may enter an order of garnishment whereby no more than twenty percent (20%) of that person's monthly disposable income may be garnished to recoup the payment. The order of garnishment shall be subject to all federal and State laws or regulations that may apply to recoupment of fraudulent or erroneous payments.

(c) A local department of social services or the Department of Human Resources may petition the court for an order of garnishment to recoup a fraudulent or erroneous public assistance program payment. The petition shall be verified and provide the court with facts and circumstances of the fraudulent or erroneous payment to or on behalf of the recipient or former recipient, the name and address of the garnishee, the recipient or former recipient's monthly disposable income (which may be based on information and belief), and the amount sought to be garnished from the recipient's or former recipient's disposable income. The petition shall be served on both the recipient or former recipient and the garnishee in accordance with the provisions for service of process set forth in G.S. 1A-1, Rule 4. The time period for answering or otherwise responding to process issued pursuant to this section shall be in accordance with the time periods set forth in G.S. 1A-1, Rule 12.

(d) Upon a hearing held pursuant to this section, the court may enter an order of garnishment. If an order of garnishment is entered, a copy of the same shall be served on both the recipient or the former recipient and the garnishee either personally or by certified or registered mail, return receipt requested. The order shall set forth sufficient findings of facts to support the action by the court and the amount to be garnished for each pay period. The amount garnished shall be increased by an additional one dollar (\$1.00) processing fee to be assessed and retained by the garnishee for each payment under the order. The order shall be

1 subject to review for modification and dissolution upon the filing of a motion in the
2 cause.

3 (e) Upon receipt of the order of garnishment, the garnishee shall transmit without
4 delay to the clerk of superior court the amount ordered by the court to be garnished.
5 These funds shall be disbursed to the local department of social services to recoup
6 fraudulent or erroneous payments subject to the order of garnishment entered
7 pursuant to this section.

8 (f) A garnishee who violates the terms of an order of garnishment shall be subject
9 to punishment for contempt.

10 (g) The Social Services Commission shall adopt rules and regulations to
11 implement this section. The rules shall ensure that a petition for an order of
12 garnishment sought pursuant to this section is consistent with all federal and State
13 laws and regulations.

14 **"§ 108A-25.2. Power to issue investigatory subpoenas.**

15 (a) When all other reasonable means of investigating facts and circumstances
16 pertaining to fraudulent or erroneous applications for or receipt of public assistance
17 benefits have been exhausted, the Director of the local department of social services
18 or the Director's designee, or the Secretary of Human Resources or the Secretary's
19 designee, may issue a subpoena to a third party in the State who has necessary and
20 relevant information and require that pertinent records and other documents be
21 produced for examination. The subpoena shall specify the person to whom the
22 records and documents sought shall be produced, including time and place, and shall
23 be served in accordance with any manner as prescribed in G.S. 1A-1, Rule 4. The
24 local department of social services and the Department is authorized to administer
25 oaths for the purpose of the examinations.

26 (b) An action for contempt may be initiated when such third party fails to obey a
27 subpoena issued as provided for in subsection (a) of this section. The action shall be
28 initiated by petition to the district court in the district where the person to whom the
29 subpoena was directed was served. The action for contempt may be punishable by
30 the court in the same manner as if the subpoena had been issued by the court subject
31 to G.S. 1A-1, Rule 45.

32 (c) The refusal of a third party to cooperate shall not affect the eligibility of an
33 initial application to receive public assistance.

34 (d) The Social Services Commission shall adopt rules and regulations to
35 implement this section."

36 Section 2. Part 5 of Article 2 of Chapter 108A of the General Statutes is
37 amended by adding a new section as follows:

38 **"§ 108A-53.1. Illegal possession or use of food stamps.**

39 Any person who knowingly uses, transfers, acquires, alters, or possesses food stamp
40 coupons, authorization cards, or access devices in any manner contrary to that
41 authorized by the Food Stamp Program (7 U.S.C. § 2011, et seq.) and the regulations
42 issued pursuant thereto shall be guilty of a Class 1 misdemeanor if the value of such
43 food stamp coupons, authorization cards, or access devices is less than one hundred
44 dollars (\$100.00), or a Class I felony if the value of such food stamp coupons,

1 authorization cards, or access devices is equal to one hundred dollars (\$100.00) but
2 less than one thousand dollars (\$1,000), or a Class H felony if the value of such food
3 stamp coupons, authorization cards, or access devices equals or exceeds one thousand
4 dollars (\$1,000)."

5 Section 3. The Social Services Commission shall adopt rules and
6 regulations to implement Section 1 of this act within 90 days of the date this act is
7 signed into law.

8 Section 4. This act becomes effective December 1, 1997.

MINUTES

HOUSE COMMITTEE ON WELFARE REFORM APRIL 24, 1997

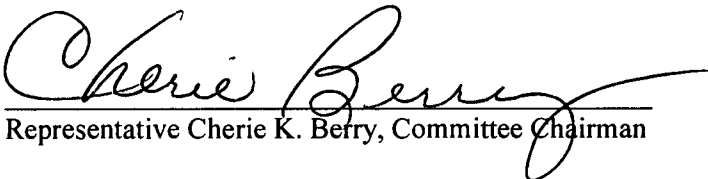
The House Committee on Welfare Reform met at 12 noon on April 24, 1997 in Room 1327 in the Legislative Building. Representative Cherie K. Berry, Committee Chairman called the meeting to order. The following members were present: Representatives Alexander, Bonner, Boyd-McIntyre, Capps, Clary, Earle, Gardner, Hill, Howard, Jeffus, Moore, Morris, Nye, Redwine, Starnes, C. Wilson and G. Wilson. Also in attendance was Representative Culpepper, co-sponsor of today's bill. Staff Counsel, Carolyn Johnson and Jan Watson from Bill Drafting were present to assist the committee. Visitor registration sheet is attached and made part of the minutes.

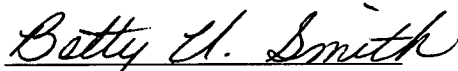
In calling for the first item on the agenda House Bill 301 CHILD SUPPORT/FED. REQ. Representative Berry noted there was a Committee Substitute to be considered. Representative Capps moved that the Committee Substitute be adopted for discussion. Motion passed. Notebook of activity from sub-committee to study HB 301 is available in Representative Berry's office.

After being recognized by Representative Berry, Representative Gardner proposed an amendment to the Committee Substitute. Mr. Peter Powell, Deputy Director of the Administrative Office of the Courts was recognized from the audience. He stated that this amendment simply clarifies that this Committee Substitute is not changing any current law. Representative Howard moved that the committee adopt the amendment. The amendment was adopted and is attached and made part of the minutes. Representatives Gardner and Culpepper stated that this Committee Substitute has had careful scrutiny and is presented to meet and fulfill Federal Requirements- nothing beyond. They then discussed the Committee Substitute section by section. Representative Capps called for an amendment to strengthen confidentiality of information gathered by subpoena. Motion passed. See synopsis of Committee Substitute prepared by Carolyn Johnson, Staff Counsel and the amendment to strengthen confidentiality which are attached and made part of the minutes.

Representative Starnes moved that the committee give a favorable report to the Committee Substitute as amended and that it be rolled into a Committee Substitute, and an unfavorable report as to original bill and be re-referred to the House Committee on Finance. Motion passed.

The meeting was adjourned at 1pm.


Representative Cherie K. Berry, Committee Chairman


Betty U. Smith, Committee Clerk

HOUSE COMMITTEE ON WELFARE REFORM

April 24, 1997
Room 1327 LB
12 Noon

OPENING REMARKS

Representative Cherie K. Berry, Chairman

BILLS TO BE CONSIDERED

HB 301 Child Support / Federal Requirements

Sponsor: Representative Charlotte Gardner

Co-Sponsor: Representative Bill Culpepper

ADJOURNMENT



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 301

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

H301-ALN-001

Date _____, 1997

Comm. Sub. [YES] PCS7249
Amends Title []

Representative _____

- 1 moves to amend the bill on page 27, line 31,
2 by deleting the words "and under the" and substituting the words "as
3 for a civil judgment."; and
4
5 further moves to amend the bill on page 27, lines 32 and 33,
6 by deleting the lines.
7
8

SIGNED Charlotte Gardner
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 301

DATE 4/24/97

S. B. No. _____

Amendment No. #2

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Capps
Sen.)

1 moves to amend the bill on page 4, line 6

2 () WHICH CHANGES THE TITLE

3 by inserting The following sentence at the
4 end of the line to read:

5 "Information obtained as a result of
6 a subpoena issued pursuant to this
7 subdivision is confidential and
8 may be used only by the Child
9 Support Enforcement Program in
10 conjunction with a child support
11 establishment or enforcement
12 proceeding or paternity establishment
13 proceeding."

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SIGNED [Signature]

ADOPTED ✓ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

n

Welfare Reform 4-24-97 12:00 p.m.

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
1. <u>Ronald K. Robbins</u>	<u>Dept of Justice</u>
2. <u>[Signature]</u>	<u>[Signature]</u>
3. <u>Megyn Carney</u>	<u>BSW Intern - NASW-NC</u>
4. <u>Ange McKillip</u>	<u>DHR</u>
5. <u>[Signature]</u>	<u>DHR</u>
6. <u>Thonda Little</u>	<u>DSS-CSE</u>
7. <u>Polly Williams</u>	<u>NC Equity</u>
8. <u>Pat. Yancy</u>	<u>APPC/NE/SCSL</u>
9. <u>Shamere Kinsome</u>	<u>DSS</u>
10. <u>Beth Long</u>	<u>MARAL</u>
11. _____	_____
22. _____	_____
23. _____	_____
24. _____	_____
25. _____	_____
26. _____	_____
27. _____	_____
28. _____	_____
29. _____	_____
30. _____	_____
31. _____	_____



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April 17, 1997

To: House Welfare Reform Committee
From: Carolyn D. Johnson, Committee Counsel
Re: House Bill 301 - Child Support/Fed. Req.
Proposed Committee Substitute

House Bill 301 implements Title III of the Personal Responsibility and Work Reconciliation Act of 1996 (P.L. 104-193).

State Directory of New Hires (Part I)

Establishes within the Department of Human Resources (DHR) a central repository of employment information to assist in locating persons owing child support and to assist in establishing and enforcing child support orders.

Requires employers within the State to report the hiring of every employee for whom a federal W-4 is required not later than 20 days, or not less than 12 days nor more than 16 days apart if the employer submits bi-monthly electronic transmissions.

Reports shall contain the employee's name, address, and social security number and the employer's name, address and federal/state identification numbers; reports shall be made on the W-4 form or, at the employer's option, may be made on an equivalent form, or transmitted magnetically, electronically, or by first-class mail.

Failure to report is subject to a civil penalty not to exceed \$25; failure to report, which results from a conspiracy between the employer and employee, is subject to a civil penalty not to exceed \$500.

Requires DHR to enter data into the directory within 5 business days, and to give notice to the employer to withhold income within 2 business days of the date data is entered.

Information in the directory shall be confidential and used only by the State Child Support Enforcement Program, except as otherwise provided; the Employment Security Commission and the Industrial Commission may access information to administer their respective programs; DHR may contract with public or private entities to implement the directory.



Expanded Child Support Enforcement/Paternity Establishment Authority (Part 2)

DHR is authorized to issue subpoenas for the production of books, papers, etc. relevant to child support establishment or enforcement, or paternity establishment; access information or data storage and retrieval systems maintained and used by the Department of Transportation or State law enforcement agencies; establish and implement procedures in IV-D cases allowing the parent or State, in the case of assignment of support, to request a review and adjustment of a child support order in accordance with current child support guidelines.

DHR may also enter into agreements with financial institutions to develop and operate financial data match systems; ensure new employers receive notice and enroll children in the employer's health care plan when noncustodial parents, who provide health care coverage subject to court order, change employment and are eligible for coverage by the new employer; develop and implement an administrative process for paternity establishment; establish and implement administrative procedures to change child support payees to ensure that payments are made to appropriate caretakers when custody of children changes;

DHR may also establish and implement expedited paternity or child support establishment procedures; in IV-D cases, orders for child support shall provide that clerks transfer the jurisdiction of the case upon the request of the IV-D agency if the obligor, the custodian of the child, and the child no longer reside in the jurisdiction in which the order was issued; the case shall be transferred to a jurisdiction in which one of the parties reside.

Impose Work Requirements/Require Medical Support (Part 3)

Obligor in IV-D cases, who owe past-due support and income withholding has been ordered but cannot be implemented, may be ordered to pay in accordance with court approved payment plans or to participate in work activities; amends appropriate statutes to ensure that orders/agreements for medical support provide appropriate medical coverage for minor children.

Paternity Establishment Proceedings (Part 4A)

Written acknowledgments of paternity executed putative fathers constitute admissions of paternity unless rescinded within the earlier of 60 days of execution or the date of entry of orders establishing paternity or child support payments; after 60 days, written acknowledgments may be challenged only on the basis of fraud, duress, mistake of material or excusable neglect; putative fathers and mothers shall be given written and oral notice of the legal consequences and responsibilities arising from executing acknowledgments of paternity.

Parties to paternity establishment actions are not entitled to a trial by jury on the issue of paternity; in IV-D cases, temporary orders of support shall be entered if blood or genetic tests result in a parentage probability of 97% or higher; temporary support

paid is subject to reimbursement if paternity is not thereafter established; invoices for services rendered for pregnancy, childbirth, blood or genetic testing are admissible as evidence without third party foundation testimony and constitute prima facie evidence of the amount incurred for the services or testing.

Local child support enforcement offices may, without obtaining court orders, subpoena parties to paternity establishment actions to appear and undergo blood or genetic testing; subpoenas are subject to contest upon request for hearing before the district court.

Income Withholding (Parts 6 and 6A)

Income withholding becomes effective within 7 days of receiving notice and becomes payable also to the State collection and disbursement unit; in IV-D child support cases wherein orders were entered or modified before 10-1-96, an obligor, not already to withholding, becomes subject to withholding if arrearages occur.

Liens on Real and Personal Property for Overdue Child Support (Part 7)

Establishes general liens on real and personal property of persons under court ordered child support obligations and in arrears equal to three months of payments or \$3,000, whichever occurs first; lien amounts shall be determined by verified statements; obligors subject to liens shall receive notice which specify methods for discharge; upon perfection, liens shall be docketed and indexed on the judgment docket; personal property liens attach upon sheriff's seizure; real property liens attach when docketed and indexed.

In IV-D cases, the filing of verified statements by designated representatives perfects the lien, and liens are subject to contest by motions in the cause; in non-IV-D cases, the docketing of verified statements, which shall not occur prior to 30 days after notice is served, perfects the liens; obligors who contest liens are entitled to hearing before the district court;

Liens for child support take priority over subsequent liens except as otherwise provided by law; liens may be executed upon within 30 days of perfection in IV-D cases and upon docketing in non-IV-D cases; full faith and credit is accorded to liens arising in other states.

Liens may be discharged by filed acknowledgments indicating lien amounts are satisfied in full, by deposits made to clerks of court equal to the claim and the filing of a petition in the cause contesting validity, or by entry on judgment dockets indicating dismissal of the lien or judgment rendered.

Financial Institution/Data Match System (Part 9)

Requires DHR and financial institutions doing business in the State to develop and operate financial data match systems which facilitate enforcement of child support obligations; system information shall be provided to DHR on a quarterly basis and

include the name, social security number, address, telephone number, account numbers and other identifying data that may assist in child support enforcement efforts; financial institutions shall not be liable for the disclosure of information or other actions taken in good faith compliance with state law.

Other Provisions

Part 2A provides that trial courts may deem that State **due process requirements** for notice and service of process is met, upon delivery of written notice in accordance with Rule 5(b) of the Rules of Civil Procedure, with respect to the non-moving party in child support enforcement proceedings for all pleadings subsequent to the original complaint.

Part 3A amends G.S. 105A-2(1)d to provide that **tax intercept** may be utilized to collect child support owed to individuals receiving State child support enforcement services.

Part 4 amends various statutes to require **social security numbers** on applications for drivers, marriage or professional licenses, in the record of paternity establishment proceedings, or on divorce complaints and judgments and child support orders.

Part 5 amends various statutes to provide for the **suspension or revocation of occupational, professional or businesses licenses** for persons who failed to comply with subpoenas issued pursuant to child support or paternity establishment proceedings; **motor vehicle, hunting, fishing or trapping licenses may be suspended, revoked or restricted or registration of motor vehicles** refused also for failure to comply with subpoenas issued pursuant to child support or paternity establishment proceedings.

Part 8 directs DHR to develop a **statewide automated data processing and information retrieval system and a centralized collection and disbursement system** to enhance child support enforcement

Part 10 makes conforming amendments to the **Uniform Interstate Family Support Act (UISFA)** recommended by National Conference of Commissioners on Uniform State Laws.

Part 10A sets forth procedures whereby courts may **void fraudulent conveyances** of property made by obligors who are delinquent in child support payments; fraudulent intent must be found by clear and convincing evidence.

Effective October 1, 1997, except as otherwise provided.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Cherie Berry** for the Committee on **WELFARE REFORM**.

☐ Committee Substitute for

H.B. 301 A BILL TO BE ENTITLED AN ACT TO AMEND THE GENERAL STATUTES
PERTAINING TO CHILD SUPPORT ENFORCEMENT IN ORDER TO ENHANCE
CHILD SUPPORT ENFORCEMENT AND PATERNITY ESTABLISHMENT IN
CONFORMANCE WITH FEDERAL WELFARE REFORM REQUIREMENTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill, unfavorable as to original bill, and
recommendation that the committee substitute bill be re-referred to the Committee on
FINANCE.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 301
Proposed Committee Substitute H301-PCS7249

Short Title: Child Support/Fed. Req.

(Public)

Sponsors:

Referred to:

February 24, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CHILD
3 SUPPORT ENFORCEMENT IN ORDER TO ENHANCE CHILD SUPPORT
4 ENFORCEMENT AND PATERNITY ESTABLISHMENT IN CONFORMANCE
5 WITH FEDERAL WELFARE REFORM REQUIREMENTS.

6 The General Assembly of North Carolina enacts:

7
8 **PART 1. STATE DIRECTORY OF NEW HIRES.**

9 Section 1. Effective October 1, 1997, Article 1 of Chapter 110 of the
10 General Statutes is amended by adding the following new section to read:

11 "§ 110-129.2. State Directory of New Hires established; employers required to report;
12 civil penalties for noncompliance; definitions.

13 (a) Directory Established. -- There is established the State Directory of New Hires.
14 The Directory shall be developed and maintained by the Department. The Directory
15 shall be a central repository for employment information to assist in the location of
16 persons owing child support, and in the establishment and enforcement of child
17 support orders.

18 (b) Employer Reporting. -- Every employer in this State shall report to the
19 Directory the hiring of every employee for whom a federal W-4 form is required to
20 be completed by the employee at the time of hiring. The employer shall report the
21 information required under this section not later than 20 days from the date of hire,
22 or, in the case of an employer who transmits new hire reports magnetically or

1 electronically by two monthly transmissions, not less than 12 nor more than 16 days
2 apart.

3 (c) Report Contents. -- Each report required by this section shall contain the
4 name, address, and social security number of the employee, and the name and
5 address of the employer and the employer's identifying number assigned under
6 section 6109 of the Internal Revenue Code of 1986 and the employer's State
7 employer identification number. Reports shall be made on the W-4 form or, at the
8 option of the employer, an equivalent form, and may be transmitted magnetically,
9 electronically, or by first-class mail.

10 (d) Penalties for Failure to Report. -- Upon a finding that an employer has failed
11 to comply with the reporting requirements of this section, the district court shall
12 impose a civil penalty in an amount not to exceed twenty-five dollars (\$25.00). If
13 the court finds that an employer's failure to comply with the reporting requirements
14 is the result of a conspiracy between the employer and the employee to not supply
15 the required report or to supply a false or incomplete report, then the court shall
16 impose upon the employer a civil penalty in an amount not to exceed five hundred
17 dollars (\$500.00). Penalties collected under this subsection shall be deposited to the
18 General Fund.

19 (e) Entry of Report Data Into Directory. -- Within five business days of receipt of
20 the report from the employer, the Department shall enter the information from the
21 report into the Directory.

22 (f) Notice to Employer to Withhold. -- Within two business days of the date the
23 information was entered into the Directory, the Department or its designated
24 representative as defined under G.S. 110-129(5) shall transmit notice to the employer
25 of the newly hired employee directing the employer to withhold from the income of
26 the employee an amount equal to the monthly or other periodic child support
27 obligation, including any past-due support obligation of the employee and subject to
28 the limitations of G.S. 110-136.6, unless the employee's income is not subject to
29 withholding.

30 (g) Other Uses of Directory Information. -- The Employment Security
31 Commission may access information entered into the Directory from employer
32 reports for the purpose of administering employment security programs. The North
33 Carolina Industrial Commission may access information entered into the Directory
34 from employer reports for the purpose of administering workers' compensation
35 programs.

36 (h) Department May Contract for Services. -- The Department may contract with
37 other State or private entities to perform the services necessary to implement this
38 section.

39 (i) Except as otherwise provided in this section, information contained in the
40 Directory is confidential and may be used only by the State Child Support
41 Enforcement Program.

42 (j) Definitions. -- As used in this section, unless the context clearly requires
43 otherwise, the term:

- 1 (1) 'Business day' means a day on which State offices are open for
2 business.
- 3 (2) 'Department' means the Department of Human Resources.
- 4 (3) 'Employee' means an individual who is an employee within the
5 meaning of Chapter 24 of the Internal Revenue Code of 1986. The
6 term 'employee' does not include an employee of a federal or
7 State agency performing intelligence or counterintelligence
8 functions, if the head of the agency has determined that reporting
9 information as required under this section could endanger the
10 safety of the employee or compromise an ongoing investigation or
11 intelligence mission.
- 12 (4) 'Employer' has the meaning given the term in section 3401(d) of
13 the Internal Revenue Code of 1986 and includes persons who are
14 governmental entities and labor organizations. The term 'labor
15 organization' shall have the meaning given that term in section
16 2(5) of the National Labor Relations Act, and includes any entity
17 which is used by the organization and an employer to carry out
18 requirements described in section 8(f)(3) of the National Labor
19 Relations Act of an agreement between the organization and the
20 employer."

21

22 **PART 2. EXPANDED AUTHORITY OF THE DEPARTMENT TO ENFORCE CHILD**
23 **SUPPORT ORDERS AND TO ESTABLISH PATERNITY.**

24 Section 2. Chapter 110 of the General Statutes is amended by adding the
25 following new section to read:

26 **"§ 110-129.1. Additional powers and duties of the Department.**

27 (a) In addition to other powers and duties conferred upon the Department of
28 Human Resources, Child Support Enforcement Program, by this Chapter or other
29 State law, the Department shall have the following powers and duties:

- 30 (1) Upon authorization of the Secretary, to issue a subpoena for the
31 production of books, papers, correspondence, memoranda,
32 agreements, or other information, documents, or records relevant
33 to a child support establishment or enforcement proceeding or
34 paternity establishment proceeding. The subpoena shall be signed
35 by the Secretary and shall state the name of the person or entity
36 required to produce the information authorized under this section,
37 and a description of the information compelled to be produced.
38 The subpoena may be served in the manner provided for service of
39 subpoenas under the North Carolina Rules of Civil Procedure.
40 The form of subpoena shall generally follow the practice in the
41 General Court of Justice in North Carolina. Return of the
42 subpoena shall be to the person who issued the subpoena. Upon
43 the refusal of any person to comply with the subpoena, it shall be
44 the duty of any judge of the district court, upon application by the

1 person who issued the subpoena, to order the person subpoenaed
2 to show cause why he should not comply with the requirements, if
3 in the discretion of the judge the requirements are reasonable and
4 proper. Refusal to comply with the subpoena or with the order
5 shall be dealt with as for contempt of court and as otherwise
6 provided by law.

7 (2) For the purposes of locating persons, establishing paternity, or
8 enforcing child support orders, the Program shall have direct
9 access to any information or data storage and retrieval system
10 maintained and used by the Department of Transportation for
11 drivers license issuance or motor vehicle registration, or by a law
12 enforcement agency of this State for law enforcement purposes.

13 (3) Establish and implement procedures under which in IV-D cases
14 either parent or, in the case of an assignment of support, the State
15 may request that a child support order enforced under this Chapter
16 be reviewed and, if appropriate, adjusted in accordance with the
17 most recently adopted uniform statewide child support guidelines
18 prescribed by the Conference of Chief District Court Judges.

19 (4) Develop procedures for entering into agreements with financial
20 institutions to develop and operate a data match system as
21 provided under G.S. 110-139.2.

22 (5) Develop procedures for ensuring that when a noncustodial parent
23 providing health care coverage pursuant to a court order changes
24 employers and is eligible for health care coverage from the new
25 employer, the new employer, upon receipt of notice of the order
26 from the Department, enrolls the child in the employer's health
27 care plan.

28 (6) Develop and implement an administrative process for paternity
29 establishment in accordance with G.S. 110-132.2.

30 (7) Establish and implement administrative procedures to change the
31 child support payee to ensure that child support payments are
32 made to the appropriate caretaker when custody of the child has
33 changed, in accordance with G.S. 50-13.4(d).

34 (8) Establish and implement expedited procedures to take the
35 following actions relating to the establishment of paternity or to
36 establishment of support orders, without obtaining an order from a
37 judicial tribunal:

38 a. Subpoena the parties to undergo genetic testing as provided
39 under G.S. 110-132.2;

40 b. Implement income withholding in accordance with this
41 Chapter;

42 c. For the purpose of securing overdue support, increase the
43 amount of monthly support payments by implementation of
44 income withholding procedures established under G.S. 110-

136.4, or by notice and opportunity to contest to an obligor who is not subject to income withholding. Increases under this subdivision are subject to the limitations of G.S. 110-136.6;

d. For purposes of exerting and retaining jurisdiction in IV-D cases, transfer cases between jurisdictions in this State without the necessity for additional filing by the petitioner or service of process upon the respondent.

(b) As used in this section, the term 'Secretary' means the Secretary of Human Resources, the Secretary's designee, or a designated representative as defined under G.S. 110-129(5)."

Section 2.1. (a) G.S. 50-13.4(d) reads as rewritten:

"(d) ~~Payments~~ In non-IV-D cases, payments for the support of a minor child shall be ordered to be paid to the person having custody of the child or any other proper person, agency, organization or institution, or to the court, for the benefit of ~~such~~ the child. In IV-D cases, payments for the support of a minor child shall be ordered to be paid to the court or other proper State agency for the benefit of the child."

(b) This section applies to orders entered or modified on and after October 1, 1997.

Section 2.2. G.S. 50-13.4 is amended by adding the following new subsection to read:

"(e1) In IV-D cases, the order for child support shall provide that the clerk shall transfer the case to another jurisdiction in this State if the IV-D agency requests the transfer on the basis that the obligor, the custodian of the child, and the child do not reside in the jurisdiction in which the order was issued. The IV-D agency shall provide notice of the transfer to the obligor. The clerk shall transfer the case to the jurisdiction requested by the IV-D agency, which shall be a jurisdiction in which the obligor, the custodian of the child, or the child resides. Nothing in this subsection shall be construed to prevent a party from contesting the transfer."

PART 2A. NOTICE/DUE PROCESS REQUIREMENTS.

Section 2.3. Chapter 110 of the General Statutes is amended by adding the following new section to read:

"§ 110-131.1. Notice; due process requirements met.

In any child support enforcement proceeding the trial court may deem State due process requirements for notice and service of process to be met with respect to the nonmoving party, upon delivery of written notice in accordance with the notice requirements of Chapter 1A-1, Rule 5(b) of the Rules of Civil Procedure with respect to all pleadings subsequent to the original complaint."

PART 3. AUTHORIZE JUDGES TO IMPOSE WORK REQUIREMENTS ON OBLIGORS WHO ARE IN ARREARS IN CHILD SUPPORT, AND TO REQUIRE PARENTS TO PROVIDE MEDICAL SUPPORT.

Section 3. G.S. 110-136.3 is amended by adding the following new subsection to read:

"(a1) Payment Plan/Work Requirement for Past-Due Support. In any IV-D case in which an obligor owes past-due support and income withholding has been ordered but cannot be implemented against the obligor, the court may order the obligor to pay the support in accordance with a payment plan approved by the court and, if the obligor is subject to the payment plan and is not incapacitated, the court may order the obligor to participate in such work activities, as defined under Section 407(d) of P.L. 104-193, as the court deems appropriate."

Section 3.1. G.S. 50-13.11 reads as rewritten:

"§ 50-13.11. Orders and agreements regarding medical support and health insurance coverage for minor children.

(a) The court may order a parent of a minor child or other responsible party to provide medical support for the child, or the parties may enter into a written agreement regarding medical support for the child. ~~An order or agreement for medical support may require one or both parties to maintain health insurance, dental insurance, or both, or to pay the medical, hospital, or dental expenses.~~ An order or agreement for medical support for the child may require one or both parties to pay the medical, hospital, dental, or other health care related expenses.

(a1) The court shall order the parent of a minor child or other responsible party to maintain health insurance for the benefit of the child when health insurance is available at a reasonable cost. As used in this subsection, health insurance is considered reasonable in cost if it is employment related or other group health insurance, regardless of service delivery mechanism. The court may require one or both parties to maintain dental insurance.

(b) The party ordered or under agreement to provide ~~medical~~ health insurance shall provide written notice of any change in the applicable insurance coverage to the other party.

(c) The employer or insurer of the party required to provide ~~medical, health,~~ hospital, and dental insurance shall release to the other party, upon written request, any information on a minor child's insurance coverage that the employer or insurer may release to the party required to provide ~~medical, health,~~ hospital, and dental insurance.

(d) When a court order or agreement for ~~medical~~ health insurance is in effect, the signature of either party shall be valid authorization to the insurer to process an insurance claim on behalf of a minor child.

(e) If the party who is required to provide ~~medical~~ health insurance fails to maintain the insurance coverage for the minor child, the party shall be liable for any ~~medical, health,~~ hospital, or dental expenses incurred from the date of the court order or agreement that would have been covered by insurance if it had been in force.

(f) When a noncustodial parent ordered to provide health insurance changes employment and health insurance coverage is available through the new employer, the obligee shall notify the new employer of the noncustodial parent's obligation to

1 provide health insurance for the child. Upon receipt of notice from the obligee, the
2 new employer shall enroll the child in the employer's health insurance plan."

3 Section 3.2. G.S. 108A-69(b) reads as rewritten:

4 "(b) If a parent is required by a court or administrative order to provide health
5 benefit plan coverage for a child, and the parent is eligible for family health benefit
6 plan coverage through an employer doing business in this State, the employer:

7 (1) Must allow the parent to enroll, under family coverage, the child if
8 the child would be otherwise eligible for coverage without regard
9 to any enrollment season restrictions.

10 (2) Must enroll the child under family coverage upon application of
11 the child's other parent or upon receipt of notice from the
12 Department of Human Resources in connection with its
13 administration of the Medical Assistance or Child Support
14 Enforcement Program if the parent is enrolled but fails to make
15 application to obtain coverage for the child.

16 (3) May not disenroll or eliminate coverage of the child unless:

17 a. The employer is provided satisfactory written evidence that:
18 1. The court or administrative order is no longer in
19 effect; or

20 2. The child is or will be enrolled in comparable health
21 benefit plan coverage that will take effect not later
22 than the effective date of disenrollment; or

23 b. The employer has eliminated family health benefit plan
24 coverage for all of its employees.

25 (4) Must withhold from the employee's compensation the employee's
26 share, if any, of premiums for health benefit plan coverage, not to
27 exceed the maximum amount permitted to be withheld under
28 section 303(b) of the federal Consumer Credit Protection Act, as
29 amended; and must pay this amount to the health insurer; subject
30 to regulations, if any, adopted by the Secretary of the U.S.
31 Department of Health and Human Services."
32

33 **PART 3A. CONFORM STATE TAX INTERCEPT LAW TO FEDERAL**
34 **REQUIREMENTS.**

35 Section 3.3. G.S. 105A-2(1)d. reads as rewritten:

36 "d. The North Carolina Department of Human Resources when
37 in the performance of its duties, under the Child Support
38 Enforcement Program as enabled by Chapter 110, Article 9
39 and Title IV, Part D of the Social Security Act to obtain
40 indemnification for past paid public assistance or to collect
41 child support ~~arrears~~ owed to an individual receiving
42 program services and any county operating the program at
43 the local level, when and only to the extent that the county
44 is engaged in the performance of those same duties;"

PART 4. REQUIREMENT TO PROVIDE SOCIAL SECURITY NUMBERS ON CERTAIN DOCUMENTS.

Section 4. G.S. 20-7(b1) reads as rewritten:

"(b1) Application. -- To obtain a drivers license from the Division, a person must complete an application form provided by the Division, present at least two forms of identification approved by the Commissioner, be a resident of this State, and demonstrate his or her physical and mental ability to drive safely a motor vehicle included in the class of license for which the person has applied. The Division may copy the identification presented or hold it for a brief period of time to verify its authenticity. To obtain an endorsement, a person must demonstrate his or her physical and mental ability to drive safely the type of motor vehicle for which the endorsement is required.

The application form must request all of the following information:

- (1) The applicant's full name.
- (2) The applicant's mailing address and residence address.
- (3) A physical description of the applicant, including the applicant's sex, height, eye color, and hair color.
- (4) The applicant's date of birth.
- (5) The applicant's social security number. The Division shall not issue a license to an applicant who fails to provide the applicant's social security number. The applicant's social security number shall not be printed on the license and may be released only to the Department of Human Resources, Child Support Enforcement Program, upon its request and for the purpose of establishing paternity or child support, or enforcing a child support order.
- (6) The applicant's signature.

The application form must also contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579. In accordance with 42 U.S.C. 405(c)(2)(C)(v), the Division may disclose a social security number obtained under this subsection only for the purpose of administering the drivers license laws and may not disclose the social security number for any other purpose. The social security number of an applicant for a license or of a licensed driver is therefore not a public record. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. 405(c)(2)(C)(vii)."

Section 4.1. G.S. 49-7 reads as rewritten:

"§ 49-7. Issues and orders.

The court before which the matter may be brought shall determine whether or not the defendant is a parent of the child on whose behalf the proceeding is instituted. After this matter has been determined in the affirmative, the court shall proceed to determine the issue as to whether or not the defendant has neglected or refused to provide adequate support and maintain the child who is the subject of the proceeding. After this matter shall have been determined in the affirmative, the court shall fix by order, subject to modification or increase from time to time, a

1 specific sum of money necessary for the support and maintenance of the child, subject
2 to the limitations of G.S. 50-13.10. The amount of child support shall be determined
3 as provided in G.S. 50-13.4(c). The order fixing the sum shall require the defendant
4 to pay it either as a lump sum or in periodic payments as the circumstances of the
5 case may appear to the court to require. The social security number, if known, of the
6 minor child's parents shall be placed in the record of the proceeding. Compliance by
7 the defendant with any or all of the further provisions of this Article or the order or
8 orders of the court requiring additional acts to be performed by the defendant shall
9 not be construed to relieve the defendant of his or her responsibility to pay the sum
10 fixed or any modification or increase thereof.

11 The court before whom the matter may be brought, on motion of the State or the
12 defendant, shall order that the alleged-parent defendant, the known natural parent,
13 and the child submit to any blood tests and comparisons which have been developed
14 and adapted for purposes of establishing or disproving parentage and which are
15 reasonably accessible to the alleged-parent defendant, the known natural parent, and
16 the child. The results of those blood tests and comparisons, including the statistical
17 likelihood of the alleged parent's parentage, if available, shall be admitted in
18 evidence when offered by a duly qualified, licensed practicing physician, duly
19 qualified immunologist, duly qualified geneticist or other duly qualified person. The
20 evidentiary effect of those blood tests and comparisons and the manner in which the
21 expenses therefor are to be taxed as costs shall be as prescribed in G.S. 8-50.1. In
22 addition, if a jury tries the issue of parentage, they shall be instructed as set out in
23 G.S. 8-50.1. From a finding on the issue of parentage against the alleged-parent
24 defendant, the alleged-parent defendant has the same right of appeal as though he or
25 she had been found guilty of the crime of willful failure to support an illegitimate
26 child."

27 Section 4.2. G.S. 49-14(a) reads as rewritten:

28 "(a) The paternity of a child born out of wedlock may be established by civil
29 action at any time prior to such child's eighteenth birthday. A certified copy of a
30 certificate of birth of the child shall be attached to the complaint. ~~Such~~ The
31 establishment of paternity shall not have the effect of legitimation. The social security
32 numbers, if known, of the minor child's parents shall be placed in the record of the
33 proceeding."

34 Section 4.3. G.S. 50-8 reads as rewritten:

35 "**§ 50-8. Contents of complaint; verification; venue and service in action by**
36 **nonresident; certain divorces validated.**

37 In all actions for divorce the complaint shall be verified in accordance with the
38 provisions of Rule 11 of the Rules of Civil Procedure and G.S. 1-148. The plaintiff
39 shall set forth in his or her complaint that the complainant or defendant has been a
40 resident of the State of North Carolina for at least six months next preceding the
41 filing of the complaint, and that the facts set forth therein as grounds for divorce,
42 except in actions for divorce from bed and board, have existed to his or her
43 knowledge for at least six months prior to the filing of the complaint: Provided,
44 however, that if the cause for divorce is one-year separation, then it shall not be

1 necessary to allege in the complaint that the grounds for divorce have existed for at
2 least six months prior to the filing of the complaint; it being the purpose of this
3 proviso to permit a divorce after such separation of one year without awaiting an
4 additional six months for filing the complaint: Provided, further, that if the
5 complainant is a nonresident of the State action shall be brought in the county of the
6 defendant's residence, and summons served upon the defendant personally or service
7 of summons accepted by the defendant personally in the manner provided in G.S.
8 1A-1, Rule 4(j)(1). Notwithstanding any other provision of this section, any suit or
9 action for divorce heretofore instituted by a nonresident of this State in which the
10 defendant was personally served with summons or in which the defendant personally
11 accepted service of the summons and the case was tried and final judgment entered
12 in a court of this State in a county other than the county of the defendant's residence,
13 is hereby validated and declared to be legal and proper, the same as if the suit or
14 action for divorce had been brought in the county of the defendant's residence.

15 In all divorce actions the complaint shall set forth the name and age of any minor
16 child or children of the marriage, and in the event there are no ~~such~~ minor children
17 of the marriage, the complaint shall so state. In addition, the complaint shall state the
18 social security number of the plaintiff and, if known, the social security number of the
19 defendant.

20 In all prior suits and actions for divorce heretofore instituted and tried in the
21 courts of this State where the averments of fact required to be contained in the
22 affidavit heretofore required by this section are or have been alleged and set forth in
23 the complaint in said suits or actions and said complaints have been duly verified as
24 required by Rule 11 of the Rules of Civil Procedure, said allegations so contained in
25 said complaints shall be deemed to be, and are hereby made, a substantial
26 compliance as to the allegations heretofore required by this section to be set forth in
27 any affidavit; and all such suits or actions for divorce, as well as the judgments or
28 decrees issued and entered as a result thereof, are hereby validated and declared to
29 be legal and proper judgments and decrees of divorce.

30 In all suits and actions for divorce heretofore instituted and tried in this State on
31 and subsequent to the 5th day of April, 1951, wherein the statements, averments, or
32 allegations in the verification to the complaint in said suits or actions are not in
33 accordance with the provisions of Rule 11 of the Rules of Civil Procedure and G.S.
34 1- 148 or the requirements of this section as to verification of complaint or the
35 allegations, statements or averments in the verification contain the language that the
36 facts set forth in the complaint are true 'to the best of affiant's knowledge and belief'
37 instead of the language 'that the same is true to his (or her) own knowledge' or
38 similar variation in language, said allegations, statements and averments in said
39 verifications as contained in or attached to said complaint shall be deemed to be, and
40 are hereby made, a substantial compliance as to the allegations, averments or
41 statements required by this section to be set forth in any such verifications; and all
42 such suits or actions for divorce, as well as the judgments or decrees issued and
43 entered as a result thereof, are hereby validated and declared to be legal and proper
44 judgments and decrees of divorce.

1 The judgment of divorce shall reflect the social security numbers of the parties as
2 evidenced in the divorce proceedings."

3 Section 4.4. G.S. 50-13.4 is amended by adding the following new
4 subsections to read:

5 "(g) An individual who brings an action or motion in the cause for the support of
6 a minor child, and the individual who defends the action, shall provide to the clerk
7 of the court in which the action is brought or the order is issued, the individual's
8 social security number. The child support order shall contain the social security
9 number of the parties as evidenced in the support proceeding.

10 (h) Child support orders initially entered or modified on and after October 1,
11 1998, shall contain the name of each of the parties, the date of birth of each party,
12 the social security number of each party, and the court docket number. The
13 Administrative Office of the Courts shall transmit to the Department of Human
14 Resources, Child Support Enforcement Program, on a timely basis, the information
15 required to be included on orders under this subsection."

16 Section 4.5. G.S. 51-8 reads as rewritten:

17 **"§ 51-8. License issued by register of deeds.**

18 Every register of deeds shall, upon proper application, issue a license for the
19 marriage of any two persons if it appears that such persons are authorized to be
20 married in accordance with the laws of this State. In making a determination as to
21 whether or not the parties are authorized to be married under the laws of this State,
22 the register of deeds may require the applicants for the license to marry to present
23 certified copies of birth certificates or birth registration cards provided for in G.S.
24 130-73, or such other evidence as the register of deeds deems necessary to such
25 determination. The register of deeds may administer an oath to any person presenting
26 evidence relating to whether or not parties applying for a marriage license are eligible
27 to be married pursuant to the laws of this State. Each applicant for a marriage license
28 shall provide on the application the applicant's social security number. The register
29 of deeds shall not issue a marriage license unless all of the requirements of this
30 section have been met."

31 Section 4.6. Chapter 93B of the General Statutes is amended by adding
32 the following new section to read:

33 **"§ 93B-14. Information on applicants for licensure.**

34 Every occupational licensing board shall require applicants for licensure to provide
35 to the Board the applicant's social security number. This information shall be treated
36 as confidential and may be released only to the State Child Support Enforcement
37 Program of the Department of Human Resources upon its request and for the
38 purpose of enforcing a child support order."

39

40 **PART 4A. PATERNITY ESTABLISHMENT PROCEEDINGS.**

41 Section 4.7. G.S. 110-132(a) reads as rewritten:

42 **"§ 110-132. Acknowledgment of paternity and agreement to support.**

43 (a) In lieu of or in conclusion of any legal proceeding instituted to establish
44 paternity, the written acknowledgment of paternity executed by the putative father of

1 the dependent child when accompanied by a written affirmation of paternity executed
2 and sworn to by the mother of the dependent child shall constitute an admission of
3 paternity, subject to the right of either signatory to rescind within the earlier of:

4 (1) 60 days of the date the document is executed, or

5 (2) The date of entry of an order establishing paternity or an order for
6 the payment of child support.

7 ~~and filed with and approved by a judge of the district court in the county where the~~
8 ~~mother of the child resides or is found, or in the county where the putative father~~
9 ~~resides or is found, or in the county where the child resides or is found shall have the~~
10 ~~same force and effect as a judgment of that court; and a~~

11 In order to rescind, a challenger must request the district court to order the
12 recession and to include in the order specific findings of fact that the request for
13 recession was filed with the clerk of court within 60 days of the signing of the
14 document. The court must also find that all parties, including the child support
15 enforcement agency, if appropriate, have been served in accordance with Rule 4 of
16 the North Carolina Rules of Civil Procedure. In the event the court orders recession
17 and the putative father is thereafter found not to be the father of the child, then the
18 clerk of court shall send a copy of the order of recession to the State Registrar of
19 Vital Statistics. Upon receipt of an order of recession, the State Registrar shall
20 remove the putative father's name from the birth certificate. In the event that the
21 putative father defaults or fails to present or prosecute the issue of paternity, the trial
22 court shall find the putative father to be the biological father as a matter of law.

23 After 60 days have elapsed, execution of the document may be challenged in court
24 only upon the basis of fraud, duress, mistake, or excusable neglect. The burden of
25 proof shall be on the challenging party, and the legal responsibilities, including child
26 support obligations, of any signatory arising from the executed documents may not be
27 suspended during the challenge except for good cause shown.

28 A written agreement to support ~~said~~ the child by periodic payments, which may
29 include provision for reimbursement for medical expenses incident to the pregnancy
30 and the birth of the child, accrued maintenance and reasonable expense of
31 prosecution of the paternity action, when acknowledged as provided herein, filed
32 with, and approved by a judge of the district court at any time, shall have the same
33 force and effect as an order of support entered by that court, and shall be enforceable
34 and subject to modification in the same manner as is provided by law for orders of
35 the court in such cases. ~~Such~~ The written affirmation shall contain the social security
36 number of the person executing the affirmation, and the written acknowledgment
37 shall contain the social security number of the person executing the acknowledgment.
38 Voluntary agreements to support shall contain the social security number of each of
39 the parties to the agreement. The written affirmations, acknowledgments and
40 agreements to support shall be sworn to before a certifying officer or notary public or
41 the equivalent or corresponding person of the state, territory, or foreign country
42 where the affirmation, acknowledgment, or agreement is made, and shall be binding
43 on the person executing the same whether ~~he~~ the person is an adult or a minor. The
44 child support enforcement agency shall ensure that the mother and putative father

1 are given oral and written notice of the legal consequences and responsibilities arising
2 from the signing of an acknowledgement of paternity, and of any alternatives to the
3 execution of an acknowledgment or affirmation of paternity. ~~Such~~ The mother shall
4 not be excused from making ~~such~~ the affirmation on the grounds that it may tend to
5 disgrace or incriminate her; nor shall she thereafter be prosecuted for any criminal
6 act involved in the conception of the child as to whose paternity she makes
7 affirmation."

8 Section 4.8. G.S. 110-133 reads as rewritten:

9 **"§ 110-133. Agreements of support.**

10 In lieu of or in conclusion of any legal proceeding instituted to obtain support
11 from a responsible parent for a dependent child born of the marriage, a written
12 agreement to support the child by periodic payments executed by the responsible
13 parent when acknowledged before a certifying officer or notary public or the
14 equivalent or corresponding person of the state, territory, or foreign country where
15 the acknowledgment is made and filed with and approved by a judge of the district
16 court in the county where the custodial parent of the child resides or is found, or in
17 the county where the noncustodial parent resides or is found, or in the county where
18 the child resides or is found shall have the same force and effect, retroactively and
19 prospectively, in accordance with the terms of the agreement, as an order of support
20 entered by the court, and shall be enforceable and subject to modification in the same
21 manner as is provided by law for orders of the court in such cases. A responsible
22 parent executing a written agreement under this section shall provide on the
23 agreement the responsible parent's social security number."

24 Section 4.9. G.S. 49-12.1(c) reads as rewritten:

25 "(c) The parties may ~~waive a jury trial and~~ enter a consent order with the
26 approval of the clerk of superior court. The order entered by the clerk shall find the
27 facts and declare the proper person the father of the child and may change the
28 surname of the child."

29 Section 4.10. G.S. 49-14 is amended by adding the following new
30 subsections to read:

31 "(f) Parties to an action to establish paternity are not entitled to a trial by jury on
32 the issue of paternity.

33 (g) When a determination of paternity is pending in a IV-D case, the court shall
34 enter a temporary order for child support upon motion and showing of clear, cogent,
35 and convincing evidence of paternity. For purposes of this subsection, the results of
36 blood or genetic tests shall constitute clear, cogent, and convincing evidence of
37 paternity if the tests show that the probability of the alleged parent's parentage is
38 ninety-seven percent (97%) or higher. If paternity is not thereafter established, then
39 the putative father shall be reimbursed the full amount of temporary support paid
40 under the order.

41 (h) Invoices for services rendered for pregnancy, childbirth, and blood or genetic
42 testing are admissible as evidence without requiring third party foundation testimony
43 and shall constitute prima facie evidence of the amounts incurred for the services or
44 for testing on behalf of the child."

Section 4.11. Chapter 110 of the General Statutes is amended by adding the following new section to read:

"§ 110-132.2. Expedited procedures to establish paternity in IV-D cases.

(a) In a IV-D case, a local child support enforcement office may, without obtaining a court order, subpoena a minor child, the minor child's mother, and the putative father of the minor child (including the mother's husband, if different from the putative father) to appear for the purpose of undergoing blood or genetic testing to establish paternity. A subpoena issued pursuant to this section must be served in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. Refusal to comply with a subpoena may be dealt with as for contempt of court, and as otherwise provided under law. A party may contest the results of the genetic or blood test. If the results are contested, the agency shall, upon request and advance payment by the contestant, obtain additional testing.

(b) A person subpoenaed to submit to testing pursuant to subsection (a) of this section may contest the subpoena. To contest the subpoena, a person must, within 15 days of receipt of the subpoena, request a hearing in the county where the local child support enforcement office that issued the subpoena is located. The hearing shall be before the district court and notice of the hearing must be served by the petitioner on all parties to the proceeding. Service shall be in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. The hearing shall be held and a determination made within 30 days of the petitioner's request for hearing as to whether the petitioner must comply with the subpoena to undergo testing. If the trial court determines that the petitioner must comply with the subpoena, the determination shall not prejudice any defenses the petitioner may present at any future paternity litigation."

Section 4.12. G.S. 130A-101(f) reads as rewritten:

"(f) If the mother was unmarried at all times from date of conception through date of birth, the name of the father shall not be entered on the certificate unless the child's mother and father complete an affidavit acknowledging paternity which contains the following:

- (1) A sworn statement by the mother consenting to the assertion of paternity by the father and declaring that the father is the child's natural father;
- (2) A sworn statement by the father declaring that he believes he is the natural father of the child;
- (3) Information explaining in plain language the effect of signing the affidavit, including a statement of parental rights and responsibilities and an acknowledgment of the receipt of this information; and
- (4) The social security numbers of both parents.

The State Registrar, in consultation with the Child Support Enforcement Section of the Division of Social Services, shall develop and disseminate a form affidavit for use in compliance with this section, together with an information sheet that contains all the information required to be disclosed by subdivision (3) of this subsection.

1 Upon the execution of the affidavit, the declaring father shall be listed as the father
2 on the birth certificate and shall be presumed to be the natural father of the ~~child.~~
3 child, subject to the declaring father's right to rescind under G.S. 110-132. The
4 executed affidavit shall be filed with the registrar along with the birth certificate. A
5 certified copy of the affidavit shall be admissible in any action to establish paternity.
6 ~~The presumption of paternity arising under this section may be rebutted in a legal~~
7 ~~action only by clear, cogent, and convincing evidence.~~ The surname of the child shall
8 be determined by the mother, except if the father's name is entered on the certificate,
9 the mother and father shall agree upon the child's surname. If there is no agreement,
10 the child's surname shall be the same as that of the mother.

11 The execution and filing of this affidavit with the registrar does not affect rights of
12 inheritance unless the affidavit is also filed with the clerk of court in accordance with
13 G.S. 29-19(b)(2)."
14

15 **PART 5. SUSPENSION/REVOCATION OF LICENSES FOR FAILURE TO COMPLY**
16 **WITH SUBPOENA ISSUED PURSUANT TO CHILD SUPPORT OR PATERNITY**
17 **ESTABLISHMENT PROCEEDINGS.**

18 Section 5. The catch line to G.S. 110-142 reads as rewritten:

19 "**§ 110-142. Definitions; suspension and revocation of occupational, professional, or**
20 **business licenses of obligors who are delinquent in court-ordered child support or**
21 **~~subject to outstanding warrants for failure to appear for failure to comply with the~~**
22 **~~terms of a court order for child support: support, or who are not in compliance with~~**
23 **subpoenas issued pursuant to child support or paternity establishment proceedings.**"

24 Section 5.1. G.S. 110-142.1 reads as rewritten:

25 "**§ 110-142.1. IV-D notified suspension, revocation, and issuance of occupational,**
26 **professional, or business licenses of obligors who are delinquent in court-ordered child**
27 **~~support or subject to outstanding warrants for failure to appear for failure to comply~~**
28 **~~with the terms of a court order for child support: or who are not in compliance with~~**
29 **subpoenas issued pursuant to child support or paternity establishment proceedings.**

30 (a) Effective July 1, 1996, the Department of Human Resources may notify any
31 board that a person licensed by that board is not in compliance with an order for
32 child ~~support: support or with a subpoena issued pursuant to child support or~~
33 paternity establishment proceedings.

34 (b) ~~The designated representative shall maintain a list of those obligors included~~
35 ~~in a IV-D case for which a child support order has been rendered by, or registered in,~~
36 ~~a court of this State, and who are not in compliance with that order.~~ The designated
37 representative shall submit a certified list with the names, social security numbers,
38 and last known address of ~~these obligors and the name, address, and telephone~~
39 ~~number of the person who certified the list to the Department of Human Resources,~~
40 ~~Division of Social Services, Child Support Enforcement Office.~~ individuals who are
41 not in compliance with a child support order or with a subpoena issued pursuant to a
42 child support or paternity establishment proceeding. The designated representative
43 shall verify, under penalty of perjury, that the ~~obligors~~ individuals listed are subject to
44 an order for the payment of support and ~~that these persons~~ are not in compliance

1 with the ~~order~~ order, or are not in compliance with a subpoena issued pursuant to a
2 child support or paternity establishment proceeding. The verification shall include
3 the name, address, and telephone number of the designated representative who
4 certified the list. An updated certified list shall be submitted to the Department on a
5 monthly basis.

6 The Department of Human Resources, Division of Social Services, Child Support
7 Enforcement Office, shall consolidate the certified lists received from the designated
8 representatives and, within 30 calendar days of receipt, shall furnish each board with
9 a certified list of ~~its obligors~~ the individuals, as specified in this section.

10 (c) Each board shall coordinate with the Department of Human Resources,
11 Division of Social Services, Child Support Enforcement Office, in the development of
12 forms and procedures to implement this section.

13 (d) Promptly after receiving the certified list of ~~obligors~~ individuals from the
14 Department of Human Resources, each board shall determine whether its applicant
15 or licensee is an ~~obligor~~ individual on the list. If the applicant or licensee is an
16 ~~obligor~~ on the list, the board shall immediately send notice as specified in this
17 subsection to the applicant or licensee of the board's intent to revoke or suspend the
18 licensee's license in 20 days from the date of the notice, or that the board is
19 withholding issuance or renewal of an applicant's license, until the designated
20 representative certifies that the applicant or licensee is entitled to be licensed or
21 reinstated. The notice shall be made personally or by certified mail to the ~~obligor's~~
22 individual's last known mailing address on file with the board.

23 (e) Unless notified by the designated representative as provided in subsection (h)
24 of this section, the board shall revoke or suspend the ~~obligor's~~ individual's license 20
25 days from the date of the notice to the ~~obligor~~ individual of the board's intent to
26 revoke or suspend the license. In the event that a license is revoked or application is
27 denied pursuant to this section, the board is not required to refund fees paid by the
28 ~~obligor~~ individual.

29 (f) Notices shall be developed by each board in accordance with guidelines
30 provided by the Department of Human Resources and shall be subject to the
31 approval of the Department of Human Resources. The notice shall include the
32 address and telephone number of the designated representative who submitted the
33 name on the certified list, and shall emphasize the necessity of obtaining a
34 certification of compliance from the designated representative or the child support
35 enforcement agency as a condition of issuance, renewal, or reinstatement of the
36 license. The notice shall inform the ~~obligor~~ individual that if a license is revoked or
37 application is denied pursuant to this subsection, the board is not required to refund
38 fees paid by the ~~obligor~~ individual. The Department of Human Resources shall also
39 develop a form that the ~~obligor~~ individual shall use to request a review by the
40 designated representative. A copy of this form shall be included with every notice
41 sent pursuant to subsection (d) of this section.

42 (g) The Department of Human Resources shall establish review procedures
43 consistent with this section to allow an ~~obligor~~ individual to have the underlying
44 arrearage and any relevant defenses investigated, to provide an ~~obligor~~ individual

1 information on the process of obtaining a modification of a support order, or, if the
2 circumstances so warrant, to provide an ~~obligor~~ individual assistance in the
3 establishment of a payment schedule on arrears.

4 (h) If the ~~obligor~~ individual wishes to challenge the submission of the ~~obligor's~~
5 individual's name on the certified ~~list~~ list, or if the individual wishes to negotiate a
6 payment schedule, the ~~obligor~~ individual shall within 14 days of the date of notice
7 from the board request a review from the designated representative. The designated
8 representative shall within six days of the date of the ~~obligor's~~ request for review
9 notify the appropriate board of the ~~obligor's~~ request for review and direct the board
10 to stay any action revoking or suspending the ~~obligor's~~ individual's ~~license~~ license
11 until further notice from the designated representative. The designated representative
12 shall review the ~~obligor's~~ case and inform the ~~obligor~~ individual in writing of the
13 representative's findings and decision upon completion of the review. ~~The~~ If the
14 findings so warrant, the designated representative shall immediately send a notice to
15 the appropriate board certifying the ~~obligor's~~ individual's compliance with this
16 ~~section if the obligor is found to be no longer in arrears or negotiates an agreement~~
17 ~~with the designated representative for a payment schedule on arrears or~~
18 ~~reimbursement.~~ section. The agreement shall also provide for the maintenance of
19 current support obligations and shall be incorporated into a consent order to be
20 entered by the court. If the ~~obligor~~ individual fails to meet the conditions of this
21 subsection, the designated representative shall notify the appropriate board to
22 immediately revoke or suspend the ~~obligor's~~ individual's license. Upon receipt of
23 notice from the designated representative, the board shall immediately revoke or
24 suspend the ~~obligor's~~ individual's license.

25 (i) The designated representative shall notify the ~~obligor~~ individual in writing that
26 the ~~obligor~~ individual may, by filing a motion, request any or all of the following:

- 27 (1) Judicial review of the designated representative's decision.
28 (2) A judicial determination of compliance.
29 (3) A modification of the support order.

30 The notice shall also contain the name and address of the court in which the ~~obligor~~
31 individual shall file the motion and inform the ~~obligor~~ individual that the ~~obligor's~~
32 individual's name shall remain on the certified list unless the judicial review results
33 in a finding by the court that the ~~obligor is no longer in arrears or that the obligor's~~
34 ~~license should be reinstated under subsection (k) of this~~ the individual is in
35 compliance with this section. The notice shall also inform the ~~obligor~~ individual that
36 the ~~obligor~~ individual must comply with all statutes and rules of court regarding
37 motions and notices of hearing and that any motion filed under this section is subject
38 to the limitations of G.S. 50-13.10.

39 (j) The motion for judicial review of the designated representative's decision shall
40 state the grounds for which review is requested and judicial review shall be limited to
41 those stated grounds. After service of the request for review, the court shall hold an
42 evidentiary hearing at the next regularly scheduled session for the hearing of child
43 support matters in civil district court. The request for judicial review shall be served
44 by the ~~obligor~~ individual upon the designated representative who submitted the

1 ~~obligor's individual's~~ name on the certified list within seven calendar days of the
2 filing of the motion.

3 (k) If the judicial review results in a finding by the court that the ~~obligor~~
4 individual is no longer in arrears or that the ~~obligor's individual's~~ license should be
5 reinstated to allow the ~~obligor individual~~ an opportunity to comply with a payment
6 schedule on arrears or reimbursement and current support obligations, the designated
7 representative shall immediately send a notice to the appropriate board certifying the
8 ~~obligor's individual's~~ compliance with this section. ~~In the event of appeal from the~~
9 ~~judicial review, the license revocation shall not be stayed unless the court specifically~~
10 ~~provides otherwise.~~ If the judicial review results in a finding that the individual has
11 complied with or is no longer subject to the subpoena that was the basis for the
12 revocation, then the designated representative shall immediately send a notice to the
13 appropriate board certifying the individual's compliance with this section. In the
14 event of an appeal from judicial review, the license revocation shall not be stayed
15 unless the court specifically provides otherwise.

16 (l) The Department of Human Resources shall prescribe forms for use by the
17 designated representative. When the ~~obligor individual~~ is no longer in arrears or
18 negotiates an agreement with the designated representative for a payment schedule on
19 arrears or reimbursement ~~as provided in subsection (h) of this section,~~ the designated
20 representative shall mail to the ~~obligor individual~~ and the appropriate board a notice
21 certifying that the ~~obligor individual~~ is in compliance. The receipt of certification
22 shall serve to notify the ~~obligor individual~~ and the board that, for the purposes of this
23 section, the ~~obligor individual~~ is in compliance with the order for support. When the
24 individual has complied with or is no longer subject to a subpoena issued pursuant to
25 a child support or paternity establishment proceeding, the designated representative
26 shall mail to the individual and the appropriate board a notice certifying that the
27 individual is in compliance. The receipt of certification shall serve to notify the
28 individual and the board that the individual is in compliance with this section.

29 (m) The Department of Human Resources may enter into interagency agreements
30 with the boards necessary to implement this section.

31 (n) The procedures specified in Articles 3 and 3A of Chapter 150B of the General
32 Statutes, the Administrative Procedure Act, shall not apply to the denial or failure to
33 issue or renew a license pursuant to this section.

34 (o) Any board receiving an inquiry as to the licensed status of an applicant or
35 licensee who has had a license denied or revoked under this section shall respond
36 only that the license was denied or revoked pursuant to this section. Information
37 collected pursuant to this section shall be confidential and shall not be disclosed
38 except in accordance with the laws of this State.

39 (p) If any provision of this section or its application to any person or circumstance
40 is held invalid, that invalidity shall not affect other provisions or applications of this
41 section that can be given effect without the invalid provision or application, and to
42 this end the provisions of this section are severable."

43 Section 5.2. G.S. 110-142.2 reads as rewritten:

1 "§ 110-142.2. Suspension, revocation, restriction of license to operate a motor vehicle
2 or hunting, fishing, or trapping licenses; refusal of registration of motor vehicle.

3 (a) Effective December 1, 1996, notwithstanding any other provision of law, when
4 an ~~obligor~~ individual is at least 90 days in arrears in making child support payments,
5 or is not in compliance with a subpoena issued pursuant to child support or paternity
6 establishment proceedings, the child support enforcement agency may apply to the
7 court, pursuant to the regular show cause and contempt provisions of G.S. 50-13.9(d),
8 for an order doing any of the following:

9 (1) Revoking the ~~obligor's~~ individual's regular or commercial license
10 to operate a motor vehicle;

11 (2) Revoking the ~~obligor's~~ individual's hunting, fishing, or trapping
12 licenses;

13 (3) Directing the Department of Transportation, Division of Motor
14 Vehicles, to refuse, pursuant to G.S. 20-50.4, to register the
15 ~~obligor's~~ individual's motor vehicle.

16 (b) Upon finding that the ~~obligor~~ individual has willfully failed to comply with the
17 child support order or with a subpoena issued pursuant to child support proceedings,
18 and that the obligor is at least 90 days in arrears, or upon a finding that an individual
19 subject to a subpoena issued pursuant to child support or paternity establishment
20 proceedings has failed to comply with the subpoena, the court may enter an order
21 instituting the sanctions as provided in subsection (a) of this section. The court may
22 stay the effectiveness of the sanctions upon conditions requiring the obligor to make
23 full payment of the delinquency over time. Any such stay shall also be conditioned
24 upon the obligor's maintenance of current child support. The court may stay the
25 effectiveness of the sanctions against an individual subject to a subpoena issued
26 pursuant to child support or paternity establishment proceedings upon a finding that
27 the individual has complied with or is no longer subject to the subpoena. Upon entry
28 of an order pursuant to this section that is not stayed, the ~~obligor~~ individual shall
29 surrender any licenses revoked by the court's order to the child support enforcement
30 agency and the agency shall forward a report to the appropriate licensing authority
31 within 30 days of the order.

32 (c) If the ~~obligor's~~ individual's regular or commercial drivers license is revoked
33 under this section and the court, after the hearing, makes a finding that a license to
34 operate a motor vehicle is necessary to the ~~obligor's~~ individual's livelihood, the court
35 may issue a limited driving privilege, with those terms and conditions applying as the
36 court shall prescribe. An ~~obligor~~ individual whose license has been revoked for
37 reasons not related to this section and whose license remains revoked at the time of
38 the hearing shall not be eligible and may not be issued a limited driving privilege.
39 The court may modify or revoke the limited driving privilege pursuant to G.S. 20-
40 179.3(i).

41 (d) An ~~obligor~~ individual may file a request with the child support enforcement
42 agency for certification that the ~~obligor~~ individual is no longer delinquent in child
43 support payments upon submission of proof satisfactory to the child support
44 enforcement agency that the ~~obligor~~ individual has paid the delinquent amount in

1 full. An individual subject to a subpoena issued pursuant to a child support or
2 paternity establishment proceeding may file a request with the child support
3 enforcement agency for certification that the individual has complied with or is no
4 longer subject to the subpoena. The child support enforcement agency shall provide a
5 form to be used by the ~~obligor~~ individual for a request for certification. If the child
6 support enforcement agency finds that the ~~obligor~~ individual has met the
7 requirements for reinstatement under this subsection, then the child support
8 enforcement agency shall certify that the ~~obligor~~ individual is no longer delinquent or
9 that the individual has complied with or is no longer subject to a subpoena issued
10 pursuant to child support or paternity establishment proceedings and shall provide a
11 copy of the certification to the ~~obligor~~ individual.

12 (e) If licensing privileges are revoked under this section, the ~~obligor~~ individual
13 may petition the district court for a reinstatement of such privileges. The court may
14 order the privileges reinstated conditioned upon full payment of the delinquency over
15 ~~time. time, or, as applicable, may order the reinstatement if the court finds that the~~
16 individual has complied with or is no longer subject to the subpoena issued pursuant
17 to paternity establishment proceedings. Any order allowing license reinstatement shall
18 additionally require the obligor's maintenance of current child support. Upon
19 reinstatement under this subsection, the child support enforcement agency shall
20 certify that the ~~obligor~~ individual is no longer ~~delinquent~~ delinquent, or, as
21 applicable, that the individual has complied with or is no longer subject to the
22 subpoena issued pursuant to child support or paternity establishment proceedings and
23 shall provide a copy of the certification to the ~~obligor~~ individual, as applicable.

24 (f) Upon receipt of certification under subsection (d) or (e) of this section, the
25 Division of Motor Vehicles shall reinstate the license to operate a motor vehicle in
26 accordance with G.S. 20-24.1, and remove any restriction of the ~~obligor's~~ individual's
27 motor vehicle registration.

28 (g) Upon receipt of certification under subsection (d) or (e) of this section, the
29 licensing board having jurisdiction over the ~~obligor's~~ individual's hunting, fishing, or
30 trapping license shall reinstate the license.

31 (h) If the court imposes sanctions under subdivision (3) of subsection (a) of this
32 section and the sanctions are stayed upon conditions as provided in subsection (b) of
33 this section, the child support enforcement agency may, without any further
34 application to the court, notify the Division of Motor Vehicles if the ~~obligor~~
35 individual violates the terms and conditions of the stay. The Division shall then take
36 such action as provided in subdivision (3) of subsection (a) of this section. The
37 Division shall not remove any restriction of the ~~obligor's~~ individual's motor vehicle
38 registration, until receipt of certification pursuant to subsection (d) or (e) of this
39 section.

40 (i) The Department of Human Resources, the Administrative Office of the Courts,
41 the Division of Motor Vehicles, and the Department of Environment, Health, and
42 Natural Resources shall work together to develop the forms and procedures necessary
43 for the implementation of this process."

44 Section 5.3. G.S. 50-13.12 reads as rewritten:

1 "§ 50-13.12. Forfeiture of Licensing Privileges for Failure to Pay Child Support.
2 Support or for Failure to Comply with Subpoena Issued Pursuant to Child Support or
3 Paternity Establishment Proceedings.

4 (a) As used in this section, the term:

5 (1) 'Licensing board' means a department, division, agency, officer,
6 board, or other unit of state government that issues hunting,
7 fishing, trapping, drivers, or occupational licenses or licensing
8 privileges.

9 (2) 'Licensing privilege' means the privilege of an individual to be
10 authorized to engage in an activity as evidenced by hunting,
11 fishing, or trapping licenses, regular and commercial drivers
12 licenses, and occupational, professional, and business licenses.

13 (3) 'Obligee' means the individual or agency to whom a duty of
14 support is owed or the individual's legal representative.

15 (4) 'Obligor' means the individual who owes a duty to make child
16 support payments under a court order.

17 (5) 'Occupational license' means a license, certificate, permit,
18 registration, or any other authorization issued by a licensing board
19 that allows an obligor to engage in an occupation or profession.

20 (b) Upon a finding by the district court judge that the obligor is willfully
21 delinquent in child support payments equal to at least one month's child support, or
22 upon a finding that a person has willfully failed to comply with a subpoena issued
23 pursuant to a child support or paternity establishment proceeding, and upon findings
24 as to any specific licensing privileges held by the obligor, obligor or held by the
25 person subject to the subpoena, the court may revoke some or all of such privileges
26 until the obligor shall have paid the delinquent amount in full, full, or, as applicable,
27 until the person subject to the subpoena has complied with the subpoena. The court
28 may stay any such revocation pertaining to the obligor upon conditions requiring the
29 obligor to make full payment of the delinquency over time. Any such stay shall
30 further be conditioned upon the obligor's maintenance of current child support. The
31 court may stay the revocation pertaining to the person subject to the subpoena upon
32 a finding that the person has complied with or is no longer subject to the subpoena.
33 Upon an order revoking such privileges of an obligor that does not stay the
34 revocation, the clerk of superior court shall notify the appropriate licensing board
35 that the obligor is delinquent in child support payments and that the obligor's
36 licensing privileges are revoked until such time as the licensing board receives proof
37 of certification by the clerk that the obligor is no longer delinquent in child support
38 payments. Upon an order revoking such privileges of a person subject to the
39 subpoena that does not stay the revocation, the clerk of superior court shall notify the
40 appropriate licensing board that the person has failed to comply with the subpoena
41 issued pursuant to a child support or paternity establishment proceeding and that the
42 person's licensing privileges are revoked until such time as the licensing board
43 receives proof of certification by the clerk that the person is in compliance with or no
44 longer subject to the subpoena.

1 (c) An obligor may file a request with the clerk of superior court for certification
2 that the obligor is no longer delinquent in child support payments upon submission of
3 proof satisfactory to the clerk that the obligor has paid the delinquent amount in full.
4 A person whose licensing privileges have been revoked under subsection (b) of this
5 section because of a willful failure to comply with a subpoena may file a request with
6 the clerk of superior court for certification that the person has met the requirements
7 of or is no longer subject to the subpoena. The clerk shall provide a form to be used
8 ~~by the obligor~~ for a request for certification. If the clerk finds that the obligor has
9 met the requirements for reinstatement under this subsection, then the clerk shall
10 certify that the obligor is no longer delinquent and shall provide a copy of the
11 certification to the obligor. Upon request of the obligor, the clerk shall mail a copy of
12 the certification to the appropriate licensing board. If the clerk finds that the person
13 whose licensing privileges have been revoked under subsection (b) of this section for
14 failure to comply with a subpoena has complied with or is no longer subject to the
15 subpoena, then the clerk shall certify that the person has met the requirements of or
16 is no longer subject to the subpoena and shall provide a copy of the certification to
17 the person. Upon request of the person, the clerk shall mail a copy of the
18 certification to the appropriate licensing board.

19 (d) If licensing privileges are revoked under this section, the obligor may petition
20 the district court for a reinstatement of such privileges. The court may order the
21 privileges reinstated conditioned upon full payment of the delinquency over time.
22 Any order allowing license reinstatement shall additionally require the obligor's
23 maintenance of current child support. If the licensing privileges of a person other
24 than the obligor are revoked under this section for failure to comply with a subpoena,
25 the person may petition the district court for reinstatement of the privileges. The
26 court may order the privileges reinstated if the person has complied with or is no
27 longer subject to the subpoena that was the basis for revocation. Upon reinstatement
28 under this subsection, the clerk of superior court shall certify that the obligor is no
29 longer delinquent and provide a copy of the certification to the obligor. Upon
30 request of the obligor, the clerk shall mail a copy of the certification to the
31 appropriate licensing board. Upon reinstatement of the person whose licensing
32 privileges were revoked based on failure to comply with a subpoena, the clerk of
33 superior court shall certify that the person has complied with or is no longer subject
34 to the subpoena. Upon request of the person whose licensing privileges are
35 reinstated, the clerk shall mail a copy of the certification to the appropriate licensing
36 board.

37 (e) ~~The obligor~~ An obligor or other person whose licensing privileges are
38 reinstated under this section may provide a copy of the certification set forth in either
39 subsection (c) or (d) to each licensing agency to which the obligor or other person
40 applies for reinstatement of licensing privileges. Upon request of the ~~obligor,~~ obligor
41 or other person, the clerk shall mail a copy of the certification to the appropriate
42 licensing board. Upon receipt of a copy of the certification, the licensing board shall
43 reinstate the license.

1 (f) Upon receipt of notification by the clerk that ~~the obligor's~~ an obligor's or other
2 person's licensing privileges are ~~revoked~~, revoked pursuant to this section, the board
3 shall note the revocation on its records and take all necessary steps to implement and
4 enforce the revocation. These steps shall not include the board's independent
5 revocation process pursuant to Chapter 150B of the General Statutes, the
6 Administrative Procedure Act, which process is replaced by the court process
7 prescribed by this section. The revocation pertaining to an obligor shall remain in
8 full force and effect until the board receives certification under this section that the
9 obligor is no longer delinquent in child support payments. The revocation pertaining
10 to the person whose licensing privileges were revoked on the basis of failure to
11 comply with a subpoena shall remain in full force and effect until the board receives
12 certification of reinstatement under subsection (d) of this section."

13 Section 5.4. G.S. 93B-13 reads as rewritten:

14 "**§ 93B-13. Revocation when licensing privilege forfeited for nonpayment of child**
15 **support. support or for failure to comply with subpoena.**

16 (a) Upon receipt of a court order, pursuant to G.S. 50-13.12, revoking the
17 occupational license of a licensee under its jurisdiction, an occupational licensing
18 board shall note the revocation in its records and follow the normal postrevocation
19 rules and procedures of the board as if the revocation had been ordered by the
20 board. The revocation shall remain in effect until the board receives certification by
21 the clerk of superior court that the licensee is no longer delinquent in child support
22 ~~payments.~~ payments, or, as applicable, that the licensee is in compliance with or is no
23 longer subject to the subpoena that was the basis for the revocation.

24 (b) Upon receipt of notification from the Department of Human Resources that a
25 licensee under an occupational licensing board's jurisdiction has forfeited the
26 licensee's occupational license pursuant to G.S. 110-142.1, then the occupational
27 licensing board shall send a notice of intent to revoke or suspend the occupational
28 license of that licensee as provided by G.S. 110-142.1(d). If the license is revoked as
29 provided by the provisions of G.S. 110-142.1, the revocation shall remain in effect
30 until the board receives certification by the designated representative or the child
31 support enforcement agency that the licensee is no longer delinquent in child support
32 ~~payments.~~ payments, or, as applicable, that the licensee is in compliance with or no
33 longer subject to a subpoena that was the basis for the revocation.

34 (c) If at the time the court revokes a license pursuant to subsection (a) of this
35 section, or if at the time the occupational licensing board revokes a license pursuant
36 to subsection (b) of this section, the occupational licensing board has revoked the
37 same license under the licensing board's disciplinary authority over licensees under
38 its jurisdiction, and that revocation period is greater than the revocation period
39 resulting from forfeiture pursuant to G.S. 50-13.12 or G.S. 110-142.1 then the
40 revocation period imposed by the occupational licensing board applies.

41 (d) Immediately upon certification by the clerk of superior court or the child
42 support enforcement agency that the licensee whose license was revoked pursuant to
43 subsection (a) or (b) of this section is no longer delinquent in child support payments,
44 the occupational licensing board shall reinstate the license. Immediately upon

1 certification by the clerk of superior court or the child support enforcement agency
2 that the licensee whose license was revoked because of failure to comply with a
3 subpoena is in compliance with or no longer subject to the subpoena, the
4 occupational licensing board shall reinstate the license. Reinstatement of a license
5 pursuant to this section shall be made at no additional cost to the licensee."
6

7 **PART 6. INCOME WITHHOLDING.**

8 Section 6. G.S. 110-136.8(b) reads as rewritten:

9 "(b) Payor's responsibilities. A payor who has been properly served with a notice
10 to withhold is required to:

- 11 (1) Withhold from the obligor's disposable income and, within ~~40~~ 7
12 business days of the date the obligor is paid, send to the clerk of
13 superior court or State collection and disbursement unit, as
14 specified in the notice, the amount specified in the notice and the
15 date the amount was withheld, but in no event more than the
16 amount allowed by G.S. 110-136.6; however, if a lesser amount of
17 disposable income is available for any pay period, the payor shall
18 either: (a) compute and send the appropriate amount to the clerk
19 of court, using the percentages as provided in G.S. 110-136.6, or
20 (b) request the initiating party to inform the payor of the proper
21 amount to be withheld for that period;
- 22 (2) Continue withholding until further notice from the IV-D ~~agency or~~
23 agency, the clerk of superior court, court, or the State collection
24 and disbursement unit;
- 25 (3) Withhold for child support before withholding pursuant to any
26 other legal process under State law against the same disposable
27 income;
- 28 (4) Begin withholding from the first payment due the obligor in the
29 first pay period that occurs 14 days following the date the notice of
30 the obligation to withhold was served on the payor;
- 31 (5) Promptly notify the obligee in a IV-D case, or the clerk of superior
32 court or the State collection and disbursement unit in a non-IV-D
33 case, in writing:
 - 34 a. If there is more than one child support withholding for the
35 obligor;
 - 36 b. When the obligor terminates employment or otherwise
37 ceases to be entitled to disposable income from the payor,
38 and provide the obligor's last known address, and the name
39 and address of his new employer, if known;
 - 40 c. Of the payor's inability to comply with the withholding for
41 any reason; and
- 42 (6) Cooperate fully with the initiating party in the verification of the
43 amount of the obligor's disposable income."
44

PART 6A. EXPEDITED PROCEDURES FOR INCOME WITHHOLDING.

Section 6.1. G.S. 110-136.3(b) reads as rewritten:

"(b) When obligor subject to withholding.

(1) In IV-D cases in which a new or modified child support order is entered on or after October 1, 1989, an obligor is subject to income withholding immediately upon entry of the order. In IV-D cases in which the child support order was entered prior to October 1, 1989, an obligor shall become subject to income withholding on the ~~earliest of:~~

- a. The date on which the obligor fails to make legally obligated child support payments in an amount equal to the support payable for one month; or
- ~~b. The date on which the obligor or obligee requests withholding.~~

(2) In non-IV-D cases in which the child support order was entered prior to January 1, 1994, an obligor shall be subject to income withholding on the earliest of:

- a. The date on which the obligor fails to make legally obligated child support payments in an amount equal to the support payable for one month; or
- b. The date on which the obligor requests withholding; or
- c. The date on which the court determines, pursuant to a motion or independent action filed by the obligee under G.S. 110-136.5(a), that the obligor is or has been delinquent in making child support payments or has been erratic in making child support payments.

(3) In IV-D child support cases in which an order was issued or modified in this State prior to October 1, 1996, and in which the obligor is not otherwise subject to withholding, the obligor shall become subject to withholding if arrearages occur."

Section 6.2. G.S. 110-136.4(a)(2) reads as rewritten:

"(2) Contents of advance notice. The advance notice to the obligor shall contain, at a minimum, the following information:

- a. Whether the proposed withholding is based on the obligor's failure to make legally obligated payments in an amount equal to the support payable for one month or on the obligor's request for withholding or on the obligee's request for ~~withholding~~; withholding, or on the obligor's eligibility for withholding under G.S. 110-136.3(b)(3);
- b. The amount of overdue support, the total amount to be withheld, and when the withholding will occur;
- c. The name of each child for whose benefit the child support is due, and information sufficient to identify the court order under which the obligor has a duty to support the child;

- d. The amount and sources of disposable income;
- e. That the withholding will apply to the obligor's wages or other sources of disposable income from current payors and all subsequent payors once the procedures under this section are invoked;
- f. An explanation of the obligor's rights and responsibilities pursuant to this section;
- g. That withholding will be continued until terminated pursuant to G.S. 110-136.10."

PART 7. ESTABLISHMENT OF A LIEN ON REAL AND PERSONAL PROPERTY OF PERSON OWING PAST-DUE CHILD SUPPORT.

Section 7. Chapter 44 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 15.

"Liens for Overdue Child Support.

"§ 44-86. Lien on real and personal property of person owing past-due child support; definitions; filing required; discharge.

(a) Definitions. As used in this Article, the terms 'designated representative', 'obligee', and 'obligor' have the meanings given them in G.S. 110-129.

(b) Lien Created. There is created a general lien upon the real and personal property of any person who is delinquent in the payment of court-ordered child support. For purposes of this section, an obligor is delinquent when arrears under a court-ordered child support obligation equals three months of payments or three thousand dollars (\$3,000), whichever occurs first. The amount of the lien shall be determined by a verified statement of child support delinquency prepared in accordance with subsection (c) of this section.

(c) Contents of Statement; Verification. A verified statement of child support delinquency shall contain the following information:

(1) The caption and file docket number of the case in which child support was ordered;

(2) The date of the order of support;

(3) The amount of the child support obligation established by the order; and

(4) The amount of the arrearage as of the date of the statement.

The statement shall be verified by the designated representative in a IV-D case and by the obligee in a non-IV-D case.

(d) Filing and Perfection of Lien. The verified statement shall be filed in the office of the clerk of superior court in the county in which the child support was ordered. At the time of filing the verified statement, the designated representative in a IV-D case and the obligee in a non-IV-D case shall serve notice on the obligor that the statement has been filed. The notice shall be served and the return of service filed with the clerk of court in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. The notice shall specify the manners in which the lien may be

1 discharged. Upon perfection of the lien, as set forth herein, the clerk shall docket
2 and index the statement on the judgment docket. The clerk shall issue a transcript of
3 the docketed statement to the clerk of any other county as requested by the
4 designated representative in a IV-D case or the obligee in a non-IV-D case. The
5 clerk receiving the transcript shall docket and index the transcript. A lien on
6 personal property attaches when the property is seized by the sheriff. A lien on real
7 property attaches when the perfected lien is docketed and indexed on the judgment
8 docket.

9 (1) IV-D Cases. In IV-D cases, the filing of a verified statement with
10 the clerk of court by the designated representative shall perfect the
11 lien. The obligor may contest the lien by motion in the cause.

12 (2) Non-IV-D Cases. In a non-IV-D case, the notice to the obligor of
13 the filing of the verified statement shall state that the obligor has
14 30 days from the date of service to request a hearing before a
15 district court judge to contest the validity of the lien. If the obligor
16 fails to contest the lien after 30 days from the time of service, the
17 obligee may make application to the clerk, and the clerk shall
18 record and index the lien on the judgment docket. If the obligee
19 files a petition contesting the validity of the lien, a hearing shall be
20 held before a district court judge to determine whether the lien is
21 valid and proper. In contested cases, the clerk of court shall
22 record and index the lien on the judgment docket only by order of
23 the judge. The docketing of a verified statement in a non-IV-D
24 case shall perfect the lien when duly recorded and indexed.

25 (e) Lien Superior to Subsequent Liens. Except as otherwise provided by law, a
26 lien established in accordance with this section shall take priority over all other liens
27 subsequently acquired and shall continue from the date of filing until discharged in
28 accordance with G.S. 44-87.

29 (f) Execution on the Lien. A designated representative in a IV-D case, after 30
30 days from the docketing of the perfected lien, or an obligee in a non-IV-D case, after
31 docketing the perfected lien, may enforce the lien in the same manner and under the
32 same limitations as a civil judgment under Chapter 1 and Chapter 1C of the General
33 Statutes.

34 (g) Liens Arising Out-of-State. This State shall accord full faith and credit to child
35 support liens arising in another state when the child support enforcement agency,
36 party, or other entity seeking to enforce the lien complies with the requirements
37 relating to recording and serving child support liens as set forth in this Article and
38 with the requirements relating to the enforcement of foreign judgments as set forth in
39 Chapter 1C of the General Statutes.

40 **"§ 44-87. Discharge of lien; penalty for failure to discharge.**

41 (a) Liens created by this Article may be discharged as follows:

42 (1) By the designated representative in IV-D cases, or by the obligee in
43 non-IV-D cases, filing with the clerk of superior court an

1 acknowledgment that the obligor has satisfied the full amount of
2 the lien;

3 (2) By depositing with the clerk of superior court money equal to the
4 amount of the claim and filing a petition in the cause requesting a
5 district court judge to determine the validity of the lien. The
6 money shall not be disbursed except by order of a district court
7 judge following the hearing on the merits; or

8 (3) By an entry in the judgment docket book that the action on the
9 part of the lien claimant to enforce the lien has been dismissed, or
10 a judgment has been rendered against the claimant in such action.

11 (b) An obligee in a non-IV-D case who has received payment in full for a
12 delinquent child support obligation which is the basis for the lien shall, within 30
13 days of receipt of payment, file with the clerk of court an acknowledgment that the
14 obligor has satisfied the full amount of the lien and that the lien is discharged. If the
15 lienholder fails to timely file the acknowledgment, the obligor may, after serving
16 notice on the obligee, file an action in district court to discharge the lien. If in an
17 action filed by the obligor to discharge the lien, the court discharges the lien and
18 finds that the obligee failed to timely file an acknowledgment discharging the lien,
19 then the court may allow the prevailing party to recover reasonable attorneys' fees to
20 be taxed as court costs against the obligee."

21 Section 7.1. G.S. 50-13.4(f)(8) reads as rewritten:

22 "(8) Except as provided in Article 15 of Chapter 44 of the General
23 Statutes, a judgment for child support shall not be a lien against
24 real property unless the judgment expressly so provides, sets out
25 the amount of the lien in a sum certain, and adequately describes
26 the real property affected; but past due periodic payments may by
27 motion in the cause or by a separate action be reduced to
28 judgment which shall be a lien as other judgments."
29

30 **PART 8. DEPARTMENT OF HUMAN RESOURCES TO DEVELOP AUTOMATED**
31 **DATA PROCESSING AND INFORMATION SYSTEM, AND CENTRALIZED**
32 **COLLECTION AND DISBURSEMENT SYSTEM FOR THE ENHANCEMENT OF**
33 **CHILD SUPPORT COLLECTION AND DISBURSEMENT.**

34 Section 8. (a) Automated System. The Department of Human
35 Resources shall develop a single statewide automated data processing and information
36 retrieval system to enhance enforcement of child support obligations. The system
37 shall have the capability to perform the following tasks:

- 38 (1) Program management, including the controlling and accounting for
39 use of federal, State, and local funds in carrying out the State child
40 support enforcement program, and maintaining the data necessary
41 to meet federal reporting requirements on a timely basis;
42 (2) Maintenance of requisite data on State performance with respect to
43 paternity establishment and child support enforcement, including

- 1 systems controls to ensure completeness and reliability of and
- 2 ready access to this data;
- 3 (3) Establishment of safeguards on the integrity, accuracy, and
- 4 completeness of, access to, and use of data in the system.
- 5 Safeguards shall include policies restricting, controlling, and
- 6 monitoring access to the system and database;
- 7 (4) Maintenance of the State's automated case tracking system (ACTS)
- 8 in accordance with federal requirements;
- 9 (5) Information retrieval, comparisons, and disclosure, including the
- 10 sharing and comparison of information from other databases and
- 11 information comparison services. Comparison services shall
- 12 include information retrieval and sharing with such databases as
- 13 the Federal Case Registry of Child Support Orders, the Federal
- 14 Parent Locator Service, temporary family assistance and Medicaid
- 15 agencies, and other agencies of this State and agencies of other
- 16 states and interstate information networks;
- 17 (6) Collection and distribution of support payments through the State
- 18 Collection Disbursement Unit as required by federal law; and
- 19 (7) Implement expedited administrative procedures for the
- 20 establishment of paternity and the enforcement of child support
- 21 orders.

22 In addition, the system shall include procedures to ensure that all personnel who
23 have access to confidential program data are trained in and informed of applicable
24 requirements and penalties. The Department shall impose administrative penalties
25 authorized by State law for unauthorized access to or disclosure or use of confidential
26 data in the system.

27 (b) Progress Reports on Development. The Department shall provide
28 periodic written progress reports to the Cochairs of the House and Senate
29 Appropriations subcommittees on Human Resources, and to the Fiscal Research
30 Division, not later than October 1, 1997, March 1, 1998, and October 1, 1998.
31 Information contained in the report shall include, but not be limited to:

- 32 (1) Federal requirements for the automated system and collection and
- 33 disbursements units;
- 34 (2) Status of development of the automated system and collection and
- 35 disbursement unit as of the date of the progress report, and
- 36 whether the development plan is on schedule, behind schedule, or
- 37 ahead of schedule, and the reasons therefor;
- 38 (3) Projected costs to develop and operate the automated system; and
- 39 projected savings, if any, from full implementation of the system;
- 40 (4) Projected costs to develop and operate the collection and
- 41 disbursement unit, including recommendations on whether the
- 42 Department should operate the unit or whether it should be
- 43 operated by an outside contractor;

(5) The amount of State funds that must be appropriated for the 1998-99 fiscal year to develop and implement the collection and disbursement unit; and

(6) Other information requested by the Cochairs or that the Department considers relevant and useful.

Section 8.1. Effective October 1, 1999, G.S. 110-139 is amended by adding the following new subsection to read:

"(f) There is established the State Child Support Collection and Disbursement Unit. The duties of the Unit shall be the collection and disbursement of payments under support orders for:

(1) All IV-D cases, and

(2) All non-IV-D cases in which the support order was initially issued in this State on or after January 1, 1994, and in which the income of the noncustodial parent is subject to income withholding.

The Department may administer and operate the Unit or may contract with another State or private entity for the administration and operation of the Unit."

Section 8.2. G.S. 110-139.1(a) reads as rewritten:

"(a) Except as otherwise provided in this section, the ~~The~~ parent locator service of the Department of Human Resources shall transmit, upon payment of the fee prescribed by federal law, requests for information as to the whereabouts of any ~~absent~~ parent or child to the federal parental locator service when such requests are made by judges, clerks of superior court, district attorneys, or United States attorneys, and when the information is to be used to locate the parent or child for the purpose of enforcing State or federal law with respect ~~to~~ to:

(1) the ~~The~~ unlawful taking or restraint of a ~~child~~ child;

(2) or ~~making~~ Making or enforcing a child custody ~~determination~~ determination, including visitation orders;

(3) Establishing paternity; or

(4) Establishing, setting or modifying the amount of, or enforcing child support obligations.

The Department shall not disclose any information from or through the parent locator service if there is reasonable evidence of domestic violence or child abuse and the disclosure of the information could be harmful to the custodial parent or the child of the custodial parent."

PART 9. FINANCIAL INSTITUTIONS/DATA MATCH SYSTEM.

Section 9. Chapter 110 of the General Statutes is amended by adding the following new section to read:

"§ 110-139.2. Data match system; agreements with financial institutions.

(a) The Department of Human Resources and financial institutions doing business in this State shall enter into mutual agreements for the purpose of facilitating the enforcement of child support obligations. The agreements shall provide for the development and operation of a data match system that will enable the financial institutions to provide to the Department on a quarterly basis the information

1 required under G.S. 110-139(d). Financial institutions shall provide the information
2 upon certification by the Department that the person about whom the information is
3 requested is subject to a child support order and the information is necessary to
4 enforce the order. The Department may pay a reasonable fee to the financial
5 institution for conducting the data match required under this section provided that
6 the fee shall not exceed the actual costs incurred by the financial institution to
7 conduct the match.

8 (b) A financial institution shall not be liable under any State law, including but
9 not limited to Chapter 53B of the General Statutes, for disclosure of information to
10 the State child support agency under this section, and for any other action taken by
11 the financial institution in good faith to comply with this section or with G.S. 110-
12 139.

13 (c) As used in this subdivision, a financial institution includes federal, State,
14 commercial, or savings banks, savings and loan associations and cooperative banks,
15 federal or State chartered credit unions, benefit associations, insurance companies,
16 safe deposit companies, money market mutual funds, and investment companies
17 doing business in this State or incorporated under the laws of this State."

18 Section 9.1. G.S. 110-139(d) reads as rewritten:

19 "(d) Notwithstanding any other provision of law making this information
20 confidential, including Chapter 53B of the General Statutes, any utility ~~company~~
21 company, cable television company, or financial institution, including federal, State,
22 commercial, or savings banks, savings and loan associations and cooperative banks,
23 federal or State chartered credit unions, benefit associations, insurance companies,
24 safe deposit companies, money market mutual funds, and investment companies
25 doing business in this State or incorporated under the laws of this State shall provide
26 the Department of Human Resources with the following information upon
27 certification by the Department that the information is needed to locate a parent for
28 the purpose of collecting child support or to establish or enforce an order for child
29 support: full name, social security number, address, telephone number, account
30 numbers, and other identifying data for any person who maintains an account at the
31 utility ~~company~~ company, cable television company, or financial institution. A utility
32 ~~company~~ company, cable television company, or financial institution that discloses
33 information pursuant to this subsection in good faith reliance upon certification by
34 the Department is not liable for damages resulting from the disclosure."
35

36 **PART 10. AMEND UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA).**

37 Section 10. G.S. 52C-1-101 reads as rewritten:

38 **"§ 52C-1-101. Definitions.**

39 As used in this Article, unless the context clearly requires otherwise, the term:

- 40 (1) 'Child' means an individual, whether over or under the age of
41 majority, who is or is alleged to be owed a duty of support by the
42 individual's parent or who is or is alleged to be the beneficiary of a
43 support order directed to the parent.

- (2) 'Child support order' means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.
- (3) 'Duty of support' means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.
- (4) 'Home state' means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six-months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.
- (5) 'Income' includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this State.
- (6) 'Income-withholding order' means an order or other legal process directed to a payer of income to withhold support from the income of the obligor.
- (7) 'Initiating state' means a state ~~in~~ from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this Act or a law or procedure substantially similar to this Act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support ~~Act is filed for forwarding to a responding state.~~ Act.
- (8) 'Initiating tribunal' means the authorized tribunal in an initiating state.
- (9) 'Issuing state' means the state in which a tribunal issues a support order or renders a judgment determining parentage.
- (10) 'Issuing tribunal' means the tribunal that issues a support order or renders a judgment determining parentage.
- (11) 'Law' includes decisional and statutory law and rules and regulations having the force of law.
- (12) 'Obligee' means:
- a. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;
 - b. A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or
 - c. An individual seeking a judgment determining parentage of the individual's child.
- (13) 'Obligor' means an individual, or the estate of a decedent:

- 1 a. Who owes or is alleged to owe a duty of support;
2 b. Who is alleged but has not been adjudicated to be a parent
3 of a child; or
4 c. Who is liable under a support order.
- 5 (14) 'Register' means to file a support order or judgment determining
6 paternity in the appropriate location for the recording or filing of
7 foreign judgments generally or foreign support orders specifically.
- 8 (15) 'Registering tribunal' means a tribunal in which a support order is
9 registered.
- 10 (16) 'Responding state' means a state ~~to~~ in which a proceeding is filed
11 or to which a proceeding is forwarded for filing from an initiating
12 state under this Act or a law or procedure substantially similar to
13 this Act, the Uniform Reciprocal Enforcement of Support Act, or
14 the Revised Uniform Reciprocal Enforcement of Support Act.
- 15 (17) 'Responding tribunal' means the authorized tribunal in a
16 responding state.
- 17 (18) 'Spousal-support order' means a support order for a spouse or
18 former spouse of the obligor.
- 19 (19) 'State' means a state of the United States, the District of Columbia,
20 ~~the Commonwealth of~~ Puerto Rico, the United States Virgin
21 Islands, or any territory or insular possession subject to the
22 jurisdiction of the United States. The term 'state' includes:
23 a. An Indian tribe; and ~~includes~~
24 b. A foreign jurisdiction that has enacted a law or established
25 procedures for issuance and enforcement of support orders
26 which are substantially similar to the procedures under this
27 ~~Chapter. Act, the Uniform Reciprocal Enforcement of~~
28 Support Act, or the Revised Uniform Reciprocal
29 Enforcement of Support Act.
- 30 (20) 'Support enforcement agency' means a public official or agency
31 authorized to seek:
32 a. Enforcement of support orders or duties of ~~support~~ support;
33 b. ~~to seek establishment~~ Establishment or modification of child
34 ~~support, support;~~
35 c. ~~to seek determination~~ Determination of ~~paternity, parentage;~~
36 or
37 d. ~~to~~ To locate obligors or their assets.
- 38 (21) 'Support order' means a judgment, decree, or order, whether
39 temporary, final, or subject to modification, for the benefit of a
40 child, a spouse, or a former spouse, which provides for monetary
41 support, health care, arrears, or reimbursement, and may include
42 related costs and fees, interest, income withholding, attorneys' fees,
43 and other relief.

(22) 'Tribunal' means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine paternity, except that, for matters heard in this State, tribunal means the General Court of Justice, District Court Division."

Section 10.1. G.S. 52C-2-203 reads as rewritten:

"§ 52C-2-203. Initiating and responding tribunal of ~~this State.~~ state.

Under this Chapter, a tribunal of this State may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state."

Section 10.2. G.S. 52C-2-205 reads as rewritten:

"§ 52C-2-205. Continuing, exclusive jurisdiction.

(a) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a child support order:

(1) As long as this State remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) Until ~~each individual party has~~ all of the parties who are individuals have filed written ~~consent~~ consents with the tribunal of this State for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this State issuing a child support order consistent with the law of this State may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this Chapter.

(c) If a child support order of this State is modified by a tribunal of another state pursuant to a law substantially similar to this Chapter, a tribunal of this State loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this State, and may only:

(1) Enforce the order that was modified as to amounts accruing before the modification;

(2) Enforce nonmodifiable aspects of that order; and

(3) Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this State shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to this Chapter.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this State may not modify a

1 spousal support order issued by a tribunal of another state having continuing,
2 exclusive jurisdiction over that order under the law of that state."

3 Section 10.3. (a) The title of Part 3 of Article 2 of Chapter 52C of the
4 General Statutes reads as rewritten:

5 "Part 3. Reconciliation ~~With Orders of Other States.~~ of Multiple Orders."

6 (b) G.S. 52C-2-207 reads as rewritten:

7 "§ 52C-2-207. Recognition of ~~controlling~~ child support orders. order.

8 ~~(a) If a proceeding is brought under this Chapter, and one or more child support~~
9 ~~orders have been issued in this or another state with regard to an obligor and a child,~~
10 ~~a tribunal of this State shall apply the following rules in determining which order to~~
11 ~~recognize for purposes of continuing, exclusive jurisdiction:~~

12 (1) ~~If only one tribunal has issued a child support order, the order of~~
13 ~~that tribunal must be recognized.~~

14 (2) ~~If two or more tribunals have issued child support orders for the~~
15 ~~same obligor and child, and only one of the tribunals would have~~
16 ~~continuing, exclusive jurisdiction under this Chapter, the order of~~
17 ~~that tribunal must be recognized.~~

18 (3) ~~If two or more tribunals have issued child support orders for the~~
19 ~~same obligor and child, and more than one of the tribunals would~~
20 ~~have continuing, exclusive jurisdiction under this Chapter, an~~
21 ~~order issued by a tribunal in the current home state of the child~~
22 ~~must be recognized, but if an order has not been issued in the~~
23 ~~current home state of the child, the order most recently issued~~
24 ~~must be recognized.~~

25 (4) ~~If two or more tribunals have issued child support orders for the~~
26 ~~same obligor and child, and none of the tribunals would have~~
27 ~~continuing, exclusive jurisdiction under this Chapter, the tribunal~~
28 ~~of this State may issue a child support order, which must be~~
29 ~~recognized.~~

30 (b) ~~The tribunal that has issued an order recognized under subsection (a) of this~~
31 ~~section is the tribunal having continuing, exclusive jurisdiction.~~

32 (a) If a proceeding is brought under this Chapter and only one tribunal has issued
33 a child support order, the order of that tribunal controls and must be so recognized.

34 (b) If a proceeding is brought under this Chapter, and two or more child support
35 orders have been issued by tribunals of this State or another state with regard to the
36 same obligor and child, a tribunal of this State shall apply the following rules in
37 determining which order to recognize for purposes of continuing, exclusive
38 jurisdiction:

39 (1) If only one of the tribunals would have continuing, exclusive
40 jurisdiction under this Chapter, the order of that tribunal controls
41 and must be so recognized.

42 (2) If more than one of the tribunals would have continuing, exclusive
43 jurisdiction under this Chapter, an order issued by a tribunal in the
44 current home state of the child controls and must be so recognized.

1 but if an order has not been issued in the current home state of the
2 child, the order most recently issued controls and must be so
3 recognized.

4 (3) If none of the tribunals would have continuing, exclusive
5 jurisdiction under this Chapter, the tribunal of this State having
6 jurisdiction over the parties shall issue a child support order, which
7 controls and must be so recognized.

8 (c) If two or more child support orders have been issued for the same obligor and
9 child and if the obligor or the individual obligee resides in this State, a party may
10 request a tribunal of this State to determine which order controls and must be so
11 recognized under subsection (b) of this section. The request must be accompanied by
12 a certified copy of every support order in effect. The requesting party shall give
13 notice of the request to each party whose rights may be affected by a certified copy of
14 every support order in the effect. The requesting party shall give notice of the
15 request to each party whose rights may be affected by the determination.

16 (d) The tribunal that issued the controlling order under subsection (a), (b), or (c)
17 of this section is the tribunal that has continuing, exclusive jurisdiction under G.S.
18 52C-2-205.

19 (e) A tribunal of this State which determines by order the identity of the
20 controlling order under subdivision (b)(1) or (2) of this section or which issues a new
21 controlling order under subdivision (b)(3) of this section shall state in that order the
22 basis upon which the tribunal made its determination.

23 (f) Within 30 days after issuance of an order determining the identity of the
24 controlling order, the party obtaining the order shall file a certified copy of it with
25 each tribunal that issued or registered an earlier order of child support. A party who
26 obtains the order and fails to file a certified copy is subject to appropriate sanctions
27 by a tribunal in which the issue of failure to file arises. The failure to file does not
28 affect the validity or enforceability of the controlling order."

29 Section 10.4. G.S. 52C-3-304 reads as rewritten:

30 "**§ 52C-3-304. Duties of initiating tribunal.**

31 (a) Upon the filing of a petition authorized by this Chapter, an initiating tribunal
32 of this State shall forward three copies of the petition and its accompanying
33 documents:

34 (1) To the responding tribunal or appropriate support enforcement
35 agency in the responding state; or

36 (2) If the identity of the responding tribunal is unknown, to the state
37 information agency of the responding state with a request that they
38 be forwarded to the appropriate tribunal and that receipt be
39 acknowledged.

40 (b) If a responding state has not enacted this act or a law or procedure
41 substantially similar to this act, a tribunal of this State may issue a certificate or other
42 document and make findings required by the law of the responding state. If the
43 responding State is a foreign jurisdiction, the tribunal may specify the amount of

1 support sought and provide other documents necessary to satisfy the requirements of
2 the responding state."

3 Section 10.5. G.S. 52C-3-305 reads as rewritten:

4 "**§ 52C-3-305. Duties and powers of responding tribunal.**

5 (a) When a responding tribunal of this State receives a petition or comparable
6 pleading from an initiating tribunal or directly pursuant to G.S. 52C-3-301(c) it shall
7 cause the petition or pleading to be filed and notify the petitioner ~~by first-class mail~~
8 where and when it was filed.

9 (b) A responding tribunal of this State, to the extent otherwise authorized by law,
10 may do one or more of the following:

- 11 (1) Issue or enforce a support order, modify a child support order, or
12 render a judgment to determine parentage;
- 13 (2) Order an obligor to comply with a support order, specifying the
14 amount and the manner of compliance;
- 15 (3) Order income withholding;
- 16 (4) Determine the amount of any arrears, and specify a method of
17 payment;
- 18 (5) Enforce orders by civil or criminal contempt, or both;
- 19 (6) Set aside property for satisfaction of the support order;
- 20 (7) Place liens and order execution on the obligor's property;
- 21 (8) Order an obligor to keep the tribunal informed of the obligor's
22 current residential address, telephone number, employer, address
23 of employment, and telephone number at the place of employment;
- 24 (9) Issue an order for arrest for an obligor who has failed after proper
25 notice to appear at a hearing ordered by the tribunal and enter the
26 order for arrest in any local and State computer systems for
27 criminal warrants;
- 28 (10) Order the obligor to seek appropriate employment by specified
29 methods;
- 30 (11) Award reasonable attorneys' fees and other fees and costs; and
31 (12) Grant any other available remedy.

32 (c) A responding tribunal of this State shall include in a support order issued
33 under this Chapter, or in the documents accompanying the order, the calculations on
34 which the support order is based.

35 (d) A responding tribunal of this State may not condition the payment of a
36 support order issued under this Chapter upon compliance by a party with provisions
37 for visitation.

38 (e) If a responding tribunal of this State issues an order under this Chapter, the
39 tribunal shall send a copy of the order ~~by first-class mail~~ to the petitioner and the
40 respondent and to the initiating tribunal, if any."

41 Section 10.6. G.S. 52C-3-306 reads as rewritten:

42 "**§ 52C-3-306. Inappropriate tribunal.**

43 If a petition or comparable pleading is received by an inappropriate tribunal of this
44 State, it shall forward the pleading and accompanying documents to an appropriate

1 tribunal in this State or another state and notify the petitioner ~~by first-class mail~~
2 where and when the pleading was sent."

3 Section 10.7. G.S. 52C-3-307 reads as rewritten:

4 "**§ 52C-3-307. Duties of support enforcement agency.**

5 (a) A support enforcement agency of this State, upon request, shall provide
6 services to a petitioner in a proceeding under this Chapter.

7 (b) A support enforcement agency that is providing services to the petitioner as
8 appropriate shall:

9 (1) Take all steps necessary to enable an appropriate tribunal in this
10 State or another state to obtain jurisdiction over the respondent;

11 (2) Request an appropriate tribunal to set a date, time, and place for a
12 hearing;

13 (3) Make a reasonable effort to obtain all relevant information,
14 including information as to income and property of the parties;

15 (4) Within two days, exclusive of Saturdays, Sundays, and legal
16 holidays, after receipt of a written notice from an initiating,
17 responding, or registering tribunal, send a copy of the notice ~~by~~
18 ~~first-class mail~~ to the petitioner;

19 (5) Within two days, exclusive of Saturdays, Sundays, and legal
20 holidays, after receipt of a written communication from the
21 respondent or the respondent's attorney, send a copy of the
22 communication ~~by first-class mail~~ to the petitioner; and

23 (6) Notify the petitioner if jurisdiction over the respondent cannot be
24 obtained.

25 (c) This Chapter does not create or negate a relationship of attorney and client or
26 other fiduciary relationship between a support enforcement agency or the attorney for
27 the agency and the individual being assisted by the agency."

28 Section 10.8. Article 5 of Chapter 52C of the General Statutes reads as
29 rewritten:

30 "ARTICLE 5.

31 "~~Direct~~ Enforcement of Order of Another State Without Registration.

32 "**§ 52C-5-501. ~~Recognition~~ Employer's receipt of income-withholding order of another**
33 **state.**

34 ~~(a)~~ An income-withholding order issued in another state may be sent ~~by first-class~~
35 ~~mail~~ to the person or entity defined or identified as the obligor's employer under the
36 income-withholding provisions of Chapter 50 or Chapter 110 of the General Statutes,
37 as applicable, without first filing a petition or comparable pleading or registering the
38 order with a tribunal of this State. Upon receipt of the order, the employer shall:

39 (1) Treat an income-withholding order issued in another state which
40 appears regular on its face as if it had been issued by a tribunal of
41 this State;

42 (2) Immediately provide a copy of the order to the obligor; and

43 (3) Distribute the funds as directed in the withholding order.

~~(b) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this State. G.S. 52C-6-604 applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:~~

~~(1) The person or agency designated to receive payments in the income-withholding order; or~~

~~(2) If no person or agency is designated, the obligee.~~

~~"§ 52C-5-502. Administrative enforcement of orders.~~

~~(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this State.~~

~~(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this Chapter.~~

Employer's compliance with income-withholding order of another state.

(a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State.

(c) Except as otherwise provided in subsection (d) of this section and G.S. 52C-5-503, the employer shall withhold and distribute the funds as directed in the income-withholding order by complying with terms of the order which specify:

(1) The duration and amount of periodic payments of current child support, stated as a sum certain;

(2) The person or agency designated to receive payments and the address to which the payments are to be forwarded;

(3) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) The employer's fee for processing an income-withholding order;

(2) The maximum amount permitted to be withheld from the obligor's income; and

(3) The times within which the employer must implement the income-withholding order and forward the child support payment.

"§ 52C-5-503. Compliance with multiple income-withholding orders.

If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

"§ 52C-5-504. Immunity from civil liability.

An employer who complies with an income-withholding order issued in another state in accordance with this Article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

"§ 52C-5-505. Penalties for noncompliance.

An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

"§ 52C-5-506. Contest by obligor.

(a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this State in the same manner as if the order had been issued by a tribunal of this State. G.S. 52C-6-604 applies to the contest.

(b) The obligor shall give notice of the contest to:

(1) A support enforcement agency providing services to the obligee;

(2) Each employer that has directly received an income-withholding order; and

(3) The person or agency designated to receive payments in the income-withholding order if no person or agency is designated, to the obligee.

"§ 52C-5-507. Administrative enforcement of orders.

(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this State.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this Chapter."

Section 10.9. G.S. 52C-6-601 reads as rewritten:

1 **"§ 52C-6-601. Registration ~~or [off] of~~ order for enforcement.**

2 A support order or an income-withholding order issued by a tribunal of another
3 state may be registered in this State for enforcement."

4 Section 10.10. G.S. 52C-6-605 reads as rewritten:

5 **"§ 52C-6-605. Notice of registration of order.**

6 (a) When a support order or income-withholding order issued in another state is
7 registered, the registering tribunal shall notify the nonregistering party. ~~Notice must~~
8 ~~be given by first class, certified, or registered mail or by any means of personal~~
9 ~~service authorized by the law of this State.~~ The notice must be accompanied by a
10 copy of the registered order and the documents and relevant information
11 accompanying the order.

12 (b) The notice must inform the nonregistering party:

- 13 (1) That a registered order is enforceable as of the date of registration
14 in the same manner as an order issued by a tribunal of this State;
15 (2) That a hearing to contest the validity or enforcement of the
16 registered order must be requested within 20 days after ~~the date of~~
17 ~~mailing or personal service of the notice;~~
18 (3) That failure to contest the validity or enforcement of the registered
19 order in a timely manner will result in confirmation of the order
20 and enforcement of the order and the alleged arrears and
21 precludes further contest of that order with respect to any matter
22 that could have been asserted; and
23 (4) Of the amount of any alleged arrears.

24 (c) Upon registration of an income-withholding order for enforcement, the
25 registering tribunal shall notify the obligor's employer pursuant to the income-
26 withholding provisions of Chapter 50 or Chapter 110 of the General Statutes, as
27 applicable."

28 Section 10.11. G.S. 52C-6-606 reads as rewritten:

29 **"§ 52C-6-606. Procedure to contest validity or enforcement of registered order.**

30 (a) A nonregistering party seeking to contest the validity or enforcement of a
31 registered order in this State shall request a hearing within 20 days after ~~the date of~~
32 ~~mailing or personal service of~~ notice of the registration. The nonregistering party may
33 seek to vacate the registration, to assert any defense to an allegation of
34 noncompliance with the registered order, or to contest the remedies being sought or
35 the amount of any alleged arrears pursuant to G.S. 52C-6-607.

36 (b) If the nonregistering party fails to contest the validity or enforcement of the
37 registered order in a timely manner, the order is confirmed by operation of law.

38 (c) If a nonregistering party requests a hearing to contest the validity or
39 enforcement of the registered order, the registering tribunal shall schedule the matter
40 for hearing and give notice to the parties ~~by first class mail~~ of the date, time, and
41 place of the hearing."

42 Section 10.12. G.S. 52C-6-611 reads as rewritten:

43 **"§ 52C-6-611. Modification of child support order of another state.**

(a) After a child support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order only ~~if~~, if G.S. 52C-6-613 does not apply and after notice and hearing, hearing it finds that:

(1) The following requirements are met:

- a. The child, the individual obligee, and the obligor do not reside in the issuing state;
- b. A petitioner who is a nonresident of this State seeks modification; and
- c. The respondent is subject to the personal jurisdiction of the tribunal of this State; or

(2) ~~An individual party or the child~~ The child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this State and all of the individual parties who are individuals have filed a written consent in the issuing tribunal providing that for a tribunal of this State may to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this act, the consent otherwise required of an individual residing in this State is not required for the tribunal to assume jurisdiction to modify the child support order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this State, and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this State may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be so recognized under G.S. 52C-2-207 establishes the aspects of the support order which are nonmodifiable.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this State becomes the tribunal of continuing, exclusive jurisdiction.

~~(e) Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that the earlier order has been registered."~~

Section 10.13. Article 6 of Chapter 52C of the General Statutes is amended by adding the following new sections to read:

"§ 52C-6-613. Jurisdiction to modify child support order of another state when individual parties reside in this State.

(a) If all of the parties who are individuals reside in this State and the child does not reside in the issuing state, a tribunal of this State has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this State exercising jurisdiction under this section shall apply the provisions of Articles 1 and 2 of this Chapter, this Article, and the procedural and substantive law of this State to the proceeding for enforcement or modification. Articles 3, 4, 5, 7, and 8 of this Chapter do not apply.

"§ 52C-6-614. Notice to issuing tribunal of modification.

Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction."

Section 10.14. The Reviser of Statutes shall cause to be printed separate from this Part all relevant portions of the official comments to the Uniform Interstate Family Support Act, as amended, as the Reviser deems appropriate.

PART 10A. FRAUDULENT CONVEYANCES TO AVOID CHILD SUPPORT.

Section 10.15. Article 3 of Chapter 39 of the General Statutes is amended by adding the following new section to read:

"§ 39-15.1. Fraudulent conveyances to avoid child support.

(a) As used in this section, the terms 'obligor' and 'obligee' shall have the meanings given those terms in G.S. 110-129.

(b) In all child support cases, the conveyance of property by an obligor who is delinquent in the payment of child support may be voided by an obligee upon a showing of fraudulent intent. The factors which may be considered to show fraudulent intent are as follows:

- (1) The conveyance or obligation was to an insider.
- (2) The obligor retained possession or control of the property after the conveyance.
- (3) The conveyance was concealed or not disclosed.
- (4) Before the conveyance was made or the obligation was incurred, the obligor had been sued or threatened with suit.
- (5) The conveyance was of substantially all the obligor's assets.
- (6) The obligor removed or concealed assets.
- (7) The value of the consideration received by the obligor was not reasonably equivalent to the value of the asset conveyed or the amount of the obligation incurred.
- (8) The obligor was insolvent or became insolvent shortly after the conveyance was made or the obligation incurred.
- (9) The conveyance occurred shortly before or shortly after a substantial debt was incurred.
- (10) The obligor conveyed the essential assets of a business to a lienor who conveyed the assets to an insider of the obligor.

1 Proof of two or more of the factors listed in this subsection creates a rebuttable
2 presumption of fraud. Unless otherwise provided under this Article, if the court finds
3 by clear and convincing evidence that the conveyance was fraudulent, then the
4 conveyance is void."

5
6 **PART 11. MISCELLANEOUS AND EFFECTIVE DATE**

7 Section 11. The headings to the Parts of this act are a convenience to the
8 reader and are for reference only. The headings do not expand, limit, or define the
9 text of this act.

10 Section 11.1. If the 1997 General Assembly enacts House Bill 407, the
11 Uniform Fraudulent Transfer Act, then Section 10.15 of this act is repealed effective
12 on the date that the Uniform Fraudulent Transfer Act becomes law.

13 Section 11.2. Except as otherwise provided in this act, this act becomes
14 effective October 1, 1997.
15

MINUTES

HOUSE COMMITTEE ON WELFARE REFORM

MAY 27, 1997

12 NOON

ROOM 643 LOB

The House Committee on Welfare Reform met at 12:11pm on May 27, 1997 in Room 643 of the Legislative Office Building. Representative Berry presided and the following members were present: Representative Bonner, Boyd-McIntyre, Capps, Clary, Earle, Gardner, Hill, Howard, Jeffus, Mitchell, Moore, Morris, Nye, Redwine, Starnes, Wilson, C. & Wilson G. Ex-officio members present were Representatives Wood, Speaker Pro Tem and Representative Doughtry, Majority Leader. Observing the meeting was Rep. Insko. Staff Counsels John Young, Sue Floyd, Carolyn Johnson, Diana Jessop, Linda Attarian, and Carol Shaw, Fiscal Research were present to assist the committee. Visitor registration sheet is attached and made part of the minutes.

Chairman Berry called the meeting to order. Representative Charlotte Gardner moved that the committee discuss the House Committee Substitute for Senate Committee Substitute for Senate Bill 1015. The motion passed.

Representative Berry turned the responsibilities of chairing the meeting over to Representative Howard while she presented her portion of the committee substitute. She stated the this bill contains two strategies one immediate and one long term. Synopsis prepared by staff counsel is attached and made part of the minutes. The meeting was then turned over to Representative Julia Howard for her to explain the technical and conforming changes of the bill.

After the bill was reviewed by Representatives Berry and Howard the floor was opened to questions from the committee members. Representative Redwine questioned the need to establish a 20 million dollar reserve fund. Representative Howard explained that no one knows how much Welfare Reform is going to cost and it is better to be prepared for any economic downturn. Representative Redwine followed up with a question about whether this reserve fund will harm Smart Start in any way? Carol Shaw responded that just this morning Appropriations had approved funding Smart Start from general funds, so there would be no harm.

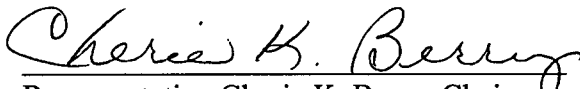
Representative Gardner moved to have a favorable report given to the House Committee Substitute and an unfavorable report to the Senate Committee Substitute for Senate Bill 1015 with a re-referral to Appropriations.

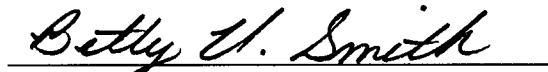
Representatives Connie Wilson, Debbie Clary, and Russell Capps commended Representatives Berry and Howard on their hard work. Representative Redwine

commented that he would like more time and recommended a Public Hearing. Representative Howard responded that the Governor had had 18 months of hearings.

Representative Nye had some questions regarding the newly established office of Inspector General and the power of the office. These questions are addressed on page 7 and 8 of the bill and again on page 25 line 11 according to Diana Jessop, Staff Counsel. A roll call vote was taken, giving a favorable report to the House Committee Substitute and an unfavorable report as to Senate Committee Substitute for Senate Bill 1015 and re-referred to Appropriations. The motion passed 16-1 with only Representative Redwine casting a dissenting vote.

The meeting was adjourned at 1:45pm.


Representative Cherie K. Berry, Chairman


Betty U. Smith, Committee Clerk

HOUSE COMMITTEE ON WELFARE REFORM

May 27, 1997
Room 643 LOB
12 Noon

OPENING REMARKS

Representative Cherie K. Berry, Chairman

BILLS TO BE CONSIDERED

**COMMITTEE SUBSTITUTE FOR SB 1015 WELFARE
REFORM ACT OF 1997**

ADJOURNMENT

VISITOR REGISTRATION SHEET

WELFARE REFORM

May 27

, 1997

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
<i>Patrice Renter</i>	<i>NCACC</i>
<i>Nancy Bradley</i>	<i>NOCPD</i>
<i>Roz Samuels</i>	<i>Volunteer</i>
<i>John Ed</i>	<i>V.I.S.A.C.S</i>
<i>John A.</i>	<i>NCPRC</i>
<i>Taylor Batten</i>	<i>The Charlotte Observer</i>
<i>Shirley Ransome</i>	<i>DSS</i>
<i>Lura Cuyoch</i>	<i>DHR-DSS</i>
<i>Patricia A. Yancey</i>	<i>SCSL / APPCNC</i>
<i>Heleen Rignin</i>	<i>Meck. Co.</i>
<i>B. Sumner</i>	<i>NC Egan</i>
<i>Debra Ross</i>	<i>NCCL</i>
<i>Robert W. James</i>	<i>The Colors of Collaboration</i>
<i>Todd Felts</i>	<i>DCD / DHR</i>
<i>Stephanie Fungul</i>	<i>DCD / DHR</i>
<i>Janet Simpson</i>	<i>NCARF</i>
<i>Steve Thibaut</i>	<i>Jordan River Valley Project</i>
<i>Soreli Schmidt</i>	<i>NCACDC</i>
<i>Sharon Hirsch</i>	<i>NC Assn of Co. Directors of Social Services</i>
<i>Kevin FitzGerald</i>	<i>NC DHR - DSS</i>
<i>MICHAEL LAMAR</i>	<i>GENERAL PUBLIC</i>
<i>David Winslow</i>	<i>Goodwill Industries</i>
<i>Pam Seamans</i>	<i>United Way of NC, Covenant w/ NC's Children</i>
<i>George Reed</i>	<i>NC Council of Churches</i>
<i>Douglas Blum</i>	<i>United Way of NC</i>
<i>Patricia A. Joy</i>	<i>Covenant w/ NC's Children</i>
<i>Hal Miller</i>	<i>NCACC</i>

VISITOR REGISTRATION SHEET

Welfare Reform 5-27-97 12:00 p.m.

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
1. <u>Frank J. J. J.</u>	<u>Gov. office</u>
2. <u>NELS ROSEAND</u>	<u>OSBM</u>
3. <u>Elizabeth Heller</u>	<u>NASW - NC</u>
4. <u>Miguel Miller</u>	<u>NASW - NC</u>
5. <u>Andrew D. D.</u>	<u>Conference on Priority, Inc</u>
6. <u>Martha P. Livergood</u>	<u>YAI/O/DOA</u>
7. <u>David Edgerton</u>	<u>Public Advocacy</u>
8. <u>Jim Edgerton</u>	<u>DHR</u>
9. <u>ABIE McMILLAN</u>	<u>DHR</u>
10. <u>John J.</u>	<u>DHR</u>
11. <u>DAVE BEULTON</u>	<u>DHR</u>
22. <u>Lois Nilson</u>	<u>DHR</u>
23. <u>Jan Smith</u>	<u>DHR/DSS</u>
24. <u>Chern Beal</u>	<u>DHR/DSS</u>
25. <u>Wesley F. Chis</u>	<u>NCPT</u>
26. <u>Chris Fitzsimon</u>	<u>Common Sense Foundation</u>
27. <u>Katherine Hux</u>	<u>NC Psychiatric Assn</u>
28. <u>Sally Cameron</u>	<u>NC Psychological & Coalition 2001</u>
29. <u>Ceslie Boney</u>	<u>DHR</u>
30. <u>Ron Aycock</u>	<u>County Com. Assoc.</u>
31. _____	_____

ROLL CALL VOTE

16 1 = 17 (TOTAL)
YES NO

HB# _____
SB# 1015

HOUSE STANDING COMMITTEE ON WELFARE REFORM

House Subcommittee on N/A

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)

☒	☐	BERRY, Chairman	☐	☐	
☐	☐	ALEXANDER	☐	☐	
☒	☐	BONNER	☐	☐	
☐	☐	BOUD-MCINTYRE	☐	☐	
☒	☐	CAPPS	☐	☐	
☒	☐	CLARY	☐	☐	
☐	☐	CREECH	☐	☐	
☒	☐	EARLE	☐	☐	
☐	☐	ESPOSITO	☐	☐	
☒	☐	GARDNER	☐	☐	
☐	☐	HILL	☐	☐	
☒	☐	HOWARD	☐	☐	
☒	☐	JEFFUS	☐	☐	
☐	☐	MITCHELL	☐	☐	
☒	☐	MOORE	☐	☐	
☒	☐	MORRIS	☐	☐	
☒	☐	NYE	☐	☐	
☐	☒	REDWINE	☐	☐	
☒	☐	STARNES	☐	☐	
☒	☐	WILSON, C.	☐	☐	
☒	☐	WILSON, G.	☐	☐	

Ex officio Members

☒	☐	WOOD, Speaker Pro Tem
☒	☐	DAUGHTRY, Majority Leader
☐	☐	HOWARD, Majority Whip

2 Shalenges:
a) immed.
b) long term

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 1015

This bill proposes to reduce poverty among North Carolina families. The bill proposes two simultaneous strategies, one immediate and the other long term.

The immediate strategy deals with the adults in poor families and is based upon two principles: training those adults for work who are voluntarily unemployed or finding employment for those adults who are involuntarily unemployed. Included in this immediate strategy is employee skills improvement which addresses the twin issues of consistent or accrued unemployment.

The long-term strategy focuses upon children-at-risk in families with unemployed or underemployed parents. This strategy is based upon a foundation of early childhood development and education intended to give these children the skills demanded in the market place and the skills to be good citizens when they become adults.

A fundamental assumption under-girding strategies embedded in this bill is that the divergence encouraged in the enabling federal legislation should also be encouraged among North Carolina's one hundred counties.

This fundamental assumption – to encourage unique but appropriate county solutions to poverty requires a bottom-up rather than a top-down organization and administration. Thus the initiatives required by this bill begin at the county level. Each county is encouraged to reduce unemployment and to provide services for children in the most appropriate way given the particular conditions within that county.

In order to financially support each county's individual efforts, the bill proposes to co-mingle federal and state appropriations into non-resertering block grants which match the requirements of each county's unique plan.

The role of the State is to put all our available resources at the disposal of the several counties to ensure, to the extent possible, the successful outcome of each county's plan. Our task is to define what needs to be done, not prescribe how to do it. The State's chore is to keep the several counties focused on the real problems and to require that each county's adopted outcomes and goals are achieved. To do this, the State must give each county the flexibility required to succeed and must hold each county responsible for success.

This bill does not contain an entitlement. The premise of this bill requires work for temporary assistance. The kinds of acceptable work are spelled out and the definition of temporary is clear.

"Work First" is an accurate title. Work First is an ethically and morally correct program. Its essence is that it is better to teach a hungry person to fish than to merely give that person a fish for supper. Pragmatically, Work First is on solid ground. It seeks to reduce many of the outcomes of poverty through full-time employment, but it does not propose to accomplish these things immediately or perfectly. It focuses our money and our efforts on very specific problems and stays on task. County plans are based upon facts, not assumptions. They are based upon knowledge, not opinions.

The heart of this bill is appropriate, evolutionary improvement in every county through consistent application and reliable financing. We intend to work our way out of the poverty that grips one out of ten North Carolinians.

SUMMARY

PART 1-WELFARE REFORM INITIATIVES

Section 1.2

(G.S. 108A-24) Definitions of words used in Chapter 108A.

Section 1.3

(G.S. 108A-25) Creates the Work First Program and adds the county board of commissioners to the list of those who shall administer the programs of public assistance.

Section 1.4

(G.S. 108A-27) Requires that each county to develop, implement, and administer a biennial County Plan that begins to reduce unemployment in that county and requires that the DHR shall adopt rules for the biennial plan that are the most flexible and least restrictive while still ensuring State and federal law and regulation compliance.

Section 1.5

(G.S. 108A-27.1) Programs established under this Part (Welfare Reform Initiatives) are not entitlements nor do they establish a property right.

(G.S. 108A-27.2) The purpose of the Work First Program is to provide eligible families with short-term assistance to facilitate their self-sufficiency through employment and shall include four categories of assistance: (1) First Stop Employment Assistance; (2) Work First Diversion Assistance; (3) Work First Family Assistance; and (4) Work First Services.

(G.S.) 108A-27.3) Establishes twelve duties of the county boards of commissioners. Nine of the duties may be delegated but three may not be delegated which are the requirements to: (1) establish county outcome and performance goals based on county economic, educational, and employment factors and adopt criteria for determining the progress of the county in moving persons and families to self-sufficiency; (2) ensure compliance with state and federal law; and (3) adopt and submit to DHR a biennial plan.

(G.S. 108A-27.4) Establishes fifteen duties of the Department of Human Resources and includes the duties to: (1) establish and maintain a uniform system of identifying Work First, Food Stamp and Medicaid Program recipients which shall provide security and portability throughout the State that uses multiple biometrics to ensure greater than ninety-nine percent accuracy; (2) provide technical assistance to counties developing and implementing their county plans; and (3) prepare and submit, by April 1 of each even-numbered calendar year, a biennial State Plan to the Director of the Budget.

(G.S. 108A-27.5) Requires that the County Plan have the following five parts: (1) conditions within the County; (2) outcomes and goals for the county; (3) plans to achieve the outcomes and goals; (4) administration; and (5) funding requirements. The county's plan must also have a description of the county's priorities for serving families who need child care based on the needs of the community and the availability of services and funding.

(G.S. 108A-27.6) Establishes performance standards for both the recipients and the counties.

(G.S. 108A-27.7) Requires DHR to prepare and submit to the Director of the Budget a biennial State Plan based upon the aggregate of the county plans and it shall include the allocation of federal funds and State funds for the Work First Program.

(G.S. 108A-27.8) Specifies the duties of the Director of the Budget/ Governor including the requirement that the Director of the Budget, at the beginning of every fiscal year, shall report to the General Assembly the number of permanent State Employees who have been Work First Program recipients during the previous calendar year.

(G.S. 108A-27.9) Sets the State's maintenance of effort at 100% and the county's maintenance of effort shall be no less than 80%.

(G. S.108A-27.10) Specifies the conditions by which individuals convicted of Class H and I drug-related felonies may be eligible for the Work First Program and the food stamp program. A county department of Social Services shall require individuals who are eligible under this provision to undergo substance abuse treatment as a condition for receiving benefits, if funds and programs are available.

Section 1.6

(G.S. 108A-29 [a]-[c]) Establishes the First Stop Employment Assistance to assist Work First Program and food stamp recipients with employment through job registration, job search, job preparedness, and community service. Persons applying or reapplying for Work First or food stamps, if unemployed, must go through the program. Each county shall organize a Job Service Employer Committee and one of its duties shall be to develop a study of the unemployed and underemployed. Each committee shall prepare and submit a report on the findings for the county by May 1, 1998 to the Joint Legislative Public Assistance Commission.

(G.S. 126-7.1) Each State agency, department, and institution is encouraged to hire into State government employment qualified applicants who are current or former Work First program participants.

Section 1.7

(G.S. 108A-29.1) Requires substance abuse treatment for those determined to be addicted but the children of any applicant or current recipient shall remain eligible for benefits, and these benefits shall be

paid to a protective payee. Area mental health authorities shall be responsible for administering the provisions of this section.

Sections 1.8 through 1.11
Technical Changes

Section 1.12

(G.S. 143-168.15) Of the total funds allocated to all local partnerships for direct services, 70% shall be used in child care related activities and programs which improve access to child care services, develop child care services, or improve the quality of child care services in all settings. No less than 30% of each local partnership's direct services allocation shall be used to expand child care subsidies. The North Carolina Partnership may increase this percentage up to a maximum of 50% when, based upon local waiting list for subsidized child care or the total percentage of children served whose families are income eligible for subsidized child care, the North Carolina Partnership determines a higher percentage is justified.

(G.S. 143-168.17) Gives priority in the Smart Start program to children in Work First families. Counties may use funds provided for Smart Start for Work First Services but shall not use funds provided for Work First Services for Smart Start.

Section 1.13

(G.S. 153A-255) In accordance with court decisions, underscored by the federal legislation, imposes the duty upon the counties to provide temporary assistance to its poor residents.

Section 1.14

Repeals the following statutes: G.S. 108A-28 (Eligibility requirements; certain contributions to be disregarded); G.S. 108A-28.1 (Limitation of restrictions); G.S. 108A-30 (Job Opportunities and Basic Skills Training Program adopted); G.S. 108A-31 (Application for assistance); G.S. 108A-32 (Investigation of applicant); G.S. 108A-33 (Granting or denial of assistance); G.S. 108A-34 (Reconsideration of public assistance); G.S. 108A-35 (Removal to another county); G.S. 108A-39.1 (AFDC Emergency Assistance Program); and G.S. 108A-92 (State Public Assistance Equalization Program).

Section 1.15

Article 12G of Chapter 120 repeals the Commission on the Family.

Section 1.16

Requires the Department of Labor to establish a pilot project creating Individual Development Accounts (IDA) and appropriates \$300,000 each fiscal year for that purpose.

Section 1.17

States the intent of the General Assembly to sit in Special Session to enact the first State Plan. Until the counties have prepared their county plans and the State has prepared the State Plan in accordance with this act and the State Plan has been enacted by the General Assembly and it becomes law, the provisions of the State Plan submitted to the federal government dated October 16, 1996 shall remain in effect. State Plans submitted after the 1997-98 fiscal year shall be enacted by the General Assembly in order to be effective.

Section 1.18

Federal, State, and county funding for the Work First program shall be commingled and shall not be separated to frustrate the purpose of the Work First Program. The commingled block grants paid quarterly to counties shall not be reverted.

Section 1.19

Requires each county to use 75% of the monies recovered from fraud and error pursuant to the AFDC Fraud Control Program for enhanced and improved program integrity.

Section 1.20

Establishes the Joint Legislative Public Assistance Commission to monitor and oversee the implementation of the provisions of the act and shall make any necessary recommendations to the General Assembly regarding any changes in law or rule.

Section 1.21

Allows the Legislative Research Commission to establish a study on issues relating to the Medicaid Program and the State-County Special Assistance Program.

Section 1.22

Establishes the Office of Inspector General within DHR to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency within DHR and for means-tested public assistance programs. The Office is designated as the State law enforcement Bureau (SLEB) to take custody and control of food stamps from the federal Food and Consumer Service to make them

available to nonfederal law enforcement and investigative agencies to conduct criminal and food stamp program violation and investigation.

Section 1.23

Repeals all functions, powers, duties, and obligations of the Social Services Commission and transfers them to DHR.

PART 2 - STATUTORY TECHNICAL AND CONFORMING CHANGES

Sections 2.1 through 2.63

Technical and conforming changes to Work First, Social Services Commission and the Commission on the Family.

Section 2.64

Appropriates \$6,750,000 for FY 1997-98 and \$400,000 for FY 1998-99 to establish the Biometric Program and at least one program integrity worker per county.

Section 2.65

Of the TANF Block Grant funds appropriated by the United States Congress for the 1996-97 fiscal year, the Department of Human Resources shall reserve \$20 million for the purpose of providing future needs as allowed by federal law regulating the use of TANF funds. These funds shall be held in reserve until the Department notifies the Joint Legislative Public Assistance Commission, submits a request for expenditure of these funds to the House and Senate Appropriations Subcommittee on Human Resources and receives approval from the General Assembly for the expenditure.

Section 2.66

Effective date clause.

**1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **CHERIE K. BERRY** for the Committee on **WELFARE REFORM.**

☒ Committee Substitute for

S.B. 1015 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE WELFARE
REFORM ACT OF 1997.

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
☐ Appropriations ☐ Finance ☐
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on ☐ Appropriations ☐ Finance ☐
- ☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title,
unfavorable as to original bill (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- ☒ With a favorable report as to House committee substitute bill (#), ☒ which changes
the title, unfavorable as to Senate committee substitute bill. *and re-referred to
Appropriations*
- ☐ And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

COA Child Development Agent
MRA Mutual Responsibility Agent
IOA Individual Development Account
GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997 TANF Temporary Assistance for
Needy Families D

S

SENATE BILL 1015
Children & Human Resources Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97
Proposed House Committee Substitute S1015-PCS4604

Short Title: Welfare Reform Act of 1997.

(Public)

Sponsors:

Referred to:

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A PROGRAM FOR TEMPORARY ASSISTANCE TO
3 NEEDY FAMILIES WITH CHILDREN TO BE KNOWN AS THE WORK FIRST
4 PROGRAM, TO ESTABLISH THE FIRST STOP EMPLOYMENT
5 ASSISTANCE PROGRAM AND DEVELOP A STUDY OF THE WORKING
6 POOR IN COUNTIES, TO ENCOURAGE STATE HIRING OF WORK FIRST
7 RECIPIENTS, TO REQUIRE SUBSTANCE ABUSE TREATMENT AND DRUG
8 TESTING OF WORK FIRST RECIPIENTS, TO PROVIDE FOR INCREASED
9 CHILD CARE SUBSIDIES, TO PROVIDE CHILDREN IN WORK FIRST
10 FAMILIES PRIORITY IN EARLY CHILDHOOD INITIATIVES PROGRAMS,
11 TO ELIMINATE THE COMMISSION ON THE FAMILY, TO ESTABLISH
12 AND APPROPRIATE FUNDS FOR THE INDIVIDUAL DEVELOPMENT
13 ACCOUNT PROJECT, TO RETAIN AND REINVEST FUNDS RECOVERED
14 FOR WORK FIRST FRAUD AND ABUSE IN COUNTIES FOR PROGRAM
15 INTEGRITY, TO ESTABLISH AND APPROPRIATE FUNDS FOR THE JOINT
16 LEGISLATIVE PUBLIC ASSISTANCE COMMISSION, TO PERMIT A
17 LEGISLATIVE RESEARCH COMMISSION STUDY TO STUDY ISSUES
18 RELATING TO THE MEDICAL ASSISTANCE PROGRAM AND THE STATE-
19 COUNTY SPECIAL ASSISTANCE PROGRAM, TO ESTABLISH THE OFFICE
20 OF INSPECTOR GENERAL IN THE DEPARTMENT OF HUMAN
21 RESOURCES, TO ELIMINATE THE SOCIAL SERVICES COMMISSION, TO

1 APPROPRIATE FUNDS TO ESTABLISH A BIOMETRIC IDENTIFICATION
2 SYSTEM AND FUND ONE PROGRAM INTEGRITY WORKER IN EACH
3 COUNTY, TO ESTABLISH A RESERVE OF TANF FUNDS, AND TO MAKE
4 NECESSARY STATUTORY AND CONFORMING CHANGES.

5 The General Assembly of North Carolina enacts:

6 **PART 1. WELFARE REFORM INITIATIVES.**

7 Section 1.1. The title of Part 2 of Article 2 of Chapter 108A of the
8 General Statutes reads as rewritten:

9 ~~"Part 2. Aid to Families with Dependent Children. Work First Program."~~

10 Section 1.2. G.S. 108A-24 reads as rewritten:

11 **"§ 108A-24. Definitions.**

12 As used in Chapter 108A:

13 (1) 'Applicant' is any person who requests assistance or on whose
14 behalf assistance is requested.

15 (1a) 'Attainment' means to equal or exceed the outcomes and goals set
16 forth in a County Plan or the State Plan.

17 (1b) 'Biometric' means a digitized image of selected features of an
18 individual encoded and processed in a manner that ensures an
19 extraordinarily high correlation between the digital data and the
20 actual characteristics of an individual.

21 (1c) 'Child Development Agreement' ('CDA') means an agreement
22 between a county and a recipient of Work First Program assistance
23 which describes the parental responsibilities and child development
24 goals required to maintain eligibility for qualification for Work
25 First Family Assistance and Work First Services, and what the
26 county will provide to assist the recipient in achieving those child
27 development goals.

28 (1d) 'Community service' means work exchanged for temporary public
29 assistance.

30 (1e) 'County block grant' means nonreverting federal and State money
31 appropriated to implement and maintain a county's Work First
32 Program.

33 (1f) 'County department of social services' means a county department
34 of social services, consolidated human services agency, or other
35 local agency designated to administer or provide services pursuant
36 to this Article.

37 (1g) 'County Plan' is the biennial Work First Program plan prepared by
38 each county pursuant to this Article and submitted to the
39 Department for incorporation into the State Plan.

40 (2) 'Department' is the Department of Human Resources, unless the
41 context clearly indicates otherwise.

42 (3) ~~'Dependent child' is a person under 18 years of age who is living~~
43 ~~with a natural parent, adoptive parent, stepparent, or any other~~
44 ~~person related by blood, marriage, or legal adoption, in a place of~~

- ~~residence maintained by one or more of such persons as his or their own home, and who is deprived of parental support or care; it shall also include a minor who has been eligible for AFDC who is now living in a foster care facility or child caring institution; it shall also include a dependent child in school under 21 years of age as provided by Titles IV-A and XIX of the Social Security Act.~~
- (3a) 'Employment' means work that requires either a contribution to FICA or the filing of a State N.C. Form D-400, or the equivalent.
- (3b) 'Family' means a unit consisting of a minor child or children and one or more of their biological parents, adoptive parents, or grandparents living together and in which one or more of the parents is employed or performing community service.
- (3c) 'Federal TANF funds' means the Temporary Assistance for Needy Families block grant funds provided for in Title IV-A of the Social Security Act.
- (3d) 'First Stop Employment Assistance' is the program established to assist recipients of Work First Program assistance or food stamps with employment through job registration, job search, job preparedness, and community service.
- (3e) 'Full-time employment' means employment averaging over 30 hours a week for at least 50 consecutive weeks and which either requires a contribution to FICA for four consecutive quarters or the filing of a State N.C. Form D-400.
- (3f) 'FICA' means the taxes imposed by the Federal Insurance Contribution Act, 26 U.S.C. § 3101, et seq.
- (4) Repealed by Session Laws 1983, c. 14, s. 3.
- (4a) 'Mutual Responsibility Agreement' ('MRA') is an agreement between a county and a recipient of Work First Program assistance which describes the conditions for eligibility for the assistance and what the county will provide to assist the recipient in moving from assistance to self-sufficiency. Improvement in literacy shall be a part of a MRA with persons who cannot read above the eighth grade level. A MRA is a prerequisite for any temporary Work First Program assistance under this Article.
- (4b) 'Parent' means biological parent, adoptive parent, or grandparent.
- (5) 'Recipient' is a person to whom, or on whose behalf, assistance is granted under this Article.
- (6) 'Resident,' unless otherwise defined by federal regulation, is a person who is living in North Carolina at the time of application with the intent to remain permanently or for an indefinite period; or who is a person who enters North Carolina seeking employment or with a job commitment.
- (7) 'Secretary' is the Secretary of Human Resources, unless the context clearly indicates otherwise.

- (8) 'State Plan' is the biennial Work First Program plan, based upon the aggregate of the County Plans, prepared by the Department for the State's Work First Program pursuant to this Article, and submitted sequentially to the Budget Director, to the General Assembly, to the Governor, and to the appropriate federal officials.
- (9) 'Temporary' is a time period, not to exceed 60 cumulative months, which meets the federal requirement of Title IV-A.
- (10) 'Title IV-A' means the Social Security Act, 42 U.S.C. § 601, et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, and to other provisions of federal law as may apply to assistance provided in this Article.
- (11) 'Underemployment' means anything less than full-time employment except unemployment.
- (12) 'Unemployment' means no FICA contributions for four consecutive quarters or earnings less than those required for filing a State N.C. Form D-400.
- (13) 'Work' is lawful activity exchanged for cash, goods, uses, or services.
- (14) 'Work First Diversion Assistance' is a short-term cash payment that is intended to produce a substantial reduction in the likelihood of a family requiring Work First Family Assistance.
- (15) 'Work First Family Assistance' is a program of time-limited periodic payments to assist in maintaining the children of eligible families while the adult family members engage in activities to prepare for entering and to enter the workplace.
- (16) 'Work First Program' is the temporary assistance to needy families program established in this Article.
- (17) 'Work First Program assistance' means the goods, uses, or services provided under the Work First Program.
- (18) 'Work First Services' are services funded from appropriations made pursuant to this Article and designed to facilitate the purposes of the Work First Program."

Section 1.3. G.S. 108A-25 reads as rewritten:

"§ 108A-25. Creation of programs.

(a) The following programs of public assistance are hereby established, and shall be administered by the county department of social services or board of commissioners or the Department of Human Resources under federal regulations or under rules ~~and regulations~~ adopted by the ~~Social Services Commission~~ and under the supervision of the Department of Human Resources:

- (1) ~~Aid to families with dependent children;~~ Work First Program;
- (2) State-county special assistance for adults;
- (3) Food stamp program;
- (4) Foster care and adoption assistance payments;

1 (5) Low income energy assistance program.

2 (b) The program of medical assistance is hereby established as a program of
3 public assistance and shall be administered by the county departments of social
4 services under rules and regulations adopted by the Department of Human
5 Resources.

6 (c) The Department of Human Resources ~~is hereby authorized to~~ shall accept all
7 grants-in-aid for programs of public assistance which may be available to the State by
8 the federal government. The provisions of this Article shall be liberally construed in
9 order that the State and its citizens may benefit fully from ~~such~~ the federal
10 grants-in-aid."

11 Section 1.4. G.S. 108A-27 reads as rewritten:

12 **"§ 108A-27. Authorization of Aid to Families with Dependent Children Program.**
13 **Work First Program.**

14 ~~The (a) Each county Department is authorized to~~ shall ~~establish and supervise an~~
15 ~~Aid to Families with Dependent Children Program. develop, implement, and~~
16 ~~administer a biennial County Plan that begins to reduce unemployment and~~
17 ~~underemployment in that county. This program is to~~ County Plan shall be
18 ~~administered by county departments of social services under federal regulations and~~
19 ~~rules and regulations of the Social Services Commission. in accordance with:~~

20 (1) This Article;

21 (2) Applicable federal, State, and local laws; and

22 (3) Rules adopted pursuant to this Article by the Department.

23 (b) The Department shall adopt rules regarding the biennial County Plans that
24 shall be the most flexible and least restrictive while ensuring that federal and State
25 laws, regulations, and goals for the State are met or achieved.

26 (c) The Department shall establish, administer, and supervise the Work First
27 Program in accordance with:

28 (1) This Article;

29 (2) The State Plan;

30 (3) Rules adopted pursuant to this Article by the Department; and

31 (4) Applicable federal and State laws."

32 Section 1.5. Part 2 of Article 2 of Chapter 108A of the General Statutes
33 is amended by adding the following new sections:

34 **"§ 108A-27.1. Assistance not an entitlement.**

35 Any assistance programs established under this Part are not entitlements, and
36 nothing in this Part shall create any property right.

37 **"§ 108A-27.2. Purpose; program description.**

38 (a) The purpose of the Work First Program is to provide eligible families with
39 short-term assistance to facilitate their movement to self-sufficiency through lawful
40 employment.

41 (b) The Work First Program shall include program administration and four
42 categories of assistance to participants:

43 (1) First Stop Employment Assistance;

44 (2) Work First Diversion Assistance;

1 (3) Work First Family Assistance; and

2 (4) Work First Services.

3 (c) A case in which benefits are paid only for a child may be considered a family
4 for the Work First Program.

5 **"§ 108A-27.3. Duties of county boards of commissioners.**

6 (a) The duties of the county boards of commissioners under the Work First
7 Program are as follows:

8 (1) Establish county outcome and performance goals based on county
9 economic, educational, and employment factors and adopt criteria
10 for determining the progress of the county in moving persons and
11 families to self-sufficiency.

12 (2) Establish eligibility criteria for recipients.

13 (3) Prescribe the method of calculating benefits for recipients.

14 (4) Determine and list individuals and families eligible for the Work
15 First Program.

16 (5) Develop and enter into Mutual Responsibility Agreements with
17 Work First Program recipients.

18 (6) Develop and enter into Child Development Agreements with every
19 eligible parent who has a MRA.

20 (7) Provide community service work for any recipient who cannot find
21 employment.

22 (8) Make payments of Work First Diversion Assistance and Work First
23 Family Assistance to recipients having MRAs and CDAs.

24 (9) Monitor compliance with Mutual Responsibility Agreements and
25 enforce the agreement provisions.

26 (10) Monitor compliance with Child Development Agreements and
27 enforce the agreement provisions.

28 (11) Ensure compliance with State and federal law, rules, and
29 regulations for the Work First Program.

30 (12) Adopt and submit to the Department a biennial County Plan.

31 (b) County boards of commissioners shall not delegate the responsibilities
32 described in subdivisions (a)(1), (a)(11), and (a)(12) of this section but may delegate
33 other duties to public or private entities.

34 **"§ 108A-27.4. Duties of the Department.**

35 The Department shall have the following duties:

36 (1) Establish and maintain a uniform system of identifying Work First
37 Program, food stamp, and Medicaid recipients. This system shall
38 provide security and portability throughout the State and between
39 the departments within the State involved in the Work First
40 Program, the food stamp program, and the Medicaid program.
41 The system shall use multiple biometrics to ensure greater than
42 ninety-nine percent (99%) accuracy for interdepartmental
43 identification. The Department shall ensure that the biometric

- 1 identification system will be able to interface with any existing
2 departmental biometric identification system.
- 3 (2) Provide technical assistance to counties developing and
4 implementing their County Plans, including providing information
5 concerning applicable federal law and regulations and changes to
6 federal law and regulations that effect the permissible use of
7 federal funds and scope of the Work First Program in a county.
- 8 (3) Adopt necessary rules, terms of funding, and promulgate criteria
9 that allows counties maximum flexibility in designing and
10 implementing County Plans.
- 11 (4) Ensure that County Plans comply with federal and State laws,
12 rules, and regulations.
- 13 (5) Establish schedules for counties to submit their County Plans to
14 ensure that all County Plans are adopted by the counties by the
15 first day of February of each even-numbered calendar year.
- 16 (6) Accept County Plans after ensuring that the aggregate of the
17 County Plans is in compliance with federal law and regulations for
18 receipt of federal funds and maximizes federal receipts for the
19 Work First Program.
- 20 (7) Coordinate activities of other State agencies providing technical
21 support to counties developing their County Plans.
- 22 (8) At the request of the counties, provide assistance to counties in
23 their activities with private sector individuals and organizations
24 relative to County Plans.
- 25 (9) Pay counties, on the first day of the quarter, one-fourth of the
26 counties' annual block grant funds. Once paid, these funds shall
27 be nonreverting.
- 28 (10) Provide for exceptions to criteria and standards for federal
29 programs.
- 30 (11) Describe authorized federal and State work activities.
- 31 (12) Define requirements for assignment of child support income and
32 compliance with child support enforcement activities.
- 33 (13) Monitor the performance of counties on a quarterly basis relative
34 to their County Plans and report quarterly to the Director of the
35 Budget and to the Joint Legislative Public Assistance Commission
36 and annually to the General Assembly on the counties' attainment
37 of the outcomes and goals specified in Part II of each County Plan.
- 38 (14) Prepare and submit, by April 1 of each even-numbered calendar
39 year, a biennial State Plan to the Director of the Budget in
40 accordance with federal laws and regulations and State laws and
41 rules.
- 42 (15) Establish the baseline for the State maintenance of effort.
- 43 "§ 108A-27.5. County Plan.

(a) Each county shall submit to the Department, according to the schedule established by the Department and in compliance with all federal and State laws, rules and regulations, a County Plan.

(b) A County Plan shall have the following five parts:

- (1) Part I. Conditions Within the County;
- (2) Part II. Outcomes and Goals for the County;
- (3) Part III. Plans to Achieve the Outcomes and Goals;
- (4) Part IV. Administration; and
- (5) Part V. Funding Requirements.

(c) Funding requirements shall, at least, identify the amount of a county block grant for Work First Diversion Assistance, a county block grant for Work First Family Assistance, a county block grant for Work First Services, and the county's maintenance of effort contribution. A county may establish a reserve.

(d) Each county shall include in its County Plan the following:

- (1) The number of MRAs and CDAs entered into by the county;
- (2) A description of the county's priorities for serving families who need child care based on the needs of the community and the availability of services and funding;
- (3) A list of the community service programs equivalent to full-time employment that are being offered to Work First Program recipients who are unable to find full-time employment; and
- (4) Any request from the Department for waivers to rules or any proposals for statutory changes to remove any impediments to implementation of the County's Plan.

(e) Each county shall provide to the general public an opportunity to review and comment upon its County Plan prior to its submission to the Department.

(f) A county may modify its County Plan once each biennium but not at any other time except by special request to the Joint Legislative Public Assistance Oversight Commission.

"§ 108A-27.6. Performance standards; corrective action.

(a) All adult recipients of Work First Program assistance are expected to achieve full-time employment and at least eighth grade literacy. Adult recipients of Work First Program assistance shall comply with the provisions and requirements in their MRAs and CDAs. Failure to comply shall be cause to terminate Work First Program assistance.

(b) County performance shall be judged solely upon its ability to attain the outcomes and goals established in that county's County Plan.

(c) When a county fails to achieve its Work First Program goals, the Department may take one or more of the following actions to assist the county in meeting its goals:

- (1) Notify the county of the deficiencies and add additional monitoring and reporting requirements.
- (2) Require the county to develop and submit for approval by the Department a corrective action plan.

If a county fails to achieve its Work First Program goals for two consecutive years, or fails to comply with a corrective action plan developed pursuant to this section, the county shall lose an appropriate portion of the State's block grant to the county in the subsequent State Plan.

"§ 108A-27.7. State Plan.

(a) The Department shall prepare and submit to the Director of the Budget, in accordance with the procedures established in G.S. 143-16.1 for federal block grant funds, a biennial State Plan that proposes the terms of the Work First Program for each fiscal year. The State Plan shall be based upon the aggregate of the County Plans. The State Plan shall include the following:

- (1) Allocations of federal and State funds for the Work First Program, including block grants to counties and the allocation of funding for administration not to exceed the federally established limitations on the use of federal TANF funds and the limits imposed under this Article;
- (2) Maintenance of effort and levels of State and county funding for the Work First Program;
- (3) Federal eligibility requirements and a description of the eligibility requirements in each county;
- (4) A description of eligible federal and State work activities;
- (5) A description of the federal, State, and each county's financial participation in the Work First Program;
- (6) Provisions to ensure that no Work First Program recipients, required to participate in work activities, shall be employed or assigned when:
 - a. Any regular employee is on layoff from the same or substantially equivalent job;
 - b. An employer terminates any regular employee or otherwise causes an involuntary reduction in the employer's workforce in order to hire Work First recipients; or
 - c. An employer otherwise causes the displacement of any currently employed worker or positions, including partial displacements such as reductions in hours of nonovertime work, wages, or employment benefits, in order to hire Work First recipients;
- (7) Provisions to ensure the establishment and maintenance of grievance procedures to resolve complaints by regular employees who allege that the employment or assignment of a Work First Program recipient is in violation of subdivision (6) of this section;
- (8) Provisions to ensure that Work First Program participants, required to participate in work activities, shall be subject to and have the same rights under federal, State, or local laws applicable to non-Work First Program employees in similarly situated work activities, including, but not limited to, health and safety standards and

nondiscrimination laws, provided that nothing in this subdivision shall be construed to prohibit Work First Program participants from receiving State or county services designed to assist Work First Program participants achieve job stability and self-sufficiency;

(9) Requirements for assignment of child support income and compliance with child support enforcement activities; and

(10) Anything else required by federal or State law, rule, or regulation to be included in the State Plan.

(b) The State Plan may provide for automatic Medicaid eligibility for Work First Program recipients.

(c) The State Plan may distinguish among potential groups of recipients on whatever basis necessary to enhance program purposes and to increase federal revenues.

(d) The Department may modify the State Plan once a biennium but at no other time except by special request to the Joint Legislative Public Assistance Oversight Commission. Any changes to the State Plan shall be reported to the General Assembly during the next session following the changes.

"§ 108A-27.8. Duties of the Director of the Budget/Governor.

(a) The Director of the Budget shall, by April 15 of each even-numbered calendar year, approve and recommend adoption by the General Assembly of the State Plan.

(b) At the beginning of every fiscal year, the Director of the Budget shall report to the General Assembly the number of permanent State employees who have been Work First Program recipients during the previous calendar year.

(c) After the State Plan has become law, the Governor shall sign it and cause it to be submitted to federal officials in accordance with federal law.

"§ 108A-27.9. Maintenance of effort.

(a) The Department shall maintain the State's maintenance of effort at one hundred percent (100%). A county's maintenance of effort shall be no less than eighty percent (80%).

(b) The Department shall provide to counties a list of activities that qualify for maintenance of effort requirements.

"§ 108A-27.10. Exemption from limitations for individuals convicted of certain drug-related felonies.

Individuals convicted of Class H or I controlled substance felony offenses in this State shall be eligible to participate in the Work First Program and food stamp program:

(1) Six months after release from custody if no additional controlled substance felony offense is committed during that period and successful completion of a required substance abuse treatment program determined appropriate by the county department of social services; or

(2) If not in custody, six months after the date of conviction if no additional controlled substance felony offense is committed during that period and successful completion of a required substance

1 abuse treatment program determined appropriate by the county
2 department of social services.

3 A county department of social services shall require individuals who are eligible for
4 Work First Program assistance and food stamp benefits pursuant to this section to
5 undergo substance abuse treatment as a condition for receiving Work First Program
6 or food stamp benefits, if funds and programs are available.

7 "§ 108A-27.11. Appeals.

8 The Work First Program is a program of temporary public assistance for the
9 purpose of an appeal under G.S. 108A-79."

10 Section 1.6. (a) G.S. 108A-29 reads as rewritten:

11 "§ 108A-29. ~~Limitations on eligibility.~~ First Stop Employment Assistance; priority for
12 employment services.

13 ~~(a) The Social Services Commission shall adopt such administrative rules~~
14 ~~concerning work requirements as conditions of eligibility for Aid to Families with~~
15 ~~Dependent Children in order to be in compliance with federal regulations, but such~~
16 ~~rules shall not be more restrictive than the work requirements applicable to the Job~~
17 ~~Opportunities and Basic Skills Training Program provided for in G.S. 108A-30.~~

18 (a1) There is established in the Employment Security Commission, Department of
19 Commerce, a program to be called First Stop Employment Assistance. The
20 Chairman of the Employment Security Commission shall administer the program
21 with the participation and cooperation of county boards of commissioners, the
22 Department of Human Resources, the Department of Labor, the Department of
23 Crime Control and Public Safety, and the community college system.

24 (a2) Individuals seeking to apply or reapply for Work First Program assistance or
25 food stamps who are unemployed or underemployed shall make their 'first stop' in
26 the application process for assistance the Employment Security Commission, where
27 they shall register for a job, unless exempt either temporarily or permanently from
28 participating in a work program by federal or State law, rules, or regulations.

29 (a3) Individuals who are not otherwise exempt shall present verification of
30 registration with the Employment Security Commission at the time of applying for
31 public assistance. Unless exempt, the individual shall not be approved for Work First
32 Program assistance or food stamps until verification is received. Child-only cases are
33 exempt from this requirement.

34 (a4) The Employment Security Commission shall expand its Labor Market
35 Information System. The expansion shall at least include: statistical information on
36 unemployment rates and other labor trends by county; and publications dealing with
37 licensing requirements, economic development, and career projections, and
38 information technology systems which can be used to track participants through the
39 employment and training process.

40 (a5) The First Stop Employment Program shall assist Work First Program and
41 food stamp recipients with employment through job registration, job search, job
42 preparedness, and community service.

43 (a6) The Employment Security Commission shall offer a continuum of services to
44 individuals seeking employment and training assistance ranging from self-help options

1 to labor-intensive case management approaches. The Employment Security
2 Commission shall provide an intense program of employment or reemployment
3 services such as job seeking skills, workshops, employment counseling, and testing to
4 move individuals into the workforce as quickly as possible.

5 (a7) If after evaluation of an individual the Employment Security Commission
6 believes it necessary, the Employment Security Commission also may refer an
7 individual placed in the Job Preparedness component of the First Stop Employment
8 Program to a local community college for enrollment in General Education
9 Development, Adult Basic Education, or Human Resources Development programs
10 which are already in existence. Additionally, the Commission may refer an
11 individual to a literacy council. Whenever an individual is referred to a community
12 college or to a literacy council, the Employment Security Commission shall monitor
13 the individual's progress through close communications with those agencies. The
14 Employment Security Commission shall adopt rules to accomplish this subsection.

15 (a8) The Job Preparedness component of the Program shall last a maximum of 12
16 weeks unless the recipient is registered and is satisfactorily progressing in a program
17 that requires additional time to complete. Every effort shall be made to place the
18 recipient in part-time employment or part-time community service if the time
19 required exceeds the 12-week maximum.

20 (a9) An individual placed in the Job Search component of the First Stop
21 Employment Program shall look for work and shall accept any suitable employment.
22 The Employment Security Commission shall refer individuals to current job openings
23 and shall make job development contacts for individuals. Individuals shall be
24 required to keep a record of their job search activities on a job search record form
25 provided by the Commission, and the Employment Security Commission will monitor
26 these activities. A 'job search record' means a written list of dates, times, places,
27 addresses, telephone numbers, names, and circumstances of job interviews. The Job
28 Search component shall include at least one weekly contact with the Employment
29 Security Commission. The Employment Security Commission shall adopt rules to
30 accomplish this subsection.

31 (a10) The Employment Security Commission shall work with the Private
32 Personnel Service Division of the Department of Labor to develop a relationship with
33 these private employment agencies to utilize their services and make referrals of
34 individuals registered with the Employment Security Commission.

35 (a11) The Employment Security Commission shall notify all employers in the
36 State of the 'Exclusive No-Fault' Referral Service available through the Employment
37 Security Commission to employers who hire personnel through Job Service referrals.

38 (a12) All individuals referred to jobs through the Employment Security
39 Commission shall be instructed in the procedures for applying for the Federal Earned
40 Income Credit (FEIC). All individuals referred to jobs through the Employment
41 Security Commission who qualify for the FEIC shall apply for the FEIC by filing a
42 W-5 form with their employers.

1 (a13) The FEIC shall not be counted as income when eligibility is determined for
2 Work First Program assistance, Medicaid, food stamps, subsidies, public housing, or
3 Supplemental Security Income.

4 (a14) An individual who has not found a job within 12 weeks of being placed in
5 the Job Search component of the Program may also be placed in the Community
6 Service component at the county's option.

7 (a15) Once an individual has registered with the Employment Security
8 Commission and upon verification of the registration by the agency or contractor
9 providing the Work First Program assistance, the individual's eligibility for Work
10 First Program assistance may be evaluated and the application completed. The
11 individual then may be eligible for all the benefits for which the individual is eligible
12 under the county's County Plan. Continued receipt of Work First Program benefits is
13 contingent upon successful participation in the First Stop Employment Program, and
14 lack of cooperation and participation in the First Stop Employment Program may
15 result in the termination of benefits to the individual.

16 (a16) The county board of commissioners shall determine which agencies or
17 nonprofit or private contractors will participate with the Employment Security
18 Commission in developing the rules to implement the First Stop Employment
19 Program. The rules and operations of the program shall be reviewed by the Joint
20 Legislative Public Assistance Commission before implementation.

21 (a17) Each county shall organize a Job Service Employer Committee, based on
22 the membership makeup of the Job Service Employer Committees in existence at the
23 time this act becomes law. Each Job Service Employer Committee shall oversee the
24 operation of the First Stop Employment Program in that county. The Committee
25 shall report to the local Employment Security Commission quarterly on its
26 recommendations to improve the First Stop Employment Program. The Employment
27 Security Commission shall develop the reporting method and time frame and shall
28 coordinate a full report to be presented to the Joint Legislative Public Assistance
29 Commission by the end of each calendar year.

30 (b) Members of families with dependent children and with aggregate family
31 income at or below the level required for eligibility for ~~Aid to Families with~~
32 ~~Dependent Children assistance~~, Work First Family Assistance, regardless of whether
33 or not they have applied for such assistance, shall be given priority in obtaining
34 ~~manpower employment~~ services including training and ~~public service employment~~
35 community service provided by or through State agencies or counties or with funds
36 which are allocated to the State of North Carolina directly or indirectly through
37 prime sponsors or otherwise for the purpose of employment of unemployed persons.

38 (c) [Repealed.]

39 (b) Each county's Job Service Employer Committee shall develop a
40 study of the "working poor" in their respective counties and shall include the
41 following in the study:

42 (1) Determine the extent to which current labor market participation
43 enables individuals and families to earn the amount of disposable
44 income necessary to meet their basic needs;

- (2) Determine how many North Carolinians work and earn wages below one hundred fifty percent (150%) of the Federal Poverty Guideline and study trends in the size and demographic profiles of this underemployed group within the respective county;
- (3) Examine job market factors that contribute to any changes in the composition and numbers of the working poor including, but not limited to, shifts from manufacturing to service, from full-time to part-time work, from permanent to temporary or their contingent employment;
- (4) Consider and determine the respective responsibilities of the public and private sectors in ensuring that working families and individuals have disposable income adequate to meet their basic needs;
- (5) Evaluate the effectiveness of the unemployment insurance system in meeting the needs of low-wage workers when they become unemployed;
- (6) Examine the efficacy of a State earned income tax credit that would enable working families to meet the requirements of the basic needs budget;
- (7) Examine the wages, benefits, and protections available to part-time and temporary workers, leased employees, independent contractors, and other contingent workers as compared to regular full-time workers;
- (8) Solicit, receive, and accept grants or other funds from any person or entity and enter into agreements with respect to these grants or other funds regarding the undertaking of studies or plans necessary to carry out the purposes of the committee; and
- (9) Request any necessary data from either public or private entities that relate to the needs of the committee.

Each committee shall prepare and submit a report on the finding for the county which it represents by May 1, 1998, to the Joint Legislative Public Assistance Commission.

(c) The First Stop Employment Assistance program becomes effective beginning July 1, 1997. Funds shall be allocated from the Work First Program to establish the First Stop Employment Program and to assist the Job Service Employer Committees in their completion of the study of the working poor.

(d) G.S. 126-7.1 reads as rewritten:

"§ 126-7.1. Posting requirement; State employees receive priority consideration; reduction-in-force rights; rights; Work First hiring.

(a) All vacancies for which any State agency, department, or institution openly recruit shall be posted within at least the following:

- (1) The personnel office of the agency, department, or institution having the vacancy; and

- 1 (2) The particular work unit of the agency, department, or institution
2 having the vacancy
3 in a location readily accessible to employees. If the decision is made, initially or at
4 any time while the vacancy remains open, to receive applicants from outside the
5 recruiting agency, department, or institution, the vacancy shall be listed with the
6 Office of State Personnel for the purpose of informing current State employees of
7 such vacancy. The State agency, department, or institution may not receive approval
8 from the Office of State Personnel to fill a job vacancy if the agency, department, or
9 institution cannot prove to the satisfaction of the Office of State Personnel that it
10 complied with these posting requirements. The agency, department, or institution
11 which hires any person in violation of these posting requirements shall pay such
12 person when employment is discontinued as a result of such violation for the work
13 performed during the period of time between his initial employment and separation.
- 14 (a1) State employees to be affected by a reduction in force shall be notified of the
15 reduction in force as soon as practicable, and in any event, no less than 30 days prior
16 to the effective date of the reduction in force.
- 17 (a2) The State Personnel Commission shall adopt rules to provide that priority
18 consideration for State employees separated from State employment as the result of
19 reductions in force is to enable a State employee's return to career service at a salary
20 grade and salary rate equal to that held in the most recent position. The State
21 Personnel Commission shall provide that a State employee who:
- 22 (1) Accepts a position at the same salary grade shall be paid at the
23 same salary rate as the employee's previous position.
- 24 (2) Accepts a position at a lower salary grade than the employee's
25 previous position shall be paid at the same rate as the previous
26 position unless the salary rate exceeds the maximum of the new
27 salary grade. When the salary rate exceeds the maximum of the
28 salary grade, the employee's new salary rate shall be reduced to
29 the maximum of the new salary grade.
- 30 (b) Subsection (a) of this section does not apply to vacancies which must be filled
31 immediately to prevent work stoppage or the protection of the public health, safety,
32 or security.
- 33 (c) If a State employee subject to this section:
- 34 (1) Applies for another position of State employment that would
35 constitute a promotion and;
- 36 (2) Has substantially equal qualifications as an applicant who is not a
37 State employee
- 38 then the State employee shall receive priority consideration over the applicant who is
39 not a State employee. This priority consideration shall not apply when the only
40 applicants considered for the vacancy are current State employees.
- 41 (c1) If a State employee who has been separated due to reduction in force or who
42 has been given notice of imminent separation due to reduction in force:

1 (1) Applies for another position of State employment equal to or
2 lower in salary grade than the position held by the employee at the
3 time of notification or separation; and
4 (2) Is determined qualified for that position
5 then within all State agencies, the State employee shall receive priority consideration
6 over all other applicants but shall receive equal consideration with other applicants
7 who are current State employees not affected by the reduction in force. This priority
8 shall remain in effect for a period of 12 months from the date the employee receives
9 notification of separation by reduction in force. State employees separated due to
10 reduction in force shall receive higher priority than other applicants with
11 employment or reemployment priorities, except that the reemployment priority
12 created by G.S. 126-5(e)(1) shall be considered as equal. The reduction-in-force
13 priority created by this subsection shall be administered in accordance with rules
14 promulgated by the State Personnel Commission.

15 (c2) If the applicants for reemployment for a position include current State
16 employees, a State employee with more than 10 years of service shall receive priority
17 consideration over a State employee having less than 10 years of service in the same
18 or related position classification. This reemployment priority shall be given by all
19 State departments, agencies, and institutions with regard to positions subject to this
20 Chapter.

21 (d) 'Qualifications' within the meaning of subsection (c) of this section shall
22 consist of:

23 (1) Training or education;
24 (2) Years of experience; and
25 (3) Other skills, knowledge, and abilities that bear a reasonable
26 functional relationship to the abilities and skills required in the job
27 vacancy applied for.

28 (e) Each State agency, department, and institution is encouraged to hire into State
29 government employment qualified applicants who are current or former Work First
30 program participants."

31 Section 1.7. Chapter 108A of the General Statutes is amended by adding
32 a new section to read:

33 "§ 108A-29.1. Substance abuse treatment required; drug testing for Work First
34 Program recipients.

35 (a) Each applicant or current recipient of Work First Program benefits,
36 determined by a Certified Substance Abuse Counselor (CSAC) or by a physician
37 certified by the American Society of Addiction Medicine (ASAM) to be addicted to
38 alcohol or drugs and to be in need of professional substance abuse treatment services
39 shall be required, as part of the person's MRA and as a condition to receiving Work
40 First Program benefits, to participate satisfactorily in an individualized plan of
41 treatment in an appropriate treatment program. As a mandatory program component
42 of participation in an addiction treatment program, each applicant or current
43 recipient shall be required to submit to an approved, reliable, and professionally
44 administered regime of testing for presence of alcohol or drugs, without advance

1 notice, during and after participation, in accordance with the addiction treatment
2 program's individualized plan of treatment, follow-up, and continuing care services
3 for the applicant or current recipient.

4 (b) An applicant or current recipient who fails to comply with any requirement
5 imposed pursuant to this section shall not be eligible for benefits or shall be subject to
6 the termination of benefits, but shall be considered to be receiving benefits for
7 purposes of determining eligibility for medical assistance.

8 (c) The children of any applicant or current recipient shall remain eligible for
9 benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-
10 38.

11 (d) An applicant or current recipient shall not be regarded as failing to comply
12 with the requirements of this section if an appropriate drug or alcohol treatment
13 program is unavailable.

14 (e) Area mental health authorities organized pursuant to Article 4 of Chapter
15 122C of the General Statutes shall be responsible for administering the provisions of
16 this section."

17 Section 1.8. G.S. 108A-38 reads as rewritten:

18 **"§ 108A-38. Protective and vendor payments.**

19 ~~Instead of the use of personal representatives provided for by G.S. 108A-37, when~~
20 When necessary to comply with any present or future federal law or regulation in
21 order to obtain federal participation in public assistance payments, the payments may
22 be made direct to vendors to reimburse them for goods and services provided the
23 applicants or recipients, and may be made to protective payees who shall act for the
24 applicant or recipient for receiving and managing assistance. Payments to vendors
25 and protective payees shall be made to the extent provided in, and in accordance
26 with, rules ~~and regulations~~ of the ~~Social Services Commission or the~~ Department,
27 which rules ~~and regulations~~ shall be subject to applicable federal laws and
28 regulations."

29 Section 1.9. G.S. 108A-49 reads as rewritten:

30 **"§ 108A-49. Foster care and adoption assistance payments.**

31 (a) Benefits in the form of foster care assistance shall be granted in accordance
32 with the rules ~~and regulations~~ of the ~~Social Services Commission~~ Department of
33 Human Resources to any dependent child who ~~is~~ would have been eligible to receive
34 ~~AFDC~~ Aid to Families with Dependent Children (as that program was in effect on
35 June 1, 1995), but for his or her removal from the home of a specified relative for
36 placement in a foster care facility; provided, that the child's placement and care is the
37 responsibility of a county department of social services.

38 (b) Adoption assistance payments for certain adoptive children shall be granted in
39 accordance with the rules ~~and regulations~~ of the ~~Social Services Commission~~
40 Department to adoptive parents who adopt a child eligible to receive foster care
41 maintenance payments or supplemental security income benefits; provided, that the
42 child cannot be returned to his or her parents; and provided, that the child has
43 special needs which create a financial barrier to adoption.

(c) The Department is authorized to use available federal payments to states under Title IV-E of the Social Security Act for foster care and adoption assistance payments."

Section 1.10. G.S. 108A-58 reads as rewritten:

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

(a) Any person, otherwise eligible, who, either while receiving medical assistance benefits or within one year prior to the date of applying for medical assistance benefits, unless some other time period is mandated by controlling federal law, sells, gives, assigns or transfers countable real or personal property or an interest ~~therein, either by himself or through his legal representative,~~ in real or personal property for the purpose of retaining or establishing eligibility for medical assistance benefits, shall be ineligible to receive medical assistance benefits ~~thereafter~~ as set forth in subsection (c) of this section.

Countable real and personal property includes real property, excluding a homesite, intangible personal property, nonessential motor and recreational vehicles, nonincome producing business equipment, boats and motors. The provisions of this act shall not apply to the sale, gift, assignment or transfer of real or personal property if and to the extent that the person applying for medical assistance would have been eligible for such assistance notwithstanding ownership of such property or an interest therein.

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

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

- (1) For uncompensated value of at least one thousand dollars (\$1,000) but not more than six thousand dollars (\$6,000), a one-year period of ineligibility from date of sale, gift, assignment or transfer;
- (2) For uncompensated value of more than six thousand dollars (\$6,000) but not more than twelve thousand dollars (\$12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer;

(3) For uncompensated value of more than twelve thousand dollars (\$12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer, plus one additional month of ineligibility for each five hundred dollar (\$500.00) increment or portion thereof by which the uncompensated value exceeds twelve thousand dollars (\$12,000), but in no event to exceed three years.

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

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

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

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

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

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

Section 1.11. G.S. 108A-80 reads as rewritten:

1 **"§ 108A-80. Confidentiality of records.**

2 (a) Except as provided in (b) below, it shall be unlawful for any person to obtain,
3 disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or
4 other information concerning persons applying for or receiving public assistance or
5 social services that may be directly or indirectly derived from the records, files or
6 communications of the Department or the county boards of social services, or county
7 departments of social services or acquired in the course of performing official duties
8 except for the purposes directly connected with the administration of the programs of
9 public assistance and social services in accordance with federal law, rules and
10 ~~regulations and regulations, and the rules and regulations of the Social Services~~
11 ~~Commission or the Department.~~

12 (b) ~~The Department~~ Each county shall furnish a copy of the recipient check
13 register monthly to ~~each~~ its county auditor showing a complete list of all recipients of
14 ~~Aid To Families with Dependent Children Work First Family Assistance and~~
15 State-County Special Assistance for Adults, their addresses, and the amounts of the
16 monthly grants. This register shall be a public record open to public inspection
17 during the regular office hours of the county auditor, but said register or the
18 information contained therein may not be used for any commercial or political
19 purpose. Any violation of this section shall constitute a Class 1 misdemeanor.

20 (c) Any listing of recipients of benefits under any public assistance or social
21 services program compiled by or used for official purposes by a county board of
22 social services or a county department of social services shall not be used as a mailing
23 list for political purposes. This prohibition shall apply to any list of recipients of
24 benefits of any federal, State, county or mixed public assistance or social services
25 program. Further, this prohibition shall apply to the use of such listing by any
26 person, organization, corporation, or business, including but not limited to public
27 officers or employees of federal, State, county, or other local governments, as a
28 mailing list for political purposes. Any violation of this section shall be punishable as
29 a Class 1 misdemeanor.

30 (d) ~~The Social Services Commission~~ Department of Human Resources shall have
31 the authority to adopt rules ~~and regulations~~ governing access to case files for social
32 services and public assistance ~~programs, except the Medical Assistance Program. The~~
33 ~~Secretary of the Department of Human Resources shall have the authority to adopt~~
34 ~~rules and regulations governing access to medical assistance case files. programs.~~"

35 Section 1.12. (a) G.S. 143B-168.15 reads as rewritten:

36 **"§ 143B-168.15. Use of State funds.**

37 (a) State funds allocated to local projects for services to children and families shall
38 be used to meet assessed needs, expand coverage, and improve the quality of these
39 services. The local plan shall address the assessed needs of all children to the extent
40 feasible. It is the intent of the General Assembly that the needs of both young
41 children below poverty who remain in the home, as well as the needs of young
42 children below poverty who require services beyond those offered in child care
43 settings, be addressed. Therefore, as local partnerships address the assessed needs of
44 all children, they should devote an appropriate amount of their State allocations,

1 considering these needs and other available resources, to meet the needs of children
2 below poverty and their families.

3 (b) Depending on local, regional, or statewide needs, funds may be used to
4 support activities and services that shall be made available and accessible to
5 providers, children, and families on a voluntary basis. Of the total funds allocated to
6 all local partnerships ~~that are designated by the Secretary for direct services,~~
7 ~~seventy-five percent (75%) shall be used for any one or more of the following~~
8 ~~activities and services:~~

9 (1) ~~Child day care services, including:~~

- 10 a. ~~Child day care subsidies to reduce waiting lists;~~
- 11 b. ~~Raising the county child day care subsidy rate to the State~~
12 ~~market rate, if applicable, in return for improvements in the~~
13 ~~quality of child day care services;~~
- 14 c. ~~Raising the income eligibility for child day care subsidies to~~
15 ~~seventy-five percent (75%) of the State median family~~
16 ~~income;~~
- 17 d. ~~Start-up funding for child day care providers;~~
- 18 e. ~~Assistance to enable child day care providers to conform to~~
19 ~~licensing and building code requirements;~~
- 20 f. ~~Child day care resources and referral services;~~
- 21 g. ~~Enhancement of the quality of child day care provided;~~
- 22 h. ~~Technical assistance for child day care providers;~~
- 23 i. ~~Quality grants for child day care centers or family child day~~
24 ~~care homes;~~
- 25 j. ~~Expanded services or enhanced rates for children with~~
26 ~~special needs;~~
- 27 k. ~~Head Start services;~~
- 28 l. ~~Development of comprehensive child day care services that~~
29 ~~include child health and family support;~~
- 30 m. ~~Activities to reduce staff turnover;~~
- 31 n. ~~Activities to serve children with special needs;~~
- 32 o. ~~Transportation services related to providing child day care~~
33 ~~services;~~
- 34 p. ~~Evaluation of plan implementation of child day care~~
35 ~~services; and~~
- 36 q. ~~Needs and resources assessments for child day care services.~~

37 (2) ~~Family and child-centered services, including early childhood~~
38 ~~education and child development services, including:~~

- 39 a. ~~Enhancement of the quality of family and child-centered~~
40 ~~services provided;~~
- 41 b. ~~Technical assistance for family and child-centered services;~~
- 42 c. ~~Needs and resource assessments for family and~~
43 ~~child-centered services;~~
- 44 d. ~~Home-centered services; and~~

1 e. ~~Evaluation of plan implementation of family and~~
2 ~~child-centered services.~~

3 (3) ~~Other appropriate activities and services for child day care~~
4 ~~providers and for family and child-centered services, including:~~

5 a. ~~Staff and organizational development, leadership and~~
6 ~~administrative development, technology assisted education,~~
7 ~~and long-range planning; and~~

8 b. ~~Procedures to ensure that infants and young children receive~~
9 ~~needed health, immunization, and related services. seventy~~
10 ~~percent (70%) shall be used in child care-related activities~~
11 ~~and programs which improve access to child care services,~~
12 ~~develop new child care services, or improve the quality of~~
13 ~~child care services in all settings.~~

14 (c) Long-term plans for local projects that do not receive their full allocation in
15 the first year, other than those selected in 1993, should consider how to meet the
16 assessed needs of low-income children and families within their neighborhoods or
17 communities. These plans also should reflect a process to meet these needs as
18 additional allocations and other resources are received.

19 (d) State funds designated for start-up and related activities may be used for
20 capital expenses or to support activities and services for children, families, and
21 providers. State funds designated to support direct services for children, families, and
22 providers shall not be used for major capital expenses unless the North Carolina
23 Partnership approves this use of State funds based upon a finding that a local
24 partnership has demonstrated that (i) this use is a clear priority need for the local
25 plan, (ii) it is necessary to enable the local partnership to provide services and
26 activities to underserved children and families, and (iii) the local partnership will not
27 otherwise be able to meet this priority need by using State or federal funds available
28 to that local partnership. The funds approved for capital projects in any two
29 consecutive fiscal years may not exceed ten percent (10%) of the total funds for
30 direct services allocated to a local partnership in those two consecutive fiscal years.

31 (e) State funds allocated to local partnerships shall not supplant current
32 expenditures by counties on behalf of young children and their families, and
33 maintenance of current efforts on behalf of these children and families shall be
34 sustained. State funds shall not be applied without the Secretary's approval where
35 State or federal funding sources, such as Head Start, are available or could be made
36 available to that county.

37 (f) Local partnerships may carry over funds from one fiscal year to the next,
38 subject to the following conditions:

39 (1) Local partnerships in their first year of receiving direct services
40 funding may, on a one-time basis only, carry over any unspent
41 funds to the subsequent fiscal year.

42 (2) Any local partnership may carry over any unspent funds to the
43 subsequent fiscal year, subject to the limitation that funds carried

1 over may not exceed the increase in funding the local partnership
2 received during the current fiscal year over the prior fiscal year.

3 (g) Not less than thirty percent (30%) of each local partnership's direct services
4 allocation shall be used to expand child day care subsidies. To the extent practicable,
5 these funds shall be used to enhance the affordability, availability, and quality of
6 child day care services as described in this section. The North Carolina Partnership
7 may increase this percentage requirement up to a maximum of fifty percent (50%)
8 when, based upon the local waiting list for subsidized child care or the total
9 percentage of children served whose families are income eligible for subsidized child
10 care, the North Carolina Partnership determines a higher percentage is justified."

11 (b) Part 10B of Article 3 of Chapter 143B of the General Statutes is
12 amended by adding a new section to read:

13 **"§ 143B-168.17. Priority/programs for children in Work First families.**

14 (a) All programs authorized and funded in whole or in part under this Part shall
15 give the children in Work First Program families priority in appropriate programs or
16 services.

17 (b) Counties which do not have programs funded in whole or in part under this
18 Part shall develop programs which first address the needs of children in participating
19 Work First Program families whenever funds under this Part become available.

20 (c) Counties may use funds provided under this Part for Work First Services but
21 shall not use funds provided for Work First Services for programs authorized under
22 this Part."

23 Section 1.13. G.S. 153A-255 reads as rewritten:

24 **"§ 153A-255. Authority to provide social service programs.**

25 (a) Each county shall have the duty to provide temporary assistance to its poor
26 residents.

27 (b) Each county shall provide social service programs pursuant to Chapter 108A
28 and Chapter 111 and may otherwise undertake, sponsor, organize, engage in, and
29 support other social service programs intended to further the health, welfare,
30 education, employment, safety, comfort, and convenience of its citizens."

31 Section 1.14. G.S. 108A-28, 108A-28.1, 108A-30, 108A-31, 108A-32,
32 108A-33, 108A-34, 108A-35, 108A-39.1, and 108A-92 are repealed.

33 Section 1.15. Article 12G of Chapter 120 of the General Statutes is
34 repealed.

35 Section 1.16. (a) The Department of Labor shall establish a pilot project
36 creating Individual Development Accounts (IDA) to assist working families.

37 (b) There is appropriated from the General Fund to the Department of
38 Labor the sum of three hundred thousand dollars (\$300,000) for the 1997-98 fiscal
39 year and the sum of three hundred thousand dollars (\$300,000) for the 1998-99 fiscal
40 year to establish a pilot project creating Individual Development Accounts (IDA) to:

41 (1) Provide individuals and families, especially the underemployed, an
42 opportunity and an incentive to accumulate assets.

43 (2) Promote investments in education, homeownership, and
44 microenterprise development.

(3) Demonstrate that household savings strategies, such as the development of IDAs, can be a powerful strategy for assisting working persons and families to achieve long-term self-sufficiency.

(4) Utilize and build comprehensive community partnerships that support asset building in low-wealth communities.

(c) The funds appropriated by this section shall be made available to serve as matching funds for personal savings of qualified participants selected to participate in a multiyear demonstration to last not more than five years. Other expenses of the demonstration, including training, technical assistance, evaluation, and other program and administrative expenses, shall be covered from other public and private sources. Matching funds provided from the funds appropriated in this section may be used by qualified participants for home purchase, investment in a business or self-employment venture owned by the participant, or costs of postsecondary education or training for the participant. Participants shall not be restricted as to the amounts or sources of funds deposited in the account, but in order to create the incentive for continued savings, only savings from earned income will qualify for State matching funds. Tax return reports of earned income shall be used to verify compliance.

(d) This section becomes effective July 1, 1997.

Section 1.17. (a) In order to ensure that the intent of the people is carried out, it is the intent of the General Assembly to sit in Special Session to enact the first State Plan developed pursuant to this act. Thereafter, the State Plan shall be adopted as part of the Current Operations Appropriations Act.

(b) While sitting in Special Session, the General Assembly shall entertain requests by counties for proposed changes to statutory requirements or rules which a county considers an impediment to its County Plan. In subsequent regular sessions, county requests for changes shall be in the form of local bills.

(c) The requirement that the Department prepare and submit the State Plan to the General Assembly for approval in accordance with the procedures set forth in G.S. 143-16.1 shall not be applicable for fiscal year 1997-98. Until the counties have prepared their County Plans and the State has prepared its State Plan in accordance with this act and that State Plan has been enacted by the General Assembly and it becomes law, either during its Regular Session 1998, or by Special Session, the provisions of the State Plan submitted to the federal government on October 16, 1996, shall remain in effect. State Plans submitted after the 1997-98 fiscal year shall be enacted by the General Assembly in order to be effective.

Section 1.18. (a) All funds intended for the Work First Program shall be appropriated to that Program through the 1997-99 biennium. No Work First Program funds shall be diverted into other programs during the 1997-99 biennium.

(b) The administrative costs of the Work First Program, at any level, shall not exceed eight percent (8%) of the State's federal TANF block grant funds, and one-time expenditures for equipment and support shall not exceed ten percent (10%) of the State's federal TANF block grant funds.

(c) Federal, State, and county funding for the Work First Program shall be commingled and shall not be separated to frustrate the purposes of the Work First Program.

(d) The commingled block grants paid quarterly to counties shall not be reverted.

Section 1.19. Notwithstanding any other provision of law, beginning July 1, 1997, each county shall dedicate seventy-five percent (75%) of the total AFDC and Work First Cash Assistance benefit amount that was determined fraudulent or erroneous and recovered by that county pursuant to the AFDC Fraud Control Program to enhance and improve program integrity.

Section 1.20. (a) There is established a Joint Legislative Public Assistance Commission. The Joint Legislative Public Assistance Commission shall monitor and oversee the implementation of the provisions of this act and shall make any necessary recommendations to the General Assembly regarding any further changes to law or rule. The Speaker of the House of Representatives shall appoint 10 members, two of whom shall be cochair, and the President Pro Tempore of the Senate shall appoint 10 members, two of whom shall be cochair. The Joint Legislative Public Assistance Commission shall first convene within 30 days after this act becomes law.

(b) There is appropriated from the General Fund to the General Assembly the sum of one hundred thousand dollars (\$100,000) for the 1997-98 fiscal year and the sum of one hundred thousand dollars (\$100,000) for the 1998-99 fiscal year for the Joint Legislative Public Assistance Commission.

(c) This section becomes effective July 1, 1997.

Section 1.21. The Legislative Research Commission may study issues relating to the Medical Assistance Program and the State-County Special Assistance Program, including the following: the need for further restrictions and longer periods of disqualification for the transfer of property for purposes of qualifying for medical assistance and State-County Special Assistance, and appropriate recovery from recipient estates of benefits paid by the Medical Assistance Program and the State-County Special Assistance Program. The Legislative Research Commission may report the results of its study, along with any legislative proposals and cost analyses, to the 1998 General Assembly.

Section 1.22. (a) Article 3 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 31. Office of Inspector General.
"§ 143B-216.50. Department of Human Resources Inspector General.

(a) The Office of Inspector General is established in the Department of Human Resources to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in the Department and in means-tested public assistance programs. The Office of Inspector General is designated as the State Law Enforcement Bureau (SLEB) to take custody and control of food stamps from the federal Food and Consumer Service to make them available

1 to nonfederal law enforcement and investigative agencies to conduct criminal and
2 food stamp program violation investigations.

3 (b) It shall be the duty and responsibility of the Inspector General to:

- 4 (1) Advise in the development of performance measures, standards,
5 and procedures for the evaluation of the Department.
- 6 (2) Assess the reliability and validity of the information provided by
7 the Department on performance measures and standards and make
8 recommendations for improvement, if necessary.
- 9 (3) Review the actions taken by the Department to improve program
10 performance and meet program standards and make
11 recommendations for improvement, if necessary.
- 12 (4) Provide direction for, supervise, and coordinate audits,
13 investigations, and management reviews relating to the programs
14 and operations of the Department.
- 15 (5) Conduct, supervise, or coordinate other activities and programs
16 carried out or financed by the Department for the purpose of
17 promoting economy and efficiency in the administration of, or
18 preventing and detecting fraud and abuse in, its programs and
19 operations, including coordinating activities between local program
20 integrity workers and the State.
- 21 (6) Keep the Secretary of Human Resources informed concerning
22 fraud, abuses, and deficiencies relating to programs and operations
23 administered or financed by the Department, recommend
24 corrective action concerning fraud, abuses, and deficiencies, and
25 report on the progress made in implementing corrective action.
- 26 (7) Ensure effective coordination and cooperation between the State
27 Auditor, federal auditors, and other governmental bodies with a
28 view toward avoiding duplication.
- 29 (8) Review, as appropriate, rules relating to the programs and
30 operations of the Department and make recommendations
31 concerning their impact.
- 32 (9) Ensure that an appropriate balance is maintained between audit,
33 investigative, and other accountability activities.

34 (c) The Inspector General shall be appointed by the Secretary. The appointment
35 shall be made after notifying the Governor in writing, at least seven days prior to an
36 offer of employment, of the Secretary's intention to hire the Inspector General.

37 (d) The Inspector General shall report to and be under the general supervision of
38 the Secretary and shall not be subject to supervision by any other employee of the
39 Department. The Inspector General shall be appointed without regard to political
40 affiliation.

41 (e) The Inspector General may be removed from office by the Secretary. The
42 Secretary shall notify the Governor, in writing, of the intention to terminate the
43 Inspector General at least seven days prior to the removal.

1 (f) The Secretary shall not prevent or prohibit the Inspector General from
2 initiating, carrying out, or completing any audit or investigation.

3 (g) The Inspector General shall have access to any records, data, and other
4 information of the Department the Inspector General believes necessary to carry out
5 the Inspector General's duties. The Inspector General is also authorized to request
6 such information or assistance as may be necessary from the Department or from any
7 federal, State, or local government entity.

8 **"§ 143B-216.51. Inspector General -- Department audits.**

9 (a) To ensure that Department audits are performed in accordance with applicable
10 auditing standards, the Inspector General shall possess the following qualifications:

11 (1) A bachelors degree from an accredited college or university with a
12 major in accounting, or with a major in business which includes
13 five courses in accounting, and five years of experience as an
14 internal auditor or independent postauditor, electronic data
15 processing auditor, accountant, or any combination thereof. The
16 experience shall at a minimum consist of audits of units of
17 government or private business enterprises operating for profit or
18 not for profit;

19 (2) A masters degree in accounting, business administration, or public
20 administration from an accredited college or university and four
21 years of experience as required in subdivision (1) of this
22 subsection; or

23 (3) A certified public accountant license issued pursuant to law or a
24 certified internal audit certificate issued by the Institute of Internal
25 Auditors or earned by examination, and four years of experience
26 as required in subdivision (1) of this subsection.

27 The Inspector General shall, to the extent both necessary and practicable, include
28 on the Inspector General's staff individuals with electronic data processing auditing
29 experience.

30 (b) In carrying out the auditing duties and responsibilities of this Part, the
31 Inspector General shall review and evaluate internal controls necessary to ensure the
32 fiscal accountability of the Department. The Inspector General shall conduct
33 financial, compliance, electronic data processing, and performance audits of the
34 Department and prepare audit reports of the findings. The scope and assignment of
35 the audits shall be determined by the Inspector General; however, the Secretary may
36 at any time direct the Inspector General to perform an audit of a special program,
37 function, or organizational unit. The performance of the audit shall be under the
38 direction of the Inspector General.

39 (c) Audits undertaken pursuant to this Part shall be conducted in accordance with
40 the current Standards for the Professional Practice of Internal Auditing and
41 subsequent Internal Auditing Standards or Statements on Internal Auditing Standards
42 published by the Institute of Internal Auditors, Inc., or, where appropriate, in
43 accordance with generally accepted governmental auditing standards. All audit

1 reports issued by internal audit staff shall include a statement that the audit was
2 conducted pursuant to the appropriate standards.

3 (d) Audit workpapers and reports shall be public records to the extent that they
4 do not include information which, under the laws of the State, is confidential and
5 exempt from Chapter 132 of the General Statutes.

6 (e) At the conclusion of each audit, the Inspector General shall submit tentative
7 findings and recommendations to the person responsible for supervision of the
8 program function or operational unit who shall respond to any adverse findings
9 within 20 working days after receipt of the tentative findings. The response and the
10 Inspector General's rebuttal to the response shall be included in the final audit
11 report.

12 (f) The Inspector General shall submit the final report to the Secretary and to the
13 State Auditor.

14 (g) The State Auditor, in connection with any audit of the Department pursuant
15 to law, shall give appropriate consideration to internal audit reports and the
16 resolution of findings therein. The Joint Legislative Commission on Governmental
17 Operations may inquire into the reasons or justifications for failure of the Secretary
18 to correct the deficiencies reported in internal audits that are also reported by the
19 State Auditor and shall take appropriate action. The State Auditor shall also review a
20 sample of the Department's internal audit reports at least once every three years to
21 determine compliance with current Standards for the Professional Practice of Internal
22 Auditing or, if appropriate, generally accepted governmental auditing standards. If
23 the State Auditor finds that these standards have not been complied with, the State
24 Auditor shall include a statement of this finding in the audit report of the
25 Department.

26 (h) The Inspector General shall monitor the implementation of the Department's
27 response to any audit of the Department conducted by the State Auditor pursuant to
28 law. No later than six months after the State Auditor publishes a report of the audit
29 of the Department, the Inspector General shall report to the Secretary on the status
30 of corrective actions taken. A copy of the report shall be filed with the Joint
31 Legislative Commission on Governmental Operations.

32 (i) The Inspector General shall develop long-term and annual audit plans based
33 on the findings of periodic risk assessments. The plan, where appropriate, should
34 include postaudit samplings of payments and accounts. The plan shall show the
35 individual audits to be conducted during each year and related resources to be
36 devoted to the respective audits. The State Controller may utilize audits performed
37 by the Inspector General. The plan shall be submitted to the Secretary for approval.
38 A copy of the approved plan shall be submitted to the State Auditor.

39 **"§ 143B-216.52. Inspector General -- investigations.**

40 (a) In carrying out the investigative duties and responsibilities specified in this
41 section, the Inspector General shall initiate, conduct, supervise, and coordinate
42 investigations designed to detect, deter, prevent, and eradicate fraud, waste,
43 mismanagement, misconduct, and other abuses in the Department and in means-
44 tested public assistance programs. For these purposes, the Inspector General shall:

- 1 (1) Receive and consider complaints and conduct, supervise, or
2 coordinate such inquiries, investigations, or reviews as the
3 Inspector General deems appropriate.
- 4 (2) Establish policies and standards for the investigation, detection,
5 and elimination of fraud, abuse, waste, and mismanagement in the
6 Department and in means-tested public assistance programs.
- 7 (3) Establish and conduct training programs for local and State
8 program integrity workers to improve detection of fraud and abuse.
- 9 (4) Conduct, supervise, and coordinate a program aimed at eliminating
10 food stamp violations, enter into any agreements with the federal
11 government necessary to establish this program, and serve as the
12 official authorized to accept food stamps from the federal Food
13 and Consumer Service for this purpose.
- 14 (5) Report expeditiously to the State Bureau of Investigation or other
15 law enforcement agencies, as appropriate, whenever the Inspector
16 General has reasonable grounds to believe there has been a
17 violation of criminal law.
- 18 (6) Conduct investigations and other inquiries free of actual or
19 perceived impairment to the independence of the Inspector
20 General or the Inspector General's office. This shall include
21 freedom from any interference with investigations and timely
22 access to records and other sources of information.
- 23 (7) Submit in a timely fashion final reports on investigations
24 conducted by the Inspector General to the Secretary.
- 25 (b) The Inspector General shall, not later than September 30 of each year, prepare
26 an annual report summarizing the activities of the office during the immediately
27 preceding State fiscal year. The final report shall be furnished to the Secretary. Such
28 report shall include, but need not be limited to:
 - 29 (1) A description of activities relating to the development, assessment,
30 and validation of performance measures.
 - 31 (2) A description of significant abuses and deficiencies relating to
32 programs and to operations of the Department disclosed by
33 investigations, audits, reviews, or other activities during the
34 reporting period.
 - 35 (3) A description of the recommendations for corrective action made
36 by the Inspector General during the reporting period with respect
37 to significant problems, abuses, or deficiencies identified.
 - 38 (4) The identification of each significant recommendation described in
39 previous annual reports on which corrective action has not been
40 completed.
 - 41 (5) A summary of each audit and investigation completed during the
42 reporting period."

(b) The Department shall immediately proceed with the implementation of this section, including proceeding with all actions necessary to establish a State Law Enforcement Bureau (SLEB) program for food stamps in this State.

Section 1.23. Part 6 of Chapter 143B of the General Statutes is repealed. All functions, powers, duties, and obligations previously vested in the Social Services Commission is transferred to and vested in the Department of Human Resources by a Type I transfer, as defined in G.S. 143A-6.

PART 2. STATUTORY TECHNICAL AND CONFORMING CHANGES.

SUBPART A. STATUTORY TECHNICAL AND CONFORMING CHANGES RELATING TO ENACTMENT OF THE WORK FIRST PROGRAM.

Section 2.1. G.S. 1-110(a) reads as rewritten:

"(a) Subject to the provisions of subsection (b) of this section with respect to prison inmates, any superior or district court judge or clerk of the superior court may authorize a person to sue as an indigent in their respective courts when the person makes affidavit that he or she is unable to advance the required court costs. The clerk of superior court shall authorize a person to sue as an indigent if the person makes the required affidavit and meets one or more of the following criteria:

- (1) Receives food stamps.
- (2) Receives ~~Aid to Families with Dependent Children (AFDC)~~. Work First Family Assistance.
- (3) Receives Supplemental Security Income (SSI).
- (4) Is represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons.
- (5) Is represented by private counsel working on the behalf of or under the auspices of a legal services organization under subdivision (4) of this section.
- (6) Is seeking to obtain a domestic violence protective order pursuant to G.S. 50B-2.

A superior or district court judge or clerk of superior court may authorize a person who does not meet one or more of these criteria to sue as an indigent if the person is unable to advance the required court costs. The court to which the summons is returnable may dismiss the case and charge the court costs to the person suing as an indigent if the allegations contained in the affidavit are determined to be untrue or if the court is satisfied that the action is frivolous or malicious."

Section 2.2. G.S. 15-155.1 reads as rewritten:

"§ 15-155.1. Reports to district attorneys of aid to dependent children and ~~illegitimate out-of-wedlock~~ births.

The Department of Human Resources, by and through the Secretary of Human Resources, shall promptly after June 19, 1959, make a report to each district attorney, setting out the names and addresses of all mothers who reside in his prosecutorial district as defined in G.S. 7A-60 and are recipients of ~~aid to dependent children~~ assistance under the provisions of Part 2, Article 2, Chapter 108A of the General Statutes. Such report shall in some manner show the identity of the unwed mothers

1 and shall set forth the number of children born to each said mother. Such a report
2 shall also be made monthly thereafter setting out the names and addresses of all such
3 mothers who reside in the district and who may have become recipients of ~~aid to~~
4 ~~dependent children~~ assistance under the provisions of Part 2, Article 2, Chapter 108A
5 of the General Statutes since the date of the last report."

6 Section 2.3. G.S. 15-155.2(a) reads as rewritten:

7 "(a) Upon receipt of such reports as are provided for in G.S. 15-155.1, the district
8 attorney of superior court may make an investigation to determine whether the
9 mother of an ~~illegitimate out-of-wedlock~~ child or who is a recipient of ~~aid to a~~
10 ~~dependent child or children~~, Work First Family Assistance, has abandoned, is
11 willfully neglecting or is refusing to support and maintain the child within the
12 meaning of G.S. 14-326 or 49-2 or is diverting any part of the funds received as ~~aid to~~
13 ~~a dependent child~~ Work First Family Assistance to any purpose other than for the
14 support and maintenance of ~~such dependent a~~ child in violation of G.S. 108-76.1. In
15 making this investigation the district attorney is authorized to call upon:

- 16 (1) Any county board of social services or the Department of Human
17 Resources for personal, clerical or investigative assistance and for
18 access to any records kept by either such board and relating to the
19 matter under investigation and such boards are hereby directed to
20 assist in all investigations hereunder and to furnish all records
21 relating thereto when so requested by the district attorney;
- 22 (2) The board of county commissioners of any county within his
23 district for legal or clerical assistance in making any investigation
24 or investigations in such county and such boards are hereby
25 authorized to furnish such assistance in their discretion; and
- 26 (3) The district attorney of any inferior court in his district for
27 personal assistance in making any investigation or investigations in
28 the county in which the court is located and any district attorney
29 so called upon is hereby authorized to furnish such assistance by
30 and with the consent of the board of county commissioners of the
31 county in which the court is located, which board shall provide
32 and fix his compensation for assistance furnished."

33 Section 2.4. G.S. 95-25.3(d) reads as rewritten:

34 "(d) The Commissioner, in order to prevent curtailment of opportunities for
35 employment of the economically disadvantaged and the unemployed, may, by
36 regulation, establish a wage rate not less than eighty-five percent (85%) of the
37 otherwise applicable wage rate in effect under subsection (a) which shall apply to all
38 persons (i) who have been unemployed for at least 15 weeks and who are
39 economically disadvantaged, or (ii) who are, or whose families are, receiving ~~aid to~~
40 ~~families with dependent children provided under Part A of Title IV of the Social~~
41 ~~Security Act~~, Work First Family Assistance or who are receiving supplemental
42 security benefits under Title XVI of the Social Security Act.

Pursuant to regulations issued by the Commissioner, certificates establishing eligibility for such subminimum wage shall be issued by the Employment Security Commission.

The regulation issued by the Commissioner shall not permit employment at the subminimum rate for a period in excess of 52 weeks."

Section 2.5. G.S. 105A-2(1) reads as rewritten:

"(1) 'Claimant agency' means and includes:

- a. The State Education Assistance Authority as enabled by Article 23 of Chapter 116 of the General Statutes;
- b. The North Carolina Department of Human Resources when in the exercise of its authority to collect health profession student loans made pursuant to G.S. 131-121;
- c. The North Carolina Department of Human Resources when in the performance of its duties under the Medical Assistance Program enabled by Chapter 108A, Article 2, Part 6, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Medical Assistance Program collection functions;
- d. The North Carolina Department of Human Resources when in the performance of its duties, under the Child Support Enforcement Program as enabled by Chapter 110, Article 9 and Title IV, Part D of the Social Security Act to obtain indemnification for past paid public assistance or to collect child support arrearages owed to an individual receiving program services and any county operating the program at the local level, when and only to the extent that the county is engaged in the performance of those same duties;
- e. The University of North Carolina, including its constituent institutions as specified by G.S. 116-2(4);
- f. The University of North Carolina Hospitals at Chapel Hill in the conduct of its financial affairs and operations pursuant to G.S. 116-37;
- g. The Board of Governors of the University of North Carolina and the State Board of Education through the College Scholarship Loan Committee when in the performance of its duties of administering the Scholarship Loan Fund for Prospective College Teachers enabled by Chapter 116, Article 5;
- h. The Office of the North Carolina Attorney General on behalf of any State agency when the claim has been reduced to a judgment;

- 1 i. The State Board of Community Colleges through
2 community colleges as enabled by Chapter 115D in the
3 conduct of their financial affairs and operations;
4 j. State facilities as listed in G.S. 122C-181(a), School for the
5 Deaf at Morganton, North Carolina Sanatorium at McCain,
6 Western Carolina Sanatorium at Black Mountain, Eastern
7 North Carolina Sanatorium at Wilson, and Gravelly
8 Sanatorium at Chapel Hill under Chapter 143, Article 7;
9 Governor Morehead School under Chapter 115, Article 40;
10 Central North Carolina School for the Deaf under Chapter
11 115, Article 41; Wright School for Treatment and Education
12 of Emotionally Disturbed Children under Chapter 122C;
13 and these same institutions by any other names by which
14 they may be known in the future;
15 k. The North Carolina Department of Revenue;
16 l. The Administrative Office of the Courts;
17 m. The Division of Forest Resources of the Department of
18 Environment, Health, and Natural Resources;
19 n. The Administrator of the Teachers' and State Employees'
20 Comprehensive Major Medical Plan, established in Article 3
21 of General Statutes Chapter 135;
22 o. The State Board of Education through the Superintendent
23 of Public Instruction when in the performance of his duties
24 of administering the Scholarship Loan Fund for Prospective
25 Teachers enabled by Chapter 115C, Article 32A and the
26 scholarship loan and grant programs enabled by Chapter
27 115C, Article 24C, Part 1;
28 p. The Board of Trustees of the Teachers' and State
29 Employees' Retirement System and the Board of Trustees of
30 the Local Governmental Employees' Retirement System in
31 the performance of their duties pursuant to Chapters 120,
32 128, 135 and 143 of the General Statutes;
33 q. The North Carolina Teaching Fellows Commission in the
34 performance of its duties pursuant to Chapter 115C, Article
35 24C, Part 2;
36 r. The North Carolina Department of Human Resources when
37 in the performance of its collection duties for intentional
38 program violations and violations due to inadvertent
39 household error under the Food Stamp Program enabled by
40 Chapter 108A, Article 2, Part 5, and any county operating
41 the same Program at the local level, when and only to the
42 extent such a county is in the performance of Food Stamp
43 Program collection functions.

The North Carolina Department of Human Resources when, in the performance of its duties under the ~~Aid to Families with Dependent Children Program or the Aid to Families with Dependent Children — Emergency Assistance Program provided in Part 2 of Article 2 of Chapter 108A or the Work First Cash Assistance Program established pursuant to the federal waivers received by the Department on February 5, 1996, Work First Program provided in Part 2 of Article 2 of Chapter 108A of the General Statutes, or~~ under the State-County Special Assistance for Adults Program provided in Part 3 of Article 2 of Chapter 108A, it seeks to collect public assistance payments obtained through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error;

- s. ~~The Employment Security Commission of North Carolina. Carolina;~~
- t. Any State agency in the collection of salary overpayments from former ~~employees.~~ employees; or
- u. The State Board of Education through the Superintendent of Public Instruction when in the performance of his duties of administering the program under which the State encourages participation in the National Board for Professional Teaching Standards (NBPTS) Program, enabled by Section 19.28 of Chapter 769 of the 1993 Session Laws."

Section 2.6. G.S. 110-129(6) reads as rewritten:

- "(6) 'Disposable income' means any form of periodic payment to an individual, regardless of sources, including but not limited to wages, salary, commission, self-employment income, bonus pay, severance pay, sick pay, incentive pay, vacation pay, compensation as an independent contractor, worker's compensation, unemployment compensation benefits, disability, annuity, survivor's benefits, pension and retirement benefits, interest, dividends, rents, royalties, trust income and other similar payments, which remain after the deduction of amounts for federal, State, and local taxes, Social Security, and involuntary retirement contributions. However, Supplemental Security Income, ~~Aid for Dependent Children,~~ Work First Family Assistance, and other public assistance payments shall be excluded from disposable income. For employers, disposable income means 'wage' as it is defined by G.S. 95-25.2(16). Unemployment compensation benefits shall be treated as disposable income only for the purposes of income withholding under the provisions of G.S. 110-136.4, and

1 the amount withheld shall not exceed twenty-five percent (25%) of
2 the unemployment compensation benefits."

3 Section 2.7. G.S. 110-130.1 reads as rewritten:

4 "**§ 110-130.1. ~~Non-AFDC~~ Non-Work First services.**

5 (a) All child support collection and paternity determination services provided
6 under this Article to recipients of public assistance shall be made available to any
7 individual not receiving public assistance in accordance with federal law and as
8 contractually authorized by the nonrecipient, upon proper application and payment
9 of a nonrefundable application fee of ten dollars (\$10.00).

10 (b) Repealed by Session Laws 1989, c. 490.

11 (b1) In cases in which a public assistance debt which accrued pursuant to G.S.
12 110-135 remains unrecovered, support payments shall be transmitted to the
13 Department of Human Resources for appropriate distribution. When services are
14 terminated and all costs and any public assistance debts have been satisfied, the
15 support payment shall be redirected to the client.

16 (c) Actions or proceedings to establish, enforce, or modify a duty of support or
17 establish paternity as initiated under this Article shall be brought in the name of the
18 county or State agency on behalf of the public assistance recipient or nonrecipient
19 client. Collateral disputes between a custodial parent and noncustodial parent,
20 involving visitation, custody and similar issues, shall be considered only in separate
21 proceedings from actions initiated under this Article. The attorney representing the
22 designated representative of programs under Title IV-D of the Social Security Act
23 shall be deemed attorney of record only for proceedings under this Article, and not
24 for the separate proceedings. No attorney/client relationship shall be considered to
25 have been created between the attorney who represents the child support
26 enforcement agency and any person by virtue of the action of the attorney in
27 providing the services required.

28 (c1) The Department is hereby authorized to use the electronic and print media
29 in attempting to locate absent and deserting parents. Due diligence must be taken to
30 ensure that the information used is accurate or has been verified. Print media shall be
31 under no obligation or duty, except that of good faith, to anyone to verify the
32 correctness of any information furnished to it by the Department or county
33 departments of social services.

34 (d) Any fee imposed by the North Carolina Department of Revenue or the
35 Secretary of the Treasury to cover their costs of withholding for ~~non-AFDC non-~~
36 Work First arrearages certified for the collection of past due support from State or
37 federal income tax refunds shall be borne by the client by deducting the fee from the
38 amount collected.

39 Any income tax refund offset amounts which are subsequently determined to have
40 been incorrectly withheld and distributed to a client, and which must be refunded by
41 the State to a responsible parent or the nondebtor spouse, shall constitute a debt to
42 the State owed by the client."

43 Section 2.8. G.S. 111-21 reads as rewritten:

44 "**§ 111-21. Disqualifications for relief.**

1 No aid to needy blind persons shall be given under the provisions of this Article to
2 any individual for any period with respect to which he is receiving aid under the laws
3 of North Carolina providing aid ~~for dependent children~~ Work First Family
4 Assistance and/or relief for the aged, and/or aid for the permanently and totally
5 disabled."

6 **SUBPART B. STATUTORY TECHNICAL AND CONFORMING CHANGES**
7 **RELATING TO THE ABOLISHMENT OF THE SOCIAL SERVICES COMMISSION**
8 **AND THE COMMISSION ON THE FAMILY.**

9 Section 2.9. G.S. 7A-289.14 reads as rewritten:

10 **"§ 7A-289.14. Duties of Secretary of Human Resources.**

11 It shall be the duty of the Secretary of Human Resources to arrange for the
12 appropriate unit or units of the Department of Human Resources to implement this
13 Article as follows:

- 14 (1) To designate the appropriate unit of the Department of Human
15 Resources to be responsible for coordination of state-level services
16 in relation to delinquency prevention and youth services so that
17 any citizen may go to one place in State government to receive
18 services or access to services.
- 19 (2) Repealed by Session Laws 1977, c. 627, s. 20.
- 20 (3) To arrange appropriate coordination and planning within the
21 child-serving agencies of the Department of Human Resources and
22 promote interdepartmental coordination.
- 23 (4) To assist local governments and private service agencies in the
24 development of community-based programs, and to provide
25 information on the availability of potential funding sources and
26 whatever assistance may be requested in making application for
27 needed funding.
- 28 (5) To approve yearly program evaluations and to make
29 recommendations to the General Assembly concerning
30 continuation funding that might be supported by that evaluation.
- 31 (6) To approve program evaluation standards by which all programs
32 developed under the provisions of this Article may be objectively
33 evaluated.

34 Such standards as may be developed for the purpose of program
35 evaluation shall be in addition to any current standards as may be
36 applicable under the existing authority of the ~~Social Services~~
37 ~~Commission and the~~ Department of Human Resources.

38 Minimum operating standards as well as program evaluation
39 standards as may be needed for new program models designed to
40 fulfill the intent of this Article, may be developed at the discretion
41 of the ~~Secretary either by the Social Services Commission or the~~
42 ~~Secretary.~~ Secretary.

- 43 (7) To develop a formula for funding on a matching basis
44 community-based services as provided for in this Article. This

1 formula shall be based upon the county's or counties' relative
2 ability to fund community-based programs for juveniles.

3 Local governments receiving State matching funds for programs
4 under the provisions of this Article must maintain the same overall
5 level of effort that existed at the time of the filing of the county
6 assessment of youth needs with the Department of Human
7 Resources as provided in G.S. 7A-289.16 of this Article."

8 Section 2.10. G.S. 7A-548(a2) reads as rewritten:

9 "(a2) Upon completion of the investigation, the Director shall give the
10 Department written notification of the results of the investigation required by G.S.
11 7A-544. Upon completion of an investigation of child sexual abuse in a day care
12 facility or day care home, the Director shall also make written notification of the
13 results of the investigation to the State Bureau of Investigation.

14 The Director of the Department of Social Services shall submit a report of alleged
15 abuse, neglect, or dependency cases or child fatalities that are the result of alleged
16 maltreatment to the central registry under the policies adopted by the ~~Social Services~~
17 ~~Commission~~ Department of Human Resources."

18 Section 2.11. G.S. 7A-552 reads as rewritten:

19 "§ 7A-552. Central registry.

20 The Department of Human Resources shall maintain a central registry of abuse,
21 neglect, and dependency cases and child fatalities that are the result of alleged
22 maltreatment that are reported under this Article in order to compile data for
23 appropriate study of the extent of abuse and neglect within the State and to identify
24 repeated abuses of the same juvenile or of other juveniles in the same family. This
25 data shall be furnished by county directors of social services to the Department of
26 Human Resources and shall be confidential, subject to policies adopted by the ~~Social~~
27 ~~Services Commission~~ Department of Human Resources providing for its use for study
28 and research and for other appropriate disclosure. Data shall not be used at any
29 hearing or court proceeding unless based upon a final judgment of a court of law."

30 Section 2.12. G.S. 48-1-101(14) reads as rewritten:

31 "(14) 'Preplacement assessment' means a document, whether prepared
32 before or after placement, that contains the information required
33 by G.S. 48-3-303 and any rules adopted by the ~~Social Services~~
34 ~~Commission~~ Department of Human Resources."

35 Section 2.13. G.S. 48-2-502(c) reads as rewritten:

36 "(c) The ~~Social Services Commission~~ Department of Human Resources may adopt
37 rules to implement the provisions of this section."

38 Section 2.14. G.S. 48-3-203(e) reads as rewritten:

39 "(e) In addition to the authority granted in G.S. 131D-10.5, the ~~Social Services~~
40 ~~Commission~~ Department of Human Resources may adopt rules for placements by
41 agencies consistent with the purposes of this Chapter."

42 Section 2.15. G.S. 48-3-204(a) reads as rewritten:

1 "(a) The ~~Social Services Commission~~ Department of Human Resources may adopt
2 rules requiring agencies to adopt and follow appropriate recruitment plans for
3 prospective adoptive parents."

4 Section 2.16. G.S. 48-3-303(i) reads as rewritten:

5 "(i) The ~~Social Services Commission~~ Department of Human Resources shall have
6 authority to establish by rule additional standards for preplacement assessments."

7 Section 2.17. G.S. 48-3-308(a) reads as rewritten:

8 "(a) Each agency shall have a procedure for allowing an individual who has
9 received an unfavorable preplacement assessment to have the assessment reviewed by
10 the agency. In addition to the authority in G.S. 131D-10.5, the ~~Social Services~~
11 ~~Commission~~ Department of Human Resources ~~shall have authority to~~ may adopt
12 rules implementing this section."

13 Section 2.18. G.S. 108A-1 reads as rewritten:

14 **"§ 108A-1. Creation.**

15 Every county shall have a board of social services or a consolidated human
16 services board created pursuant to G.S. 153A-77(b) which shall establish county
17 policies for the programs established by this Chapter in conformity with the rules and
18 regulations of the ~~Social Services Commission~~ and under the supervision of the
19 Department of Human Resources. Provided, however, county policies for the
20 program of medical assistance shall be established in conformity with the rules and
21 regulations of the Department of Human Resources."

22 Section 2.19. G.S. 108A-3 reads as rewritten:

23 **"§ 108A-3. Method of appointment; residential qualifications; fee or compensation for
24 services; consolidated human services board appointments.**

25 (a) Three-Member Board. -- The board of commissioners shall appoint one
26 member who may be a county commissioner or a citizen selected by the board; the
27 ~~Social Services Commission~~ Department of Human Resources shall appoint one
28 member; and the two members so appointed shall select the third member. In the
29 event the two members so appointed are unable to agree upon selection of the third
30 member, the senior regular resident superior court judge of the county shall make the
31 selection.

32 (b) Five-Member Board. -- The procedure set forth in subsection (a) shall be
33 followed, except that both the board of commissioners and the ~~Social Services~~
34 ~~Commission~~ Department of Human Resources shall appoint two members each, and
35 the four so appointed shall select the fifth member. If the four are unable to agree
36 upon the fifth member, the senior regular superior court judge of the county shall
37 make the selection.

38 (c) Provided further that each member so appointed under subsection (a) and
39 subsection (b) of this section by the ~~Social Services Commission~~ Department of
40 Human Resources and by the county board of commissioners or the senior regular
41 resident superior court judge of the county, shall be bona fide residents of the county
42 from which they are appointed to serve, and will receive as their fee or compensation
43 for their services rendered from the Department of Human Resources directly or
44 indirectly only the fees and compensation as provided by G.S. 108A-8.

1 (d) Consolidated Human Services Board. -- The board of county commissioners
2 shall be the sole appointing authority for members of a consolidated human services
3 board and shall appoint those members in accordance with G.S. 153A-77(c)."

4 Section 2.20. G.S. 108A-5 reads as rewritten:

5 "**§ 108A-5. Order of appointment.**

6 (a) Three-Member Board: The term of the member appointed by the ~~Social~~
7 ~~Services Commission~~ Department of Human Resources shall expire on June 30, 1981,
8 and every three years thereafter; the term of the member appointed by the board of
9 commissioners shall expire on June 30, 1983, and every three years thereafter; and
10 the term of the third member shall expire on June 30, 1982, and every three years
11 thereafter.

12 (b) Five-Member Board: Whenever a board of commissioners of any county
13 decides to expand a three-member board to a five-member board of social services,
14 the ~~Social Services Commission~~ Department of Human Resources shall appoint an
15 additional member for a term expiring at the same time as the term of the existing
16 member appointed by the board of commissioners, and the board of commissioners
17 shall appoint an additional member for a term expiring at the same time as the term
18 of the existing member appointed by the ~~Social Services Commission~~. Department of
19 Human Resources. The change to a five-member board shall become effective at the
20 time when the additional members shall have been appointed by both the county
21 board of commissioners and the ~~Social Services Commission~~. Department of Human
22 Resources. Thereafter all appointments shall be for three-year terms.

23 (c) Change from Five-Member to Three-Member Board: The change shall become
24 effective on the first day of July following the decision to change by the board of
25 commissioners. On that day, the following two seats on the board of social services
26 shall cease to exist:

- 27 (1) The seat held by the member appointed by the ~~Social Services~~
28 ~~Commission~~ Department of Human Resources whose term would
29 have expired on June 30, 1983, or triennially thereafter; and
30 (2) The seat held by the member appointed by the board of
31 commissioners whose term would have expired June 30, 1981, or
32 triennially thereafter."

33 Section 2.21. G.S. 108A-9 reads as rewritten:

34 "**§ 108A-9. Duties and responsibilities.**

35 The county board of social services shall have the following duties and
36 responsibilities:

- 37 (1) To select the county director of social services according to the
38 merit system rules of the State Personnel Commission;
39 (2) To advise county and municipal authorities in developing policies
40 and plans to improve the social conditions of the community;
41 (3) To consult with the director of social services about problems
42 relating to his office, and to assist him in planning budgets for the
43 county department of social services;

(4) To transmit or present the budgets of the county department of social services for public assistance, social services, and administration to the board of county commissioners;

(5) To have such other duties and responsibilities as the General Assembly, the Department of Human Resources ~~or the Social Services Commission~~ or the board of county commissioners may assign to it."

Section 2.22. G.S. 108A-10 reads as rewritten:

"§ 108A-10. Fees.

The county board of social services is authorized to enter into contracts with any governmental or private agency, or with any person, whereby the board of social services agrees to render services to or for such agency or person in exchange for a fee to cover the cost of rendering such service. This authority is to be limited to services voluntarily rendered and voluntarily received, but shall not apply where the charging of a fee for a particular service is specifically prohibited by statute or regulation. The fees to be charged under the authority of this section are to be based upon a plan recommended by the county director of social services and approved by the local board of social services and the board of county commissioners. In no event is the fee charged to exceed the cost to the board of social services. Fee policies may not conflict with rules and regulations adopted by the ~~Social Services Commission~~ or Department of Human Resources regarding fees.

The fees collected under the authority of this section are to be deposited to the account of the social services department so that they may be expended for social services purposes in accordance with the provisions of Article 3 of Chapter 159, the Local Government Budget and Fiscal Control Act. No individual employee is to receive any compensation over and above his regular salary as a result of rendering services for which a fee is charged.

The county board of social services shall annually report to the county commissioners receipts received under this section. Fees collected under this section shall not be used to replace any other funds, either State or local, for the program for which the fees were collected."

Section 2.23. G.S. 108A-14(a) reads as rewritten:

"(a) The director of social services shall have the following duties and responsibilities:

(1) To serve as executive officer of the board of social services and act as its secretary;

(2) To appoint necessary personnel of the county department of social services in accordance with the merit system rules of the State Personnel Commission;

(3) To administer the programs of public assistance and social services established by this Chapter under pertinent rules and regulations;

(4) To administer funds provided by the board of commissioners for the care of indigent persons in the county under policies approved by the county board of social services;

- (5) To act as agent of the ~~Social Services Commission~~ and Department of Human Resources in relation to work required by the ~~Social Services Commission~~ and Department of Human Resources in the county;
- (6) To investigate cases for adoption and to supervise adoptive placements;
- (7) To issue employment certificates to children under the regulations of the State Department of Labor;
- (8) To supervise adult care homes under the rules and regulations of the ~~Social Services Commission~~; Department of Human Resources;
- (9) To assist and cooperate with the Department of Correction and their representatives;
- (10) To act in conformity with the provisions of Article 7, Chapter 35 of the General Statutes with regard to sterilization of mentally ill and mentally retarded persons;
- (11) To investigate reports of child abuse and neglect and to take appropriate action to protect such children pursuant to the Child Abuse Reporting Law, Article 44 of Chapter 7A;
- (12) To accept children for placement in foster homes and to supervise placements for so long as such children require foster home care;
- (13) To respond by investigation to notification of a proposed adoptive placement pursuant to G.S. 48-3(b) and (c); and
- (14) To receive and evaluate reports of abuse, neglect, or exploitation of disabled adults and to take appropriate action as required by the Protection of the Abused, Neglected, or Exploited Disabled Adults Act, Article 6 of this Chapter, to protect these adults."

Section 2.24. G.S. 108A-15.1(a) reads as rewritten:

"(a) Except as otherwise provided by this section and subject to any limitations that may be imposed by the board of county commissioners under G.S. 153A-77, a consolidated human services board created pursuant to G.S. 153A-77(b) shall have the responsibility and authority to carry out the programs established in this Chapter in conformity with the rules and regulations of the ~~Social Services Commission~~ and under the supervision of the Department of Human Resources in the same manner as a county social services board."

Section 2.25. G.S. 108A-40 reads as rewritten:

"§ 108A-40. Authorization of State-County Special Assistance for Adults Program.

The Department is authorized to establish and supervise a State-County Special Assistance for Adults Program. This program is to be administered by county departments of social services under rules and regulations of the ~~Social Services Commission~~. Department."

Section 2.26. G.S. 108A-41 reads as rewritten:

"§ 108A-41. Eligibility.

(a) Assistance shall be granted under this Part to all persons in adult care homes for care found to be essential in accordance with the rules and regulations adopted by

1 the ~~Social Services Commission~~ Department of Human Resources and prescribed by
2 G.S. 108A-42(b).

3 (b) Assistance shall be granted to any person who:

4 (1) Is 65 years of age and older, or is between the ages of 18 and 65
5 and is permanently and totally disabled; and

6 (2) Has insufficient income or other resources to provide a reasonable
7 subsistence compatible with decency and health as determined by
8 the rules and regulations of the ~~Social Services Commission~~;
9 Department of Human Resources; and

10 (3) Is a resident of North Carolina.

11 (c) When determining whether a person has insufficient resources to provide a
12 reasonable subsistence compatible with decency and health, there shall be excluded
13 from consideration the person's primary place of residence and the land on which it
14 is situated, and in addition there shall be excluded real property contiguous with the
15 person's primary place of residence in which the property tax value is less than
16 twelve thousand dollars (\$12,000).

17 (d) The county shall also have the option of granting assistance to Certain
18 Disabled persons as defined in the rules and regulations adopted by the ~~Social~~
19 ~~Services Commission~~ Department of Human Resources. Nothing in this Part should
20 be interpreted so as to preclude any individual county from operating any program of
21 financial assistance using only county funds."

22 Section 2.27. G.S. 108A-42(c) reads as rewritten:

23 "(c) Disability shall be reviewed by medical consultants employed by the
24 Department. The final decision on the disability shall be made by these medical
25 consultants under rules and regulations adopted by the ~~Social Services Commission~~.
26 Department of Human Resources."

27 Section 2.28. G.S. 108A-43 reads as rewritten:

28 "**§ 108A-43. Application procedure.**

29 (a) Applications under this Part shall be made to the county director of social
30 services who, with the approval of the county board of social services and in
31 conformity with the rules and regulations of the ~~Social Services Commission~~,
32 Department of Human Resources, shall determine whether assistance shall be granted
33 and the amount of such assistance; but the county board of social services may
34 delegate to the county director the authority to approve or reject all applications for
35 assistance under this Part, in which event the county director shall not be required to
36 report his actions to the board.

37 (b) The amount of assistance which any eligible person may receive shall be
38 determined with regard to the resources and necessary expenditures of the applicant,
39 in accordance with the appropriate rules and regulations of the ~~Social Services~~
40 ~~Commission~~ Department of Human Resources."

41 Section 2.29. G.S. 108A-45 reads as rewritten:

42 "**§ 108A-45. Participation.**

43 The State-County Special Assistance for Adults Program established by this Part
44 shall be administered by all the county departments of social services under rules and

1 regulations adopted by the ~~Social Services Commission~~ and under the supervision of
2 the Department. Provided that, assistance for certain disabled persons shall be
3 provided solely at the option of the county."

4 Section 2.30. G.S. 108A-47 reads as rewritten:

5 **"§ 108A-47. Limitations on payments.**

6 No payment of assistance under this Part shall be made for the care of any person
7 in an adult care home that is owned or operated in whole or in part by any of the
8 following:

- 9 (1) A member of the ~~Social Services Commission~~, Department of
10 Human Resources, of any county board of social services, or of any
11 board of county commissioners;
12 (2) An official or employee of the Department, unless the official or
13 employee has been appointed temporary manager of the facility
14 pursuant to G.S. 131E-237, or of any county department of social
15 services;
16 (3) A spouse of a person designated in subdivisions (1) and (2)."

17 Section 2.31. G.S. 108A-48(a) reads as rewritten:

18 "(a) The Department is authorized to establish a State Foster Care Benefits
19 Program with appropriations by the General Assembly for the purpose of providing
20 assistance to children who are placed in foster care facilities by county departments of
21 social services in accordance with the rules and regulations of the ~~Social Services~~
22 ~~Commission~~. Department of Human Resources. Such appropriations, together with
23 county contributions for this purpose, shall be expended to provide for the costs of
24 keeping children in foster care facilities."

25 Section 2.32. G.S. 108A-50(c) reads as rewritten:

26 "(c) Eligibility for an adoptive child to receive assistance shall be determined by
27 the Department ~~under the rules and regulations of the Social Services Commission~~
28 and pursuant to its rules."

29 Section 2.33. G.S. 108A-52 reads as rewritten:

30 **"§ 108A-52. Determination of eligibility.**

31 Any person who believes that he or another person is eligible to receive food
32 stamps may apply for such assistance to the county department of social services in
33 the county in which the applicant resides. The application shall be made in such form
34 and shall contain such information as the ~~Social Services Commission~~ Department of
35 Human Resources may require. Upon receipt of an application for food stamps, the
36 county department of social services shall make a prompt evaluation or investigation
37 of the facts alleged in the application in order to determine the applicant's eligibility
38 for such assistance and to obtain such other information as the Department may
39 require. Upon the completion of such investigation, the county department of social
40 services shall, within a reasonable period of time, determine eligibility."

41 Section 2.34. G.S. 108A-55(d) reads as rewritten:

42 "(d) No payments shall be made for the care of any person in a nursing home or
43 intermediate care home which is owned or operated in whole or in part by a member
44 of the ~~Social Services Commission~~, of any county board of social services, or of any

1 board of county commissioners, or by an official or employee of the Department or of
2 any county department of social services or by a spouse of any such person."

3 Section 2.35. G.S. 108A-79 reads as rewritten:

4 "**§ 108A-79. Appeals.**

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

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

- 18 (1) When the modification is beneficial to the recipient; or
19 (2) When federal regulations permit immediate termination or
20 modification upon mailing or delivery of notice and the ~~Social~~
21 ~~Services Commission~~ or the Department of Human Resources
22 promulgates regulations adopting said federal law or regulations.
23 When federal and State regulations permit immediate termination
24 or modification, the recipient shall have no right to continued
25 assistance at the present level pending a hearing, as would
26 otherwise be provided by subsection (d) of this section.

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

- 30 (1) The action which was or is to be taken;
31 (2) The reasons for which this action was or is to be taken;
32 (3) The regulations supporting this action;
33 (4) The applicant's or recipient's right to both a local and State level
34 hearing, or to a State level hearing in the case of the food stamp
35 program, on the decision to take this action and the method for
36 obtaining these hearings;
37 (5) The right to be represented at the hearings by a personal
38 representative, including an attorney obtained at the applicant's or
39 recipient's expense;
40 (6) In cases involving termination or modification of assistance, the
41 recipient's right upon timely request to continue receiving
42 assistance at the present level pending an appeal hearing and
43 decision on that hearing.

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

4 Such notice of appeal must be given within 60 days from the date of the action, or
5 90 days from the date of notification in the case of the food stamp program. Failure
6 to give timely notice of appeal constitutes a waiver of the right to a hearing except
7 that, for good cause shown, the county department of social services may permit an
8 appeal notwithstanding the waiver. The waiver shall not affect the right to reapply
9 for benefits.

10 (d) If there is such timely appeal in cases not involving disability, in the first
11 instance the hearing shall consist of a local appeal hearing before the county director
12 or a designated representative of the county director, provided whoever hears the
13 local appeal shall not have been involved directly in the initial decision giving rise to
14 the appeal. If there is such timely appeal in cases involving disability, the county
15 director or a designated representative of the county director shall within five days of
16 the request for an appeal forward the request to the Department of Human
17 Resources, and the Department shall designate a hearing officer who shall promptly
18 hold a hearing in the county according to the provisions of subsections (i) and (j) of
19 this section. In cases involving termination or modification of assistance (other than
20 cases of immediate termination or modification of assistance pursuant to subsection
21 (b) (2) of this section), the recipient shall continue to receive assistance at the present
22 level pending the decision at the initial hearing, whether that be the local appeal
23 hearing decision or, in cases involving questions of disability, the Department of
24 Human Resources hearing decision, provided that in order to continue receiving
25 assistance pending the initial hearing decision the recipient must request a hearing on
26 or before the effective date of the termination or modification of assistance.

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

- 33 (1) The appellant and the county department may be represented by
34 personal representatives, including attorneys, obtained at their
35 expense.
- 36 (2) The appellant or his personal representative and the county
37 department shall present such sworn evidence and law or
38 regulations as bear upon the case. The hearing need not be
39 recorded or transcribed, but the director or his representative shall
40 summarize in writing the substance of the hearing.
- 41 (3) The appellant or his personal representative and the county
42 department may cross-examine witnesses and present closing
43 arguments summarizing their views of the case and the law.

(4) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine the contents of his case file for the matter pending together with those portions of other public assistance or social services case files which pertain to the appeal, and all documents and records which the county department of social services intends to use at the hearing. Those portions of the public assistance or social services case file which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to the public assistance or social services case file the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules and regulations promulgated pursuant to G.S. 108A-80.

(f) The director or his designated representative shall make the decision based upon the evidence presented at the hearing and all applicable regulations, and shall prepare a written statement of his decision citing the regulations and evidence to support it. This written statement of the decision will be served by certified mail on the appellant within five days of the local appeal hearing. If the decision terminating or modifying the appellant's benefits is affirmed, the assistance shall be terminated or modified, not earlier than the date the decision is mailed, and any assistance received during the time of the appeal is subject to recovery.

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

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

(i) If there is an appeal from the local appeal hearing decision, or from a food stamp recipient or his representative where there is no local hearing, or if there is an appeal of a case involving questions of disability the county director shall notify the Department according to its rules and regulations. The Department shall designate a hearing officer who shall promptly hold a de novo administrative hearing in the

1 county after giving reasonable notice of the time and place of such hearing to the
2 appellant and the county department of social services. Such hearing shall be
3 conducted according to applicable federal law and regulations and Article 3, Chapter
4 150B, of the General Statutes of North Carolina; provided the Department shall
5 adopt rules and regulations to ensure the following:

- 6 (1) Prior to and during the hearing, the appellant or his personal
7 representative shall have adequate opportunity to examine his case
8 file and all documents and records which the county department of
9 social services intends to use at the hearing together with those
10 portions of other public assistance or social services case files
11 which pertain to the appeal. Those portions of the public assistance
12 or social services case files which do not pertain to the appeal or
13 which are required by federal statutes or regulations or by State
14 statutes or regulations to be held confidential shall not be released
15 to the appellant or his personal representative. In cases where the
16 appellant has been denied access to portions of the public
17 assistance or social services case-file, the hearing officer shall
18 certify as part of the official record that the hearing officer has
19 examined the case files and that no portion of those files pertain to
20 the appeal. Such certification may be subject to judicial review as
21 provided in subsection (k) of this section. Nothing in this section is
22 intended to restrict an applicant or recipient access to information
23 if that access is allowed by rules or regulations promulgated
24 pursuant to G.S. 108A-80.
- 25 (2) At the appeal hearing, the appellant and personnel of the county
26 department of social services may present such sworn evidence,
27 law and regulations as bear upon the case.
- 28 (3) The appellant and county department shall have the right to be
29 represented by the person of his choice, including an attorney
30 obtained at his own expense.
- 31 (4) The appellant and county department shall have the right to
32 cross-examine the other party as well as make a closing argument
33 summarizing his view of the case and the law.
- 34 (5) The appeal hearing shall be recorded; however, no transcript will
35 be prepared unless a petition for judicial review is filed pursuant to
36 subsection (k) herein, in which case, the transcript will be made a
37 part of the official record. In the absence of the filing of a petition
38 for a judicial review, the recording of the appeal hearing may be
39 erased or otherwise destroyed 180 days after the final decision is
40 mailed.
- 41 (6) Notwithstanding G.S. 150B-28 or any other provision of State law,
42 discovery shall be no more extensive or formal than that required
43 by federal law and regulations applicable to such hearings.

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

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

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

Section 2.36. G.S. 108A-90(a) reads as rewritten:

"(a) Whenever the Secretary or his representative assigns a portion of the nonfederal share of public assistance expenses to the counties under the rules and regulations of the ~~Social Services Commission or the Department~~, the board of

1 commissioners of each county shall levy and collect the taxes required to meet the
2 county's share of such expenses."

3 Section 2.38. G.S. 108A-108 reads as rewritten:

4 **"§ 108A-108. Payment for essential services.**

5 At the time the director, in accordance with the provisions of G.S. 108A-103
6 makes an evaluation of the case reported, then it shall be determined, according to
7 regulations set by the ~~Social Services Commission~~, Department of Human Resources,
8 whether the individual is financially capable of paying for the essential services. If he
9 is, he shall make reimbursement for the costs of providing the needed essential
10 services. If it is determined that he is not financially capable of paying for such
11 essential services, they shall be provided at no cost to the recipient of the services."

12 Section 2.39. G.S. 110-51 reads as rewritten:

13 **"§ 110-51. Bond required.**

14 The ~~Social Services Commission~~ Department of Human Resources may, in its
15 discretion, require of a person, agency, association, institution, or corporation which
16 brings or sends a child into the State with the written consent of the ~~Department of~~
17 ~~Human Resources~~, Department, as provided by G.S. 110-50, a continuing bond in a
18 penal sum not in excess of one thousand dollars (\$1,000) with such conditions as may
19 be prescribed and such sureties as may be approved by the Department of Human
20 Resources. Said bond shall be made in favor of and filed with the Department of
21 Human Resources with the premium prepaid by the said person, agency, association,
22 institution or corporation desiring to place such child in the State."

23 Section 2.40. G.S. 110-55 reads as rewritten:

24 **"§ 110-55. Violation of Article a misdemeanor.**

25 Every person acting for himself or for an agency who violates any of the provisions
26 of this Article or who shall intentionally make any false statements to the ~~Social~~
27 ~~Services Commission or the~~ Secretary of Human Resources or an employee thereof
28 acting for the Department in an official capacity in the placing or adoption of
29 juvenile delinquents or dependents shall, upon conviction thereof, be guilty of a Class
30 2 misdemeanor."

31 Section 2.41. G.S. 120-123(28) is repealed.

32 Section 2.42. G.S. 122C-22 reads as rewritten:

33 **"§ 122C-22. Exclusions from licensure; deemed status.**

34 (a) The following are excluded from the provisions of this Article and are not
35 required to obtain licensure under this Article:

- 36 (1) Physicians and psychologists engaged in private office practice;
- 37 (2) General hospitals licensed under Article 5 of Chapter 131E of the
38 General Statutes, that operate special units for the mentally ill,
39 developmentally disabled, or substance abusers;
- 40 (3) State and federally-operated facilities;
- 41 (4) Adult care homes licensed under Chapter 131D of the General
42 Statutes;
- 43 (5) Developmental child day care centers licensed under Article 7 of
44 Chapter 110 of the General Statutes;

(6) Persons subject to licensure under rules of the ~~Social Services Commission~~; Department of Human Resources;

(7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services; and

(8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in G.S. 122C-3(14).

(b) The Commission may adopt rules establishing a procedure whereby a licensable facility certified by a nationally recognized agency, such as the Joint Commission on Accreditation of Hospitals, may be deemed licensed under this Article by the Secretary. Any facility licensed under the provisions of this subsection shall continue to be subject to inspection by the Secretary."

Section 2.43. G.S. 122C-132.1(a) reads as rewritten:

"(a) The public system shall, in cooperation with private providers, provide for a single portal of entry and exit policy for services for individuals with developmental disabilities. An area authority shall present to the Secretary a single portal of entry and exit plan for services for individuals with developmental disabilities that has been approved by the area board. Area authorities are encouraged to use community interagency councils in the development and implementation of single portal of entry and exit policies. For purposes of this section, services for individuals with developmental disabilities shall include 24-hour and day/night services for individuals with developmental disabilities operated under the authority of this Chapter, Chapters 131D-2, Part A of Article 6 of Chapter 131E of the General Statutes, Article 7 of Chapter 110 of the General Statutes, rules of the Division of Vocational Rehabilitation Services, and rules of the ~~Social Services Commission~~. Department of Human Resources."

Section 2.44. G.S. 131D-1(a) reads as rewritten:

"(a) The Department of Human Resources shall inspect and license all maternity homes established in the State under such rules and regulations as the ~~Social Services Commission~~ Department may adopt."

Section 2.45. G.S. 131D-2 reads as rewritten:

"§ 131D-2. Licensing of adult care homes for the aged and disabled.

(a) The following definitions will apply in the interpretation of this section:

(1) 'Abuse' means the willful or grossly negligent infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful or grossly negligent deprivation by the administrator or staff of an adult care home of services which are necessary to maintain mental and physical health.

(1a) 'Administrator' means a person approved by the Department of Human Resources who has the responsibility for the total operation of a licensed domiciliary home.

(1b) 'Adult care home' is an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or,

for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes and family care homes are subject to licensure by the Division of Facility Services.

(1c) 'Amenities' means services such as meals, housekeeping, transportation, and grocery shopping that do not involve hands-on personal care.

(1d) 'Assisted living residence' means any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102. Effective October 1, 1995, there are two types of assisted living residences: adult care homes and group homes for developmentally disabled adults. Effective July 1, 1996, there is a third type, multiunit assisted housing with services.

(1e) 'Compensatory agent' means a spouse, relative, or other caretaker who lives with a resident and provides care to a resident.

(2) 'Developmentally disabled adult' means a person who has attained the age of 18 years and who has a developmental disability defined as a severe, chronic disability of a person which:

- a. Is attributed to a mental or physical impairment or combination of mental and physical impairments;
- b. Is manifested before the person attains age 22;
- c. Is likely to continue indefinitely;
- d. Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and
- e. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or

other services which are of lifelong or extended duration and are individually planned and coordinated.

(3) Repealed by Session Laws 1995, c. 535, s. 8.

(4) 'Exploitation' means the illegal or improper use of an aged or disabled resident or his resources for another's profit or advantage.

(5) 'Family care home' means an adult care home having two to six residents. The structure of a family care home may be no more than two stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground-level accesses to the upper story.

(6) 'Group home for developmentally disabled adults' means an adult care home which has two to nine developmentally disabled adult residents.

(7) Repealed by Session Laws 1995, c. 535, s. 8.

(7a) Effective July 1, 1996, 'multiunit assisted housing with services' means an assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multiunit assisted housing with services programs are required to register with the Division of Facility Services and to provide a disclosure statement. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:

- a. Emergency response system;
- b. Charges for services offered;
- c. Limitations of tenancy;
- d. Limitations of services;
- e. Resident responsibilities;
- f. Financial/legal relationship between housing management and home care or hospice agencies;

- g. A listing of all home care or hospice agencies and other community services in the area;
- h. An appeals process; and
- i. Procedures for required initial and annual resident screening and referrals for services.

Continuing care retirement communities, subject to regulation by the Department of Insurance under Chapter 58 of the General Statutes, are exempt from the regulatory requirements for multiunit assisted housing with services programs.

- (8) 'Neglect' means the failure to provide the services necessary to maintain a resident's physical or mental health.
- (9) 'Personal care services' means any hands-on services allowed to be performed by In-Home Aides II or III as outlined in Department rules.
- (10) 'Registration' means the submission by a multiunit assisted housing with services provider of a disclosure statement containing all the information as outlined in subdivision (7a) of this subsection.
- (11) 'Resident' means a person living in an assisted living residence for the purpose of obtaining access to housing and services provided or made available by housing management.

(a1) Persons not to be cared for in adult care homes. -- Except when a physician certifies that appropriate care can be provided on a temporary basis to meet the resident's needs and prevent unnecessary relocation, adult care homes shall not care for individuals with any of the following conditions or care needs:

- (1) Ventilator dependency;
- (2) Individuals requiring continuous licensed nursing care;
- (3) Individuals whose physician certifies that placement is no longer appropriate;
- (4) Individuals whose health needs cannot be met in the specific adult care home as determined by the residence, and
- (5) Such other medical and functional care needs as the ~~Social Services Commission~~ Department of Human Resources determines cannot be properly met in an adult care home.

(a2) Persons not to be cared for in multiunit assisted housing with services. -- Except when a physician certifies that appropriate care can be provided on a temporary basis to meet the resident's needs and prevent unnecessary relocation, multiunit assisted housing with services shall not care for individuals with any of the following conditions or care needs:

- (1) Ventilator dependency;
- (2) Dermal ulcers III and IV, except those stage III ulcers which are determined by an independent physician to be healing;
- (3) Intravenous therapy or injections directly into the vein, except for intermittent intravenous therapy managed by a home care or hospice agency licensed in this State;

- 1 (4) Airborne infectious disease in a communicable state that requires
2 isolation of the individual or requires special precautions by the
3 caretaker to prevent transmission of the disease, including diseases
4 such as tuberculosis and excluding infections such as the common
5 cold;
- 6 (5) Psychotropic medications without appropriate diagnosis and
7 treatment plans;
- 8 (6) Nasogastric tubes;
- 9 (7) Gastric tubes except when the individual is capable of
10 independently feeding himself and caring for the tube, or as
11 managed by a home care or hospice agency licensed in this State;
- 12 (8) Individuals requiring continuous licensed nursing care;
- 13 (9) Individuals whose physician certifies that placement is no longer
14 appropriate;
- 15 (10) Unless the individual's independent physician determines
16 otherwise, individuals who require maximum physical assistance as
17 documented by a uniform assessment instrument and who meet
18 Medicaid nursing facility level-of-care criteria as defined in the
19 State Plan for Medical Assistance. Maximum physical assistance
20 means that an individual has a rating of total dependence in four
21 or more of the seven activities of daily living as documented on a
22 uniform assessment instrument;
- 23 (11) Individuals whose health needs cannot be met in the specific
24 multiunit assisted housing with services as determined by the
25 residence; and
- 26 (12) Such other medical and functional care needs as the ~~Social~~
27 ~~Services Commission~~ Department of Human Resources determines
28 cannot be properly met in multiunit assisted housing with services.
- 29 (a3) Hospice care. -- At the request of the resident, hospice care may be provided
30 in an assisted living residence under the same requirements for hospice programs as
31 described in Article 10 of Chapter 131E of the General Statutes.
- 32 (b) Licensure; inspections. --
 - 33 (1) The Department of Human Resources shall inspect and license,
34 under rules adopted by the ~~Social Services Commission~~;
35 Department, all adult care homes for persons who are aged or
36 mentally or physically disabled except those exempt in subsection
37 (c) of this section. Licenses issued under the authority of this
38 section shall be valid for one year from the date of issuance unless
39 revoked earlier by the Secretary of Human Resources for failure to
40 comply with any part of this section or any rules adopted
41 hereunder. No new license shall be issued for any domiciliary
42 home whose administrator was the administrator for any
43 domiciliary home [adult care home] that had its license revoked
44 until one full year after the date of revocation. Licenses shall be

renewed annually upon filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fines and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. The Department may also issue a provisional license to a facility, pursuant to rules adopted by the ~~Social Services Commission, Department~~, for substantial failure to comply with the provisions of this section or rules promulgated pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license.

- (1a) In addition to the licensing and inspection requirements mandated by subdivision (1) of this subsection, the Department shall ensure that adult care homes required to be licensed by this Article are monitored for licensure compliance on a regular basis. In carrying out this requirement, the Department shall work with county departments of social services to do the routine monitoring and to have the Division of Facility Services oversee this monitoring and perform any follow-up inspection called for. The Department shall also keep an up-to-date directory of all persons who are administrators as defined in subdivision (1a) of subsection (a) of this section.
- (2) Any individual or corporation that establishes, conducts, manages, or operates a facility subject to licensure under this section without a license is guilty of a Class 3 misdemeanor, and upon conviction shall be punishable only by a fine of not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.
- (3) In addition, the Department may summarily suspend a license pursuant to G.S. 150B-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation or any condition which presents an imminent danger to the health and safety of any resident of the home. Any facility wishing to contest summary suspension of a license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20

1 days after the Department mails a notice of summary suspension to
2 the licensee.

3 (4) Notwithstanding G.S. 8-53 or any other law relating to
4 confidentiality of communications between physician and patient,
5 in the course of an inspection conducted under subsection (b):

6 a. Department representatives may review any writing or other
7 record concerning the admission, discharge, medication,
8 care, medical condition, or history of any person who is or
9 has been a resident of the facility being inspected, and

10 b. Any person involved in giving care or treatment at or
11 through the facility may disclose information to Department
12 representatives;

13 unless the resident objects in writing to review of his records or
14 disclosure of such information.

15 The facility, its employees and any other person interviewed
16 in the course of an inspection shall be immune from liability for
17 damages resulting from disclosure of any information to the
18 Department.

19 The Department shall not disclose:

20 a. Any confidential or privileged information obtained under
21 this subsection unless the resident or his legal representative
22 authorizes disclosure in writing or unless a court of
23 competent jurisdiction orders disclosure, or

24 b. The name of anyone who has furnished information
25 concerning a facility without that person's consent.

26 The Department shall institute appropriate policies and
27 procedures to ensure that unauthorized disclosure does not occur.
28 All confidential or privileged information obtained under this
29 section and the names of persons providing such information shall
30 be exempt from Chapter 132 of the General Statutes.

31 (5) Notwithstanding any law to the contrary, Chapter 132 of the
32 General Statutes, the Public Records Law, applies to all records of
33 the State Division of Social Services of the Department of Human
34 Resources and of any county department of social services
35 regarding inspections of domiciliary care facilities except for
36 information in the records that is confidential or privileged,
37 including medical records, or that contains the names of residents
38 or complainants.

39 (c) The following are excluded from the provisions of this section and are not
40 required to be registered or obtain licensure under this section:

41 (1) Facilities licensed under Chapter 122C or Chapter 131E of the
42 General Statutes;

43 (2) Persons subject to rules of the Division of Vocational
44 Rehabilitation Services;

1 (3) Facilities that care for no more than four persons, all of whom are
2 under the supervision of the United States Veterans
3 Administration; and

4 (4) Facilities that make no charges for housing, amenities, or personal
5 care service, either directly or indirectly.

6 (c1) Although the contract obligation still remains to pay the housing management
7 for any services covered by the contract between the resident and housing
8 management, the resident of an assisted living facility has the right to obtain services
9 not at the expense of the housing management, from providers other than the housing
10 management.

11 (c2) ~~The Social Services Commission~~ Department of Human Resources shall
12 adopt any rules necessary to carry out this section. The Commission has the authority,
13 in adopting rules, to specify the limitation of nursing services provided by assisted
14 living residences. In developing rules, the Commission shall consider the need to
15 ensure comparable quality of services provided to residents, whether these services
16 are provided directly by a licensed assisted living provider, licensed home care
17 agency, or hospice. In adult care homes, living arrangements where residents require
18 supervision due to cognitive impairments, rules shall be promulgated to ensure that
19 supervision is appropriate and adequate to meet the special needs of these residents.

20 (c3) Nothing in this section shall be construed to supersede any federal or State
21 antitrust, antikickback, or safe harbor laws or regulations.

22 (c4) Housing programs for two or more unrelated adults that target their services
23 to elderly or disabled persons in which the only services provided by the housing
24 management, either directly or through an agreement or other arrangements, are
25 amenities that include, at a minimum, one meal a day and housekeeping services, are
26 exempt from licensure, but are required to be listed with the Division of Aging,
27 providing information on their location and number of units operated. This type of
28 housing is not considered assisted living.

29 (d) Repealed by Session Laws 1995, c. 535, s. 8.

30 (e) The Department of Human Resources shall provide the method of evaluation
31 of residents in adult care homes in order to determine when any of those residents
32 are in need of the professional medical and nursing care provided in licensed nursing
33 homes.

34 (f) If any provisions of this section or the application of it to any person or
35 circumstance is held invalid, the invalidity does not affect other provisions or
36 applications of the section which can be given effect without the invalid provision or
37 application, and to this end the provisions of this section are severable.

38 (g) In order for an adult care home to maintain its license, it shall not hinder or
39 interfere with the proper performance of duty of a lawfully appointed community
40 advisory committee, as defined by G.S. 131D-31 and G.S. 131D-32.

41 (h) Suspension of admissions to adult care home:

42 (1) In addition to the administrative penalties described in subsection
43 (b), the Secretary may suspend the admission of any new residents
44 to an adult care home, where the conditions of the adult care

home are detrimental to the health or safety of the residents. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removing the suspension.

(2) In imposing a suspension under this subsection, the Secretary shall consider the following factors:

a. The degree of sanctions necessary to ensure compliance with this section and rules adopted hereunder; and

b. The character and degree of impact of the conditions at the home on the health or safety of its residents.

(3) The Secretary of Human Resources shall adopt rules to implement this subsection.

(4) Any facility wishing to contest a suspension of admissions shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of suspension of admissions to the licensee.

(i) Notwithstanding the existence or pursuit of any other remedy, the Department of Human Resources may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of an adult care home without a license. Such action shall be instituted in the superior court of the county in which any unlicensed activity has occurred or is occurring.

If any person shall hinder the proper performance of duty of the Secretary or his representative in carrying out this section, the Secretary may institute an action in the superior court of the county in which the hindrance has occurred for injunctive relief against the continued hindrance, irrespective of all other remedies at law.

Actions under this subsection shall be in accordance with Article 37 of Chapter 1 of the General Statutes and Rule 65 of the Rules of Civil Procedure."

Section 2.46. G.S. 131D-4.3 reads as rewritten:

"§ 131D-4.3. Adult care home rules.

(a) Pursuant to G.S. 143B-153, the ~~Social Services Commission~~ Department of Human Resources shall adopt rules to ensure at a minimum, but shall not be limited to, the provision of the following by adult care homes:

(1) Client assessment and independent case management;

(2) A minimum of 75 hours of training for personal care aides performing heavy care tasks and a minimum of 40 hours of training for all personal care aides. The training for aides providing heavy care tasks shall be comparable to State-approved Certified Nurse Aide I training. For those aides meeting the 40-hour requirement, at least 20 hours shall be classroom training to include at a minimum:

a. Basic nursing skills;

- b. Personal care skills;
- c. Cognitive, behavioral, and social care;
- d. Basic restorative services; and
- e. Residents' rights.

A minimum of 20 hours of training shall be provided for aides in family care homes that do not have heavy care residents. Persons who either pass a competency examination developed by the Department of Human Resources, have been employed as personal care aides for a period of time as established by the Department, or meet minimum requirements of a combination of training, testing, and experience as established by the Department shall be exempt from the training requirements of this subdivision;

(3) Monitoring and supervision of residents; and

(4) Oversight and quality of care as stated in G.S. 131D-4.1.

(b) Rules to implement this section shall be adopted as emergency rules in accordance with Chapter 150B of the General Statutes. These rules shall be in effect no later than January 1, 1996.

(c) The Department may suspend or revoke a facility's license, subject to the provisions of Chapter 150B, to enforce compliance by a facility with this section or to punish noncompliance."

Section 2.47. G.S. 131D-6 reads as rewritten:

"§ 131D-6. Certification of adult day care programs; purpose; definition; penalty.

(a) It is the policy of this State to enable people who would otherwise need full-time care away from their own residences to remain in their residences as long as possible and to enjoy as much independence as possible. One of the programs that permits adults to remain in their residences and with their families is adult day care.

(b) As used in this section 'adult day care program' means the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. The Department of Human Resources shall annually inspect and certify all adult day care programs, under rules adopted by the ~~Social Services Commission~~ Department. The ~~Social Services Commission~~ Department of Human Resources shall adopt and enforce rules to protect the health, safety, and welfare of persons in adult day care programs. These rules shall include minimum standards relating to management of the program, staffing requirements, building requirements, fire safety, sanitation, nutrition, and program activities.

~~The Department of Human Resources shall enforce the rules of the Social Services Commission.~~

(c) The Secretary may impose a civil penalty not to exceed one hundred dollars (\$100.00) for each violation on a person, firm, agency, or corporation who willfully violates any provision of this section or any rule adopted by the ~~Social Services Commission~~ Department pursuant to this section. Each day of a continuing violation constitutes a separate violation.

1 In determining the amount of the civil penalty, the Secretary shall consider the
2 degree and extent of the harm or potential harm caused by the violation.

3 The ~~Social Services Commission~~ Department shall adopt rules concerning the
4 imposition of civil penalties under this subsection.

5 (c1) Any person, firm, agency, or corporation that harms or willfully neglects a
6 person under its care is guilty of a Class 1 misdemeanor.

7 (d) The following programs are exempted from the provisions of this section:

8 (1) Those that care for three people or less;

9 (2) Those that care for two or more persons, all of whom are related
10 by blood or marriage to the operator of the facility;

11 (3) Those that are required by other statutes to be licensed by the
12 Department of Human Resources."

13 Section 2.48. G.S. 131D-10.2 reads as rewritten:

14 **"§ 131D-10.2. Definitions.**

15 For purposes of this Article, unless the context clearly implies otherwise:

16 (1) 'Adoption' means the act of creating a legal relationship between
17 parent and child where it did not exist genetically.

18 (2) 'Adoptive Home' means a family home approved by a child
19 placing agency to accept a child for adoption.

20 (3) 'Child' means an individual less than 18 years of age, who has not
21 been emancipated under the provisions of Article 56 of Chapter
22 7A of the General Statutes.

23 (4) 'Child Placing Agency' means a person authorized by statute or
24 license under this Article to receive children for purposes of
25 placement in residential group care, family foster homes or
26 adoptive homes.

27 (5) 'Children's Camp' means a residential child-care facility which
28 provides foster care at either a permanent camp site or in a
29 wilderness setting.

30 (6) ~~'Commission' means the Social Services Commission.~~

31 (6a) 'Criminal History' means a county, state, or federal criminal
32 history of conviction or a pending indictment of a crime, whether a
33 misdemeanor or a felony, that bears upon an individual's fitness to
34 have responsibility for the safety and well-being of children,
35 including the following North Carolina crimes contained in any of
36 the following Articles of Chapter 14 of the General Statutes:
37 Article 6, Homicide; Article 7A, Rape and Kindred Offenses;
38 Article 8, Assaults; Article 10, Kidnapping and Abduction; Article
39 13, Malicious Injury or Damage by Use of Explosive or Incendiary
40 Device or Material; Article 26, Offenses Against Public Morality
41 and Decency; Article 27, Prostitution; Article 39, Protection of
42 Minors; Article 40, Protection of the Family; and Article 59, Public
43 Intoxication. Such crimes also include possession or sale of drugs
44 in violation of the North Carolina Controlled Substances Act,

Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(7) 'Department' means the Department of Human Resources.

(8) 'Family Foster Home' means the private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship or adoption.

(9) 'Foster Care' means the continuing provision of the essentials of daily living on a 24-hour basis for dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined or delinquent children or other children who, due to similar problems of behavior or family conditions, are living apart from their parents, relatives, or guardians in a family foster home or residential child-care facility. The essentials of daily living include but are not limited to shelter, meals, clothing, education, recreation, and individual attention and supervision.

(9a) 'Foster Parent' means any individual who is 18 years of age or older who permanently resides in a family foster home licensed by the State and any such individual applying to provide family foster care.

(10) 'Person' means an individual, partnership, joint-stock company, trust, voluntary association, corporation, agency, or other organization or enterprise doing business in this State, whether or not for profit.

(11) 'Primarily Educational Institution' means any institution which operates one or more scholastic or vocational and technical education programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of the housing and care of children is to meet their educational needs, provided such institution has complied with Article 39 of Chapter 115C of the General Statutes.

(12) 'Provisional License' means a type of license granted by the Department to a person who is temporarily unable to comply with a rule or rules adopted under this Article.

(13) 'Residential Child-Care Facility' means a staffed premise with paid or volunteer staff where children receive continuing full-time foster care. Residential child-care facility includes child-caring

institutions, group homes, and children's camps which provide foster care."

Section 2.49. G.S. 131D-10.3 reads as rewritten:

"§ 131D-10.3. Licensure required.

(a) No person shall operate, establish or provide foster care for children or receive and place children in residential care facilities, family foster homes, or adoptive homes without first applying for a license to the Department and submitting the required information on application forms provided by the Department.

(b) Persons licensed or seeking a license under this Article shall permit the Department access to premises and information required to determine whether the person is in compliance with licensing rules of the ~~Commission~~ Department.

(c) Persons licensed pursuant to this Article shall be periodically reviewed by the Department to determine whether they comply with ~~Commission~~ Department rules and whether licensure shall continue.

(d) This Article shall apply to all persons intending to organize, develop or provide foster care for children or receive and place children in residential child-care facilities, family foster homes or adoptive homes irrespective of such persons having applied for or obtained a certification, registration or permit to carry on work not controlled by this Article except persons exempted in G.S. 131D-10.4.

(e) Unless revoked or modified to a provisional or suspended status, the terms of a license issued by the Department shall be in force for a period not to exceed 24 months from the date of issuance under rules adopted by the ~~Commission~~ Department.

(f) Persons licensed or seeking a license who are temporarily unable to comply with a rule or rules may be granted a provisional license. The provisional license can be issued for a period not to exceed six months. The noncompliance with a rule or rules shall not present an immediate threat to the health and safety of the children, and the person shall have a plan approved by the Department to correct the area(s) of noncompliance within the provisional period. A provisional license for an additional period of time to meet the same area(s) of noncompliance shall not be issued.

(g) In accordance with ~~Commission~~ Department rules, a person may submit to the Department documentation of compliance with the standards of a nationally recognized accrediting body, and the Department on the basis of such accreditation may deem the person in compliance with one or more ~~Commission~~ Department licensing rules."

Section 2.50. G.S. 131D-10.5 is repealed.

Section 2.51. G.S. 131D-10.6 reads as rewritten:

"§ 131D-10.6. Powers and duties of the Department.

In addition to other powers and duties prescribed by law, the Department shall exercise the following powers and duties:

- (1) Investigate applicants for licensure to determine whether they are in compliance with licensing rules adopted by the ~~Commission~~ Department and the provisions of this Article.

- (2) Grant a license when an investigation shows compliance with this Article and ~~Commission~~ Department rules. The license shall be valid for a period not to exceed 24 months as specified by ~~Commission~~ Department rules and may be revoked or placed in suspended or provisional status sooner if the Department finds that licensure rules are not being met or upon a finding that the health, safety or welfare of children is threatened.
- (2a) Adopt, amend, and repeal rules consistent with the laws of this State and the laws and regulations of the federal government to implement the provisions and purposes of this Article.
- (2b) Issue declaratory rulings as may be needed to implement the provisions and purposes of this Article.
- (2c) Adopt rules governing procedures to appeal Department decisions pursuant to this Article granting, denying, suspending or revoking licenses.
- (2d) Adopt criteria for waiver of licensing rules adopted pursuant to this Article.
- (3) Administer and enforce the provisions of this Article and the rules of the ~~Commission~~ Department.
- (4) Appoint hearing officers to conduct appeals pursuant to this Article.
- (5) Prescribe the form in which application for licensure shall be submitted.
- (6) Inspect facilities and obtain records, documents and other information necessary to determine compliance with the provisions of this Article and ~~Commission~~ Department rules.
- (7) Grant, deny, suspend or revoke a license or a provisional license, in accordance with ~~Commission~~ Department rules.
- (8) Grant a waiver for good cause to ~~Commission~~ Department rules that do not affect the health, safety, or welfare of children in facilities subject to licensure under this Article, in accordance with ~~Commission~~ Department rules."

Section 2.52. G.S. 131D-11 reads as rewritten:

"§ 131D-11. Inspection.

The Department of Human Resources shall, as authorized by G.S. 153-51, inspect regularly all local confinement facilities as defined by G.S. 153-50(4) to determine compliance with the minimum standards for local confinement facilities adopted by the ~~Social Services Commission~~ Department."

Section 2.53. G.S. 131D-19 reads as rewritten:

"§ 131D-19. Legislative intent.

It is the intent of the General Assembly to promote the interests and well-being of the residents in adult care homes and assisted living residences licensed pursuant to G.S. 131D-2. It is the intent of the General Assembly that every resident's civil and religious liberties, including the right to independent personal decisions and

1 knowledge of available choices, shall not be infringed and that the facility shall
2 encourage and assist the resident in the fullest possible exercise of these rights. It is
3 the intent of the General Assembly that rules developed by the ~~Social Services~~
4 ~~Commission~~ Department of Human Resources to implement Article 1 and Article 3
5 of Chapter 131D of the General Statutes encourage every resident's quality of life,
6 autonomy, privacy, independence, respect, and dignity and provide the following:

- 7 (1) Diverse and innovative housing models that provide choices of
8 different lifestyles that are acceptable, cost-effective, and accessible
9 to all consumers regardless of age, disability, or financial status;
- 10 (2) A residential environment free from abuse, neglect, and
11 exploitation;
- 12 (3) Available, affordable personal service models and individualized
13 plans of care that are mutually agreed upon by the resident, family,
14 and providers and that include measurable goals and outcomes;
- 15 (4) Client assessment, evaluation, and independent case management
16 that enhance quality of life by allowing individual risk-taking and
17 responsibility by the resident for decisions affecting daily living to
18 the greatest degree possible based on the individual's ability; and
- 19 (5) Oversight, monitoring, and supervision by State and county
20 governments to ensure every resident's safety and dignity and to
21 assure that every resident's needs, including nursing and medical
22 care needs if and when needed, are being met."

23 Section 2.54. G.S. 143-318.14A(a) reads as rewritten:

24 "(a) Except as provided in subsection (e) below, all official meetings of
25 commissions, committees, and standing subcommittees of the General Assembly
26 (including, without limitation, joint committees and study committees), shall be held
27 in open session. For the purpose of this section, the following also shall be considered
28 to be 'commissions, committees, and standing subcommittees of the General
29 Assembly':

- 30 (1) The Legislative Research Commission;
- 31 (2) The Legislative Services Commission;
- 32 (3) The Advisory Budget Commission;
- 33 (4) The Joint Legislative Utility Review Committee;
- 34 (5) The Joint Legislative Commission on Governmental Operations;
- 35 (6) The Joint Legislative Commission on Municipal Incorporations;
- 36 ~~(7) The Commission on the Family;~~
- 37 (8) The Joint Select Committee on Low-Level Radioactive Waste;
- 38 (9) The Environmental Review Commission;
- 39 (10) The Joint Legislative Transportation Oversight Committee;
- 40 (11) The Joint Legislative Education Oversight Committee;
- 41 (12) The Joint Legislative Commission on Future Strategies for North
42 Carolina;
- 43 (13) The Commission on Children with Special Needs;
- 44 (14) The Legislative Committee on New Licensing Boards;

1 (15) The Agriculture and Forestry Awareness Study Commission;

2 (16) The North Carolina Study Commission on Aging; and

3 (17) The standing Committees on Pensions and Retirement."

4 Section 2.55. G.S. 143-578 reads as rewritten:

5 **"§ 143-578. Access to records.**

6 (a) The State Team, the Local Teams, and the Task Force during its existence,
7 shall have access to all medical records, hospital records, and records maintained by
8 this State, any county, or any local agency as necessary to carry out the purposes of
9 this Article, including police investigations data, medical examiner investigative data,
10 health records, mental health records, and social services records. The State Team,
11 the Task Force, and the Local Teams shall not, as part of the reviews authorized
12 under this Article, contact, question, or interview the child, the parent of the child, or
13 any other family member of the child whose record is being reviewed. Any member
14 of a Local Team may share, only in an official meeting of that Local Team, any
15 information available to that member that the Local Team needs to carry out its
16 duties.

17 (b) Meetings of the State Team and the Local Teams are not subject to the
18 provisions of Article 33C of Chapter 143 of the General Statutes. However, the
19 Local Teams may hold periodic public meetings to discuss, in a general manner not
20 revealing confidential information about children and families, the findings of their
21 reviews and their recommendations for preventive actions. Minutes of all public
22 meetings, excluding those of executive sessions, shall be kept in compliance with
23 Article 33C of Chapter 143 of the General Statutes. Any minutes or any other
24 information generated during any executive session shall be sealed from public
25 inspection.

26 (c) All otherwise confidential information and records acquired by the State
27 Team, the Local Teams, and the Task Force during its existence, in the exercise of
28 their duties are confidential; are not subject to discovery or introduction into
29 evidence in any proceedings; and may only be disclosed as necessary to carry out the
30 purposes of the State Team, the Local Teams, and the Task Force. In addition, all
31 otherwise confidential information and records created by a Local Team in the
32 exercise of its duties are confidential; are not subject to discovery or introduction into
33 evidence in any proceedings; and may only be disclosed as necessary to carry out the
34 purposes of the Local Team. No member of the State Team, a Local Team, nor any
35 person who attends a meeting of the State Team or a Local Team, may testify in any
36 proceeding about what transpired at the meeting, about information presented at the
37 meeting, or about opinions formed by the person as a result of the meetings. This
38 subsection shall not, however, prohibit a person from testifying in a civil or criminal
39 action about matters within that person's independent knowledge.

40 (d) Each member of a Local Team and invited participant shall sign a statement
41 indicating an understanding of and adherence to confidentiality requirements,
42 including the possible civil or criminal consequences of any breach of confidentiality.

43 (e) Cases receiving child protective services at the time of review by a Local
44 Team shall have an entry in the child's protective services record to indicate that the

1 case was received by that Team. Additional entry into the record shall be at the discretion of the director of the county department of social services.

3 (f) The ~~Social Services Commission~~ Department of Human Resources shall adopt rules to implement this section in connection with reviews conducted by Community Child Protection Teams. The Health Services Commission shall adopt rules to implement this section in connection with Local Teams that review additional child fatalities. In particular, these rules shall allow information generated by an executive session of a Local Team to be accessible for administrative or research purposes only."

10 Section 2.56. G.S. 143B-138 reads as rewritten:

11 "**§ 143B-138. Department of Human Resources -- functions and organization.**

12 (a) Repealed by Session Laws 1989, c. 727, s. 5.

13 (b) All functions, powers, duties, and obligations heretofore vested in commissions, boards, councils, committees, or subunits of the Department of Human Resources which are not transferred by G.S. 143B-279.3 shall continue to be vested in the Department of Human Resources. These shall include, but are not limited to, the following:

- 18 (1) Division of Aging.
- 19 (2) Respite Care Program.
- 20 (3) Governor's Advisory Council on Aging.
- 21 (4) Division of Services for the Blind.
- 22 (5) Commission for the Blind.
- 23 (6) Professional Advisory Committee.
- 24 (7) Consumer and Advocacy Advisory Committee for the Blind.
- 25 (8) Division of Medical Assistance.
- 26 (9) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- 27
- 28 (10) Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- 29
- 30 (11) Division of Social Services.
- 31 (12) ~~Social Services Commission.~~
- 32 (13) Division of Facility Services.
- 33 (14) Medical Care Commission.
- 34 (15) Child Day-Care Commission.
- 35 (16) Emergency Medical Services Advisory Council.
- 36 (17) Division of Vocational Rehabilitation.
- 37 (18) Division of Youth Services.
- 38 (19) Division of Schools for the Deaf and the Blind.
- 39 (20) Board of Directors of the Governor Morehead School.
- 40 (21) Board of Directors for the North Carolina Schools for the Deaf.
- 41 (22) North Carolina Council for the Hearing Impaired.
- 42 (23) Council on Developmental Disabilities.
- 43 (24) North Carolina Council on the Holocaust.

(c) All functions, powers, duties, and obligations heretofore vested in the Economic Opportunity Division of the Department of Natural Resources and Community Development are hereby transferred to and vested in the Department of Human Resources by a Type I transfer as defined in G.S. 143A-6.

(d) The Department of Human Resources is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State."

Section 2.57. G.S. 143B-150.8 reads as rewritten:

"§ 143B-150.8. Advisory Committee on Family-Centered Services; responsibilities.

(a) The Advisory Committee on Family-Centered Services shall have the following responsibilities:

(1) Provide guidance and advice to the Secretary in the development of a plan for the statewide implementation of an inter-agency family preservation services program whereby family-centered preservation services are available to all counties by July 1, 1995, through the coordinated efforts of the Division of Social Services, Division of Youth Services, and Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

(2) Recommend standards for:

- a. Oversight and development of family-centered preservation services;
- b. Development and maintenance of inter-agency training and technical assistance in the provision of family-centered services;
- c. Professional staff qualifications, program monitoring, and data collection;
- d. Statewide evaluation of locally-based family preservation programs;
- e. Coordination of funding sources for family preservation programs;
- f. Procedures for awarding grants to local agencies providing family-centered services; and
- g. Annual reports to the Governor and the General Assembly on the services provided and achievements of the Family Preservation Services Program.

(3) The Committee shall submit a written report not later than May 1, 1992, and not later than October 1 of each year thereafter, to the Governor, to the Joint Legislative Commission on Governmental ~~Operations, and to the Commission on the Family. Operations.~~ The report shall address the progress in implementation of the Family Preservation Services Program. The report shall include an accounting of funds expended and anticipated funding needs for full implementation of the program. The report shall also include

the following information for each county participating in the Program and for the Program as a whole:

- a. The number of families receiving service through the Program;
- b. The number of children at risk of placement prior to initiation of service in families receiving Program services;
- c. Among those children in sub-subdivision b., the number of children placed in foster care, in group homes, and in other facilities outside their homes and families;
- d. The average cost of the service provided to families under the Program;
- e. The estimated cost of out-of-home placement, through foster care, group homes, or other facilities, which would otherwise have been expended on behalf of children at risk of placement who successfully remain united with their families as a result of services provided through the Program. Cost estimates should be based on average length of stay and average cost of such out-of-home placements;
- f. The number of children who remain unified with their families for one, two, and three years after receiving services under the Program; and
- g. An overall statement of the progress of the Program and local projects during the preceding year, along with recommendations for improvements.

(b) The Committee may use funds allocated to it to contract for services to monitor local projects and for an independent evaluation of the Family Preservation Services Program."

Section 2.58. G.S. 143B-181.52 reads as rewritten:

"§ 143B-181.52. Rules required -- ~~Social Services Commission~~. Department of Human Resources.

The ~~Social Services Commission~~ Department of Human Resources shall develop rules containing State standards for special care units in rest homes for patients with Alzheimer's disease and related dementia. These standards shall include guidelines concerning the type of care provided in a special care unit, the type of resident who can be served on the unit, the ratio of residents to staff members, and the requirements for the training of staff members."

Section 2.59. G.S. 148-33.1(f) reads as rewritten:

"(f) A prisoner who is convicted of a felony and who is granted work-release privileges shall give his work-release earnings, less standard payroll deductions required by law, to the Department of Correction. A prisoner who is convicted of a misdemeanor, is committed to a local confinement facility, and is granted work-release privileges by order of the sentencing court shall give his work-release earnings, less standard payroll deductions required by law, to the custodian of the local confinement facility. Other misdemeanants granted work-release privileges shall

1 give their work-release earnings, less standard payroll deductions required by law, to
2 the Department of Correction. The Department of Correction or the sentencing
3 court, as appropriate, shall determine the amount to be deducted from a prisoner's
4 work-release earnings to pay for the cost of the prisoner's keep and to accumulate a
5 reasonable sum to be paid the prisoner when he is paroled or discharged from prison.
6 The Department or sentencing court shall also determine the amount to be disbursed
7 by the Department or clerk of court, as appropriate, for each of the following:

- 8 (1) To pay travel and other expenses of the prisoner made necessary
9 by his employment;
- 10 (2) To provide a reasonable allowance to the prisoner for his
11 incidental personal expenses;
- 12 (3) To make payments for the support of the prisoner's dependents in
13 accordance with an order of a court of competent jurisdiction, or
14 in the absence of a court order, in accordance with a
15 determination of dependency status and need made by the local
16 department of social services in the county of North Carolina in
17 which such dependents reside;
- 18 (3a) To make restitution or reparation as provided in G.S. 148-33.2.
- 19 (4) To comply with an order from any court of competent jurisdiction
20 regarding the payment of an obligation of the prisoner in
21 connection with any judgment rendered by the court.
- 22 (5) To comply with a written request by the prisoner to withhold an
23 amount, when the request has been granted by the Department or
24 the sentencing court, as appropriate.

25 Any balance of his earnings remaining at the time the prisoner is released from
26 prison shall be paid to him. The ~~Social Services Commission~~ Department of Human
27 Resources is authorized to promulgate uniform rules and regulations governing the
28 duties of county social services departments under this section."

29 Section 2.60. G.S. 153A-217 reads as rewritten:

30 "**§ 153A-217. Definitions.**

31 Unless otherwise clearly required by the context, the words and phrases defined in
32 this section have the meanings indicated when used in this Part:

- 33 (1) ~~'Commission' means the Social Services Commission.~~
- 34 (2) 'Secretary' means the Secretary of Human Resources.
- 35 (3) 'Department' means the Department of Human Resources.
- 36 (4) 'Governing body' means the governing body of a county or city or
37 the policy-making body for a district or regional confinement
38 facility.
- 39 (5) 'Local confinement facility' includes a county or city jail, a local
40 lockup, a regional or district jail, a juvenile detention home, a
41 detention facility for adults operated by a local government, and
42 any other facility operated by a local government for confinement
43 of persons awaiting trial or serving sentences except that it shall

not include a county satellite jail/work release unit governed by Part 3 of Article 10 of Chapter 153A.

(6) 'Prisoner' includes any person, adult or juvenile, confined or detained in a confinement facility.

(7) 'Unit,' 'unit of local government,' or 'local government' means a county or city."

Section 2.61. G.S. 153A-220 reads as rewritten:

"§ 153A-220. Jail and detention services.

The ~~Commission~~ Department has policy responsibility for providing and coordinating State services to local government with respect to local confinement facilities. The Department shall:

(1) Consult with and provide technical assistance to units of local government with respect to local confinement facilities.

(2) Develop minimum standards for the construction and operation of local confinement facilities.

(3) Visit and inspect local confinement facilities; advise the sheriff, jailer, governing board, and other appropriate officials as to deficiencies and recommend improvements; and submit written reports on the inspections to appropriate local officials.

(4) Review and approve plans for the construction and major modification of local confinement facilities.

(5) Repealed by Session Laws 1983, c. 745, s. 5, effective September 1, 1983.

(6) Perform any other duties that may be necessary to carry out the State's responsibilities concerning local confinement facilities."

Section 2.62. G.S. 153A-221(c) reads as rewritten:

"(c) Before the standards or any amendments thereto may become effective, they must be approved by the ~~Commission~~ Department and the Governor. Upon becoming effective, they have the force and effect of law."

Section 2.63. G.S. 153A-221.1 reads as rewritten:

"§ 153A-221.1. Standards and inspections.

The legal responsibility of the Secretary of Human Resources and the ~~Social Services-Commission~~ Department for State services to county juvenile detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training. Further, the legal responsibility of the Department of Human Resources is hereby expanded to give said Department the same legal responsibility as to the State-administered regional detention homes which shall be developed by the State Department of Correction as provided by G.S. 134A-37.

The Secretary of Human Resources shall develop new standards which shall be applicable to county detention homes and regional detention homes as defined by G.S. 134-36 in line with the recommendations of the report entitled Juvenile

1 Detention in North Carolina: A Study Report (January, 1973) where practicable, and
2 such new standards shall become effective not later than July 1, 1977.

3 The Secretary of Human Resources shall also develop standards under which a
4 local jail may be approved as a holdover facility for not more than five calendar days
5 pending placement in a juvenile detention home which meets State standards,
6 providing the local jail is so arranged that any child placed in the holdover facility
7 cannot converse with, see, or be seen by the adult population of the jail while in the
8 holdover facility. The personnel responsible for the administration of a jail with an
9 approved holdover facility shall provide close supervision of any child placed in the
10 holdover facility for the protection of the child."

11 Section 2.64. (a) There is appropriated from the General Fund to the
12 Department of Human Resources the sum of six million seven hundred fifty thousand
13 dollars (\$6,750,000) for the 1997-98 fiscal year and the sum of four hundred thousand
14 dollars (\$400,000) for the 1998-99 fiscal year to be used as follows:

15 (1) To establish the uniform system of Work First Program, food
16 stamp, and Medicaid recipient identification;

17 (2) To provide counties with workstations for biometric imaging; and

18 (3) To fund one program integrity worker in each county.

19 (b) This section becomes effective July 1, 1997.

20 Section 2.65. (a) Of the Temporary Assistance to Needy Families Block
21 Grant funds appropriated by the United States Congress for the 1997-98 fiscal year,
22 the Department of Human Resources shall reserve the sum of twenty million dollars
23 (\$20,000,000) for the purpose of providing for future needs as allowed by federal law
24 regulating the use of TANF funds. These funds shall be held in reserve until the
25 Department notifies the Joint Legislative Public Assistance Commission, submits a
26 request for expenditure of these funds to the House and Senate Appropriations
27 Subcommittees on Human Resources, and receives approval from the General
28 Assembly for the expenditure.

29 (b) This section becomes effective July 1, 1997.

30 Section 2.66. The Department of Human Resources shall have the
31 uniform system of Work First Program, food stamp, and Medicaid recipient
32 identification in place and operating before June 1, 1998. Except as otherwise
33 provided in this act, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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3

SENATE BILL 1015

Children & Human Resources Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97

Short Title: Welfare Reform Act of 1997.

(Public)

Sponsors:

Referred to:

April 21, 1997

- 1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE WELFARE REFORM ACT OF 1997.
3 The General Assembly of North Carolina enacts:
4 **PART 1. WORK FIRST PROGRAM.**
5 Section 1. The title of Part 2 of Article 2 of Chapter 108A of the
6 General Statutes reads as rewritten:
7 "Part 2. ~~Aid to Families with Dependent Children.~~ Work First Program."
8 Section 2. G.S. 108A-24 reads as rewritten:
9 "**§ 108A-24. Definitions.**
10 As used in Chapter 108A:
11 (1) 'Applicant' is any person who requests assistance or on whose
12 behalf assistance is requested.
13 (1a) 'County department of social services' means a county department
14 of social services, consolidated human services agency, or other
15 local agency designated to administer or provide services pursuant
16 to this Article.
17 (2) 'Department' is the Department of Human Resources, unless the
18 context clearly indicates otherwise.
19 (3) 'Dependent child' is a person under 18 years of age who is living
20 with a ~~natural~~ biological parent, adoptive parent, stepparent, or
21 any other person related by blood, marriage, or legal adoption, in a
22 place of residence maintained by one or more of such persons as

- his or their own home, and who is deprived of parental support or care; it shall also include a minor who has been eligible for AFDC who is now living in a foster-care facility or child-caring institution; it shall also include a dependent child in school under 21 years of age as provided by Titles IV-A and XIX of the Social Security Act.
- (3a) 'Family' consists of a minor child or children and one or more of their biological parents, adoptive parents, or stepparents living together.
- (3b) 'Federal TANF funds' means the Temporary Assistance for Needy Families block grant funds provided for in Title IV-A of the Social Security Act.
- (4) Repealed by Session Laws 1983, c. 14, s. 3.
- (5) 'Recipient' is a person to whom, or on whose behalf, assistance is granted under this Article.
- (6) 'Resident,' unless otherwise defined by federal regulation, is a person who is living in North Carolina at the time of application with the intent to remain permanently or for an indefinite period; or who is a person who enters North Carolina seeking employment or with a job commitment.
- (7) 'Secretary' is the Secretary of Human Resources, unless the context clearly indicates otherwise.
- (8) 'State Plan' is the plan prepared by the Department for the State's Work First Program pursuant to this Article.
- (9) 'Title IV-A' means the Social Security Act, 42 U.S.C. § 601, et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, and to other provisions of federal law as may apply to services provided in this Article.
- (10) 'Work activities' shall include 'federal work activities' and 'State work activities'.
- a. 'Federal work activities' are those activities that count toward the State's fulfillment of the work participation rate required by Title IV-A.
- b. 'State work activities' are other activities authorized by the Department for receipt of Work First Family Assistance.
- (11) 'Work First' is the temporary assistance to needy families program established in this Article.
- (12) 'Work First Diversion Assistance' is a short-term cash payment that is intended to produce a substantial reduction in the likelihood of a family requiring Work First Family Assistance.
- (13) 'Work First Family Assistance' is a program of time-limited periodic cash payments to assist in maintaining the children of eligible families while the adult family members engage in activities to prepare for entering and to enter the workplace.

(14) 'Work First Services' are services funded from appropriations made pursuant to this Article and designed to facilitate the purposes of the Work First Program. These services may include eligibility determination, child care, transportation, substance abuse treatment and counseling, education, job placement assistance, employment counseling, prevention of out-of-wedlock births, case management, emergency cash assistance, and other activities designed to help families become self-sufficient."

Section 3. G.S. 108A-25(a) reads as rewritten:

"(a) The following programs of public assistance are hereby established, and shall be administered by the county department of social services under supervision of the Department of Human Resources or the Department of Human Resources ~~under~~ pursuant to federal regulations or ~~under rules and regulations~~ adopted by the Social Services Commission ~~and under the supervision of the Department of Human Resources~~ or the Secretary of Human Resources:

- (1) ~~Aid to families with dependent children;~~ Work First Program;
- (2) State-county special assistance for adults;
- (3) Food stamp program;
- (4) Foster care and adoption assistance payments;
- (5) Low income energy assistance program."

Section 4. G.S. 108A-27 reads as rewritten:

"§ 108A-27. Authorization of ~~Aid to Families with Dependent Children Program.~~ Work First Program.

~~The (a) The Department is authorized to shall~~ establish and supervise ~~an Aid to Families with Dependent Children Program.~~ the Work First Program to provide temporary assistance to eligible children and families. This program ~~is to shall~~ be administered by county departments of social services ~~under federal regulations and rules and regulations of the Social Services Commission.~~ in accordance with:

- (1) This Article;
- (2) The State Plan as defined in G.S. 108A-27.5; and
- (3) Rules adopted pursuant to this Article by the Secretary or the Social Services Commission.

(b) The Department shall ensure that the Work First Program is established, supervised, and administered in compliance with federal law. The Department shall maximize federal receipts for the Work First Program.

(c) Whenever feasible, the Department shall ensure that as persons and families are moved to self-sufficiency, assistance shall be reduced and ended on a graduated basis rather than ending abruptly upon reaching the time limits established in State law for receiving assistance."

Section 5. Part 2 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new sections:

"§ 108A-27.1. Assistance not an entitlement; State time limit on cash assistance.

(a) Any assistance programs established under this Part are not entitlements, and nothing in this Part shall create any property right.

(b) Unless an extension or an exemption is provided pursuant to the provisions of the State Plan, any cash assistance under this Part that is provided to a person or a family in the employment program shall only be provided for a cumulative total of 24 months. After having received cash assistance for 24 months, the person or the family may reapply for cash assistance, but not until after 36 months from the last month the person or the family received cash assistance. This subsection does not apply to child-only cases.

"§ 108A-27.2. Purpose; program description.

(a) The purpose of the Work First Program is to provide short-term assistance in the form of cash and services to help persons and families move from public assistance to self-sufficiency through gainful employment.

(b) The Work First Program shall include program administration and three categories of assistance to participants:

(1) Work First Family Assistance;

(2) Work First Diversion Assistance; and

(3) Work First Services.

(c) Work First Family Assistance may be paid to eligible families or as 'child-only' benefits, as established in the State Plan, based on availability of funds, State and federal law, and Work First Program objectives.

(d) The Department may distinguish among potential groups of recipients on whatever basis necessary to enhance program purposes and to maximize federal revenues so long as the rights, including the constitutional rights of equal protection and due process, of individuals are protected. The Department may, however, deny Work First Program assistance to legal immigrants only on the same basis that federal law denies the use of federal TANF funds to legal immigrants.

"§ 108A-27.3. Duties of Department.

(a) The Department shall supervise the Work First Program. In supervising the Work First Program, the Department shall have the following duties:

(1) Prepare the State Plan in accordance with G.S. 108A-27.5 to submit to the Governor for approval;

(2) Submit the State Plan, as approved by the Governor, to the General Assembly for approval in accordance with G.S. 108A-27.5;

(3) Submit the State Plan, as approved by the Governor and the General Assembly, to the appropriate federal officials as required by federal law or regulation;

(4) Establish the requirements for content and a schedule for submission by counties of local block grant plans for Work First and review and approve the block grant plans submitted by the counties;

(5) Advise and assist the Social Services Commission in adopting rules necessary to implement the provisions of this Article;

(6) Supervise disbursement of local block grant funds to counties for Work First Diversion Assistance and Work First Services;

- 1 (7) Make payments of Work First Family Assistance and Work First
2 Diversion Assistance;
- 3 (8) Establish outcome and performance goals, in consultation with the
4 county department of social services and county board of
5 commissioners, based on economic factors and conditions for
6 determining the performance of State and county agencies in the
7 Work First Program and considering the well-being of children;
- 8 (9) Coordinate activities of other State and county agencies in meeting
9 the goals of the Work First Program;
- 10 (10) Work with State and county agencies and with private sector
11 organizations and individuals to develop programs and methods to
12 meet the goals of the Work First Program;
- 13 (11) Monitor and evaluate the impact of the Work First Program on
14 children and families, including the impact of the Program on the
15 economic security and health of children and families, child abuse
16 and neglect, school attendance, and academic and behavioral
17 performance; and
- 18 (12) Monitor the performance of counties in achieving Work First
19 Program expectations and provide monthly progress reports to the
20 county department of social services and county board of
21 commissioners.

22 (b) The Secretary may adopt temporary rules or delegate authority to the Social
23 Services Commission to adopt temporary rules when necessary to:

- 24 (1) Implement provisions of the State Plan;
- 25 (2) Maximize federal revenues to prevent the loss of federal funds;
- 26 (3) Reduce State and county expenditures in current budgets;
- 27 (4) Enhance the ability of the Department to prevent fraud and abuse
28 in the Work First Program;
- 29 (5) Modify the State Plan as necessary to meet changed circumstances
30 after approval of the State Plan; and
- 31 (6) Respond to any of the circumstances enumerated in G.S. 150B-
32 21.1.

33 (c) The Social Services Commission may adopt rules in accordance with G.S.
34 143B-153 when necessary to implement this Article and subject to delegation by the
35 Secretary of any rule-making authority as set forth in subsection (b).

36 **"§ 108A-27.4. Duties of county departments of social services and county boards of**
37 **commissioners.**

38 (a) Except as otherwise provided in this Article, the Work First Program shall be
39 administered by the county departments of social services. The county departments
40 of social services shall:

- 41 (1) Determine eligibility of persons and families for the Work First
42 Program;
- 43 (2) Enter into Personal Responsibility Contracts with participants
44 pursuant to the State Plan and ensure that the services and

resources that are needed to assist participants to comply with their obligations under their Personal Responsibility Contracts are available;

(3) Comply with State and federal law relating to Work First and Title IV-A;

(4) Develop the local block grant plans for submission by the counties to the Department;

(5) Ensure that participants engage in the minimum hours of work activities required by the State Plan and Title IV-A; and

(6) Ensure that the components of the Work First Program are funded solely from authorized sources and that federal TANF funds are used only for purposes and programs authorized by federal and State law.

(b) Upon the prior approval of the Department and in consultation with the county board of commissioners, a county department of social services may delegate any of its duties under this Article to another public agency or private contractor. Prior to delegating any duty, a county department of social services shall submit its proposed delegation to the Department as the Department may provide. Notwithstanding any delegation of duty, a county department of social services shall remain accountable for its duties under the Work First Program.

(c) The county board of commissioners shall appoint a committee of individuals to identify the needs of the population to be served to review and assist in developing the county block grant plan to respond to the needs. The committee membership shall include, but is not limited to, representatives of the county board of social services, the board of the area mental health authority, the local public health board, the local school systems, the business community, the board of county commissioners and community-based organizations representative of the population to be served.

(d) The county board of commissioners shall review and approve the county block grant plan for submission to the Department.

"§ 108A-27.5. State Plan.

(a) The Department shall prepare and submit to the General Assembly for its review and approval every fiscal year, in accordance with the procedures established in G.S. 143-16.1 for federal block grant funds, a State Plan that proposes the terms of the Work First Program. Prior to submitting a State Plan to the General Assembly, the Department shall consult with local governments and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from them. The State Plan shall include:

(1) Benefit levels, limitations, and payments and the method for calculating benefit levels and payments;

(2) Eligibility criteria, including asset and income standards;

(3) A description of eligible federal and State work activities and work activity requirements for recipients and any exceptions or exemptions proposed to those requirements;

- 1 (4) Provisions for when extensions may be granted to a person or
2 family who reaches the time limit for receipt of benefits;
- 3 (5) Requirements for assignment of child support income and
4 compliance with child support enforcement activities;
- 5 (6) Provisions for exceptions and exemptions to criteria, time limits,
6 and standards;
- 7 (7) Provisions for sanctions for recipient failure to comply with
8 program requirements;
- 9 (8) Terms and conditions for repayment of Work First Diversion
10 Assistance by recipients who subsequently receive Work First
11 Family Assistance;
- 12 (9) Allocations of federal, State, and county funds for the Work First
13 Program, including block grants to the counties for Work First
14 Diversion Assistance and Work First Services;
- 15 (10) Levels of State and county funding for the Work First Program;
- 16 (11) Allocation for funding for administration at the State and local
17 level not to exceed the federally established limitations on use of
18 federal TANF funds for program administration;
- 19 (12) A description of the Department's consultation with local
20 governments and private sector organizations and a summary of
21 any comments received during the 45-day public comment period;
- 22 (13) Provisions to ensure that no Work First Program recipients,
23 required to participate in work activities, shall be employed or
24 assigned when:
 - 25 a. Any regular employee is on layoff from the same or
26 substantially equivalent job;
 - 27 b. An employer terminates any regular employee or otherwise
28 causes an involuntary reduction in the employer's workforce
29 in order to hire Work First recipients; or
 - 30 c. An employer otherwise causes the displacement of any
31 currently employed worker or positions, including partial
32 displacements such as reductions in hours of nonovertime
33 work, wages, or employment benefits, in order to hire Work
34 First recipients;
- 35 (14) Provisions to ensure the establishment and maintenance of
36 grievance procedures to resolve complaints by regular employees
37 who allege that the employment or assignment of a Work First
38 Program recipient is in violation of subdivision (13) of this section;
- 39 (15) Provisions to ensure that Work First Program participants, required
40 to participate in work activities, shall be subject to and have the
41 same rights under federal, State, or local laws applicable to non-
42 Work First Program employees in similarly situated work activities,
43 including, but not limited to, health and safety standards and
44 nondiscrimination laws, provided that nothing in this subdivision

shall be construed to prohibit Work First Program participants from receiving State or county services designed to assist Work First Program participants achieve job stability and self-sufficiency; and

(16) Any additional provisions required by federal law to be included in the State Plan.

(b) In addition to those items required to be included pursuant to subsection (a) of this section, the State Plan may include proposals to establish the following:

(1) Demonstration projects in one or more counties to assess the value of any proposed changes in State policy or to test ways to improve programs;

(2) Individual Development Accounts as authorized by Title IV-A;

(3) Automatic Medicaid eligibility or Medicaid benefit expansion for Work First Program participants;

(4) Incentives for high-performing counties, contingency plans for counties unable to meet financial commitments during the term of the State Plan, and sanctions against counties failing to meet performance expectations, including allocation of any federal penalties that may be assessed against the State as a result of a county's failure to perform.

(c) The State Plan may provide that in cases where benefits are paid only for a child, the case is considered a family case.

(d) The State Plan may provide that recipients shall be required to enter into and comply with Personal Responsibility Contracts as a condition of receiving benefits. If provided for in the State Plan, the terms and conditions of Personal Responsibility Contracts shall be consistent with program purposes, federal law, and availability of funds.

"§ 108A-27.6. Work First Family Assistance; program changes.

The Department may change the Work First Family Assistance Program when required to comply with federal law. Any changes in federal law that necessitate a change in the Work First Program shall be effected by temporary rule until the next State Plan is approved by the General Assembly. Any change effected by the Department to comply with federal law shall be included in the State Plan submitted during the next session of the General Assembly following the change.

"§ 108A-27.7. Exemption from federal limitations for individuals convicted of certain drug-related felonies.

Individuals convicted of Class I controlled substance felony offenses in this State shall be eligible to participate in the Work First Program and food stamp program:

(1) Six months after release from custody if no additional controlled substance felony offense is committed during that period and successful completion of a required substance abuse treatment program determined appropriate by the county department of social services; or

1 (2) If not in custody, six months after the date of conviction if no
2 additional controlled substance felony offense is committed during
3 that period and successful completion of a required substance
4 abuse treatment program determined appropriate by the county
5 department of social services.

6 A county department of social services may, and is encouraged to, require substance
7 abuse treatment as a condition for receiving Work First Program or food stamp
8 benefits as appropriate.

9 **"§ 108A-27.8. Work First Program funding.**

10 (a) The Department shall provide in its State Plan a formula for determining the
11 amount of local block grants.

12 (b) Counties shall be reimbursed for Work First Family Assistance by the
13 Department, subject to the availability of federal, State, and county funds and
14 appropriations by the General Assembly.

15 (c) Work First Diversion Assistance and Work First Services shall be funded
16 through federal funds, county funds, and the county block grant from the State
17 pursuant to the State Plan.

18 **"§ 108A-27.9. Maintenance of effort.**

19 (a) Using the preceding fiscal year as the base year, counties shall maintain a
20 financial commitment to the Work First Program equal to the proportion of State
21 funds allocated to the Work First Program.

22 (b) The Department shall define in the State Plan or by rule the term
23 'maintenance of effort' based on that term as defined in Title IV-A and shall provide
24 to counties a list of activities that qualify for maintenance of effort requirements.

25 (c) If a county fails to comply with the maintenance of effort requirement in
26 subsection (a) of this section, the Director of the Budget may withhold State moneys
27 appropriated to the county pursuant to G.S. 108A-93.

28 **"§ 108A-27.10. County block grants.**

29 (a) Each county shall submit annually to the Department for approval a local
30 block grant plan that describes the Work First Diversion Assistance and Work First
31 Services the county proposes to offer.

32 (b) Prior to submitting its local block grant plan to the Department, a county shall
33 provide the public with an opportunity to review and comment upon its local block
34 grant plan.

35 (c) A county local block grant plan shall include a description of how the county
36 will:

37 (1) Utilize both public and private resources to assist in moving
38 persons and families to self-sufficiency; and

39 (2) Address the needs of persons and families in areas specified by the
40 Department, including transportation, housing, child care, and
41 skills training.

42 (d) The local block grant plan shall also include a description of the county's
43 priorities for serving families who need child care based on the needs of the
44 community and the availability of services and funding.

1 (e) The local block grant plan shall be adopted by the county commissioners prior
2 to its submission to the State.

3 **"§ 108A-27.11. Performance standards; corrective action.**

4 (a) The Department, in consultation with the county department of social services
5 and county board of commissioners, shall establish acceptable levels of performance
6 by counties in meeting Work First expectations, measured by outcome and
7 performance goals contained in the State Plan. Economic factors and conditions and
8 the well-being of children shall be considered in establishing the goals.

9 (b) The Department shall establish monitoring mechanisms and reporting
10 requirements to measure the goals.

11 (c) When a county fails to meet acceptable levels of performance, the Department
12 may take one or more of the following actions to assist the county in meeting its
13 Work First goals:

14 (1) Notify the county of the deficiencies and add additional monitoring
15 and reporting requirements.

16 (2) Require the county to develop and submit for approval by the
17 Department a corrective action plan.

18 If a county fails to meet acceptable levels of performance for two consecutive
19 years, or fails to comply with a corrective action plan developed pursuant to this
20 section, the Department may assume control of the county's Work First Program,
21 appoint an administrator to administer the county's Work First Program, and exercise
22 the powers assumed to administer the Work First Program either directly or through
23 contract with private or public agencies. County funding shall continue at levels
24 established by the State Plan when the State has assumed control of a county Work
25 First Program. At no time after the State has assumed this control shall a county
26 withdraw funds previously obligated or appropriated to the Work First Program.

27 **"§ 108A-27.12. Appeals.**

28 The Work First Program is a program of public assistance for purpose of an appeal
29 under G.S. 108A-79."

30 Section 6. G.S. 108A-29 reads as rewritten:

31 **"§ 108A-29. ~~Limitations on eligibility.~~ Preference for employment services.**

32 ~~(a) The Social Services Commission shall adopt such administrative rules~~
33 ~~concerning work requirements as conditions of eligibility for Aid to Families with~~
34 ~~Dependent Children in order to be in compliance with federal regulations, but such~~
35 ~~rules shall not be more restrictive than the work requirements applicable to the Job~~
36 ~~Opportunities and Basic Skills Training Program provided for in G.S. 108A-30.~~

37 (b) Members of families with dependent children and with aggregate family
38 income at or below the level required for eligibility for Aid to Families with
39 Dependent Children assistance, Work First Family Assistance, regardless of whether
40 or not they have applied for such assistance, shall be given priority in obtaining
41 manpower employment services including training and public service employment
42 provided by or through State agencies or with funds which are allocated to the State
43 of North Carolina directly or indirectly through prime sponsors or otherwise for the
44 purpose of employment of unemployed persons.

1 (c) [Repealed.]"

2 Section 6.1. G.S. 108A-35 reads as rewritten:

3 **"§ 108A-35. Removal to another county.**

4 Any recipient who moves from one county to another county of this State shall
5 continue to receive public assistance if eligible. The county director in the county
6 from which he has moved shall transfer all necessary records relating to the recipient
7 to the county director of the county to which the recipient has moved. ~~The county
8 from which the recipient moves shall pay the amount of assistance to which the
9 recipient is entitled for a period of one month following his move, and thereafter the
10 county to which the recipient has moved shall pay such assistance."~~

11 Section 7. G.S. 108A-38 reads as rewritten:

12 **"§ 108A-38. Protective and vendor payments.**

13 ~~Instead of the use of personal representatives provided for by G.S. 108A-37, when~~
14 When necessary to comply with any present or future federal law or regulation in
15 order to obtain federal participation in public assistance payments, the payments may
16 be made direct to vendors to reimburse them for goods and services provided the
17 applicants or recipients, and may be made to protective payees who shall act for the
18 applicant or recipient for receiving and managing assistance. Payments to vendors
19 and protective payees shall be made to the extent provided in, and in accordance
20 with, rules and regulations of the Social Services Commission or the Department,
21 which rules and regulations shall be subject to applicable federal laws and
22 regulations."

23 Section 7.1. (a) G.S. 108A-39.1 reads as rewritten:

24 **"§ 108A-39.1. AFDC Emergency Assistance Cash Program.**

25 The Social Services Commission shall adopt rules to implement ~~cash assistance~~
26 ~~and services components of the Aid to Families with Dependent Children Emergency~~
27 ~~Assistance (AFDC-EA) the Emergency Assistance Cash~~ Program. Effective November
28 ~~1, 1986, July 1, 1997,~~ the Department of Human Resources, Division of Social
29 Services, shall provide cash assistance to families whose family income does not
30 exceed one hundred ten percent (110%) of the current federal poverty level as
31 established by the U. S. Secretary of Health and Human Services and published
32 annually in the Federal Register. Annual cash assistance shall not exceed three
33 hundred dollars (\$300.00). ~~State appropriations made for the nonfederal share of~~
34 ~~Emergency Assistance services and cash benefits shall not exceed a rate of fifty~~
35 ~~percent (50%) of the nonfederal share. For cash benefits authorized by any agency,~~
36 ~~the nonfederal share of the benefit shall be paid at a rate of fifty percent (50%) State~~
37 ~~funds and fifty percent (50%) county or other local funds. For cash benefits~~
38 ~~authorized by any State or local agency other than a county department of social~~
39 ~~services, the Department of Human Resources may assess the county for fifty percent~~
40 ~~(50%) of the nonfederal share of cash benefits authorized. For services benefits~~
41 ~~authorized by any agency, the nonfederal share of the benefit shall be paid by that~~
42 ~~agency entirely from county appropriations or other available public or private funds.~~
43 ~~Federal reimbursements earned through participation in this Program shall be paid to~~
44 ~~the participants in proportion to their payment of the nonfederal share. Time limits~~

1 and work requirements shall not apply to families due to the receipt of Emergency
2 Assistance Cash, and those families shall not be counted as part of the federal work
3 requirements quotient, except to the extent required by federal law, rule, or
4 regulation."

5 (b) Funding for the Emergency Assistance Cash Program annually shall
6 equal the total amount spent by federal, State, and local governments for the Title IV
7 Emergency Assistance-Cash program in the 1996-97 fiscal year. The Department
8 shall distribute the funds for this program to county departments of social services in
9 an amount equal to the total federal, State, and local funds expended for this purpose
10 in each county for the 1996-97 fiscal year.

11 Section 8. G.S. 108A-49(a) reads as rewritten:

12 "(a) Benefits in the form of foster care assistance shall be granted in accordance
13 with the rules and regulations of the Social Services Commission to any dependent
14 child who ~~is~~ would have been eligible to receive ~~AFDC~~ Aid to Families with
15 Dependent Children (as that program was in effect on June 1, 1995), but for his or
16 her removal from the home of a specified relative for placement in a foster care
17 facility; provided, that the child's placement and care is the responsibility of a county
18 department of social services."

19 Section 9. G.S. 108A-58 reads as rewritten:

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

22 (a) Any person, otherwise eligible, who, either while receiving medical assistance
23 benefits or within one year prior to the date of applying for medical assistance
24 benefits, unless some other time period is mandated by controlling federal law, sells,
25 gives, assigns or transfers countable real or personal property or an interest ~~therein,~~
26 ~~either by himself or through his legal representative,~~ in real or personal property for
27 the purpose of retaining or establishing eligibility for medical assistance benefits, shall
28 be ineligible to receive medical assistance benefits ~~thereafter~~ as set forth in subsection
29 (c) of this section.

30 Countable real and personal property includes real property, excluding a homesite,
31 intangible personal property, nonessential motor and recreational vehicles,
32 nonincome producing business equipment, boats and motors. The provisions of this
33 act shall not apply to the sale, gift, assignment or transfer of real or personal property
34 if and to the extent that the person applying for medical assistance would have been
35 eligible for such assistance notwithstanding ownership of such property or an interest
36 therein.

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

1 (c) Any person ~~who, by himself or through his legal representative, who~~ sells,
2 gives, assigns or transfers real or personal property or an interest ~~therein~~ in real or
3 personal property for the purpose of retaining or establishing eligibility for medical
4 assistance benefits, as provided in subsection (a) of this section, ~~shall~~ shall, after the
5 time of transfer, be ineligible to receive these benefits ~~thereafter~~ until an amount
6 equal to the uncompensated value of the property or interest has been expended by
7 or on behalf of the person for ~~his~~ the person's maintenance and support, including
8 medical expenses, paid or incurred, or shall be ineligible in accordance with the
9 following schedule, whichever is sooner:

- 10 (1) For uncompensated value of at least one thousand dollars (\$1,000)
11 but not more than six thousand dollars (\$6,000), a one-year period
12 of ineligibility from date of sale, gift, assignment or transfer;
13 (2) For uncompensated value of more than six thousand dollars
14 (\$6,000) but not more than twelve thousand dollars (\$12,000), a
15 two-year period of ineligibility from date of sale, gift, assignment or
16 transfer;
17 (3) For uncompensated value of more than twelve thousand dollars
18 (\$12,000), a two-year period of ineligibility from date of sale, gift,
19 assignment or transfer, plus one additional month of ineligibility
20 for each five hundred dollar (\$500.00) increment or portion
21 thereof by which the uncompensated value exceeds twelve
22 thousand dollars (\$12,000), but in no event to exceed three years.

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

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

38 (f) For the purpose of establishing uncompensated value under subsection (c), the
39 value of property or an interest therein shall be the fair market value of the property
40 or interest at the time of the sale, gift, assignment or transfer, less the amount of
41 compensation, if any, received for the property or interest. There shall be a rebuttable
42 presumption that the fair market value of real property is the most recent property
43 tax value of the property, as ascertained according to Subchapter II of Chapter 105 of
44 the General Statutes. Fair market value for purpose of this subsection shall be such

1 value, determined as above set out, less any legally enforceable encumbrances to
2 which the property is subject.

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

11 (h) This section shall not apply to applicants for or recipients of ~~aid to families~~
12 ~~with dependent children~~ Work First Family Assistance or to persons entitled to
13 medical assistance by virtue of their eligibility for ~~aid to families with dependent~~
14 ~~children.~~ Work First Family Assistance.

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

16 Section 10. G.S. 108A-80 reads as rewritten:

17 "**§ 108A-80. Confidentiality of records.**

18 (a) Except as provided in (b) below, it shall be unlawful for any person to obtain,
19 disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or
20 other information concerning persons applying for or receiving public assistance or
21 social services that may be directly or indirectly derived from the records, files or
22 communications of the Department or the county boards of social services, or county
23 departments of social services or acquired in the course of performing official duties
24 except for the purposes directly connected with the administration of the programs of
25 public assistance and social services in accordance with federal law, rules and
26 ~~regulations and~~ regulations, the Work First Program State Plan, and the rules and
27 regulations of the Social Services Commission or the Department.

28 (b) The Department shall furnish a copy of the recipient check register monthly to
29 each county auditor showing a complete list of all recipients of ~~Aid To Families with~~
30 ~~Dependent Children~~ Work First Family Assistance and State-County Special
31 Assistance for Adults, their addresses, and the amounts of the monthly grants. This
32 register shall be a public record open to public inspection during the regular office
33 hours of the county auditor, but said register or the information contained therein
34 may not be used for any commercial or political purpose. Any violation of this
35 section shall constitute a Class 1 misdemeanor.

36 (c) Any listing of recipients of benefits under any public assistance or social
37 services program compiled by or used for official purposes by a county board of
38 social services or a county department of social services shall not be used as a mailing
39 list for political purposes. This prohibition shall apply to any list of recipients of
40 benefits of any federal, State, county or mixed public assistance or social services
41 program. Further, this prohibition shall apply to the use of such listing by any
42 person, organization, corporation, or business, including but not limited to public
43 officers or employees of federal, State, county, or other local governments, as a

1 mailing list for political purposes. Any violation of this section shall be punishable as
2 a Class 1 misdemeanor.

3 (d) The Social Services Commission shall have the authority to adopt rules and
4 regulations governing access to case files for social services and public assistance
5 programs, except the Medical Assistance Program. The Secretary of the Department
6 of Human Resources shall have the authority to adopt rules and regulations
7 governing access to medical assistance case files."

8 Section 11. G.S. 108A-28, 108A-28.1, 108A-30, 108A-31, 108A-32, 108A-
9 33, and 108A-34 are repealed.

10 **PART 2. STATUTORY TECHNICAL AND CONFORMING CHANGES.**

11 Section 12. G.S. 1-110(a) reads as rewritten:

12 "(a) Subject to the provisions of subsection (b) of this section with respect to
13 prison inmates, any superior or district court judge or clerk of the superior court may
14 authorize a person to sue as an indigent in their respective courts when the person
15 makes affidavit that he or she is unable to advance the required court costs. The clerk
16 of superior court shall authorize a person to sue as an indigent if the person makes
17 the required affidavit and meets one or more of the following criteria:

- 18 (1) Receives food stamps.
- 19 (2) Receives ~~Aid to Families with Dependent Children (AFDC)~~. Work
20 First Family Assistance.
- 21 (3) Receives Supplemental Security Income (SSI).
- 22 (4) Is represented by a legal services organization that has as its
23 primary purpose the furnishing of legal services to indigent
24 persons.
- 25 (5) Is represented by private counsel working on the behalf of or
26 under the auspices of a legal services organization under
27 subdivision (4) of this section.
- 28 (6) Is seeking to obtain a domestic violence protective order pursuant
29 to G.S. 50B-2.

30 A superior or district court judge or clerk of superior court may authorize a person
31 who does not meet one or more of these criteria to sue as an indigent if the person is
32 unable to advance the required court costs. The court to which the summons is
33 returnable may dismiss the case and charge the court costs to the person suing as an
34 indigent if the allegations contained in the affidavit are determined to be untrue or if
35 the court is satisfied that the action is frivolous or malicious."

36 Section 13. G.S. 15-155.1 reads as rewritten:

37 **"§ 15-155.1. Reports to district attorneys of aid to dependent children and illegitimate**
38 **out-of-wedlock births.**

39 The Department of Human Resources, by and through the Secretary of Human
40 Resources, shall promptly after June 19, 1959, make a report to each district attorney,
41 setting out the names and addresses of all mothers who reside in his prosecutorial
42 district as defined in G.S. 7A-60 and are recipients of ~~aid to dependent children~~
43 assistance under the provisions of Part 2, Article 2, Chapter 108A of the General
44 Statutes. Such report shall in some manner show the identity of the unwed mothers

1 and shall set forth the number of children born to each said mother. Such a report
2 shall also be made monthly thereafter setting out the names and addresses of all such
3 mothers who reside in the district and who may have become recipients of aid to
4 dependent children since the date of the last report."

5 Section 14. G.S. 15-155.2(a) reads as rewritten:

6 "(a) Upon receipt of such reports as are provided for in G.S. 15-155.1, the district
7 attorney of superior court may make an investigation to determine whether the
8 mother of an ~~illegitimate out-of-wedlock~~ child or who is a recipient of ~~aid to a~~
9 ~~dependent child or children~~, Work First Family Assistance, has abandoned, is
10 willfully neglecting or is refusing to support and maintain the child within the
11 meaning of G.S. 14-326 or 49-2 or is diverting any part of the funds received as ~~aid to~~
12 ~~a dependent child~~ Work First Family Assistance to any purpose other than for the
13 support and maintenance of ~~such dependent a~~ child in violation of G.S. 108-76.1. In
14 making this investigation the district attorney is authorized to call upon:

- 15 (1) Any county board of social services or the Department of Human
16 Resources for personal, clerical or investigative assistance and for
17 access to any records kept by either such board and relating to the
18 matter under investigation and such boards are hereby directed to
19 assist in all investigations hereunder and to furnish all records
20 relating thereto when so requested by the district attorney;
- 21 (2) The board of county commissioners of any county within his
22 district for legal or clerical assistance in making any investigation
23 or investigations in such county and such boards are hereby
24 authorized to furnish such assistance in their discretion; and
- 25 (3) The district attorney of any inferior court in his district for
26 personal assistance in making any investigation or investigations in
27 the county in which the court is located and any district attorney
28 so called upon is hereby authorized to furnish such assistance by
29 and with the consent of the board of county commissioners of the
30 county in which the court is located, which board shall provide
31 and fix his compensation for assistance furnished."

32 Section 15. G.S. 95-25.3(d) reads as rewritten:

33 "(d) The Commissioner, in order to prevent curtailment of opportunities for
34 employment of the economically disadvantaged and the unemployed, may, by
35 regulation, establish a wage rate not less than eighty-five percent (85%) of the
36 otherwise applicable wage rate in effect under subsection (a) which shall apply to all
37 persons (i) who have been unemployed for at least 15 weeks and who are
38 economically disadvantaged, or (ii) who are, or whose families are, receiving ~~aid to~~
39 ~~families with dependent children provided under Part A of Title IV of the Social~~
40 ~~Security Act~~, Work First Family Assistance or who are receiving supplemental
41 security benefits under Title XVI of the Social Security Act.

42 Pursuant to regulations issued by the Commissioner, certificates establishing
43 eligibility for such subminimum wage shall be issued by the Employment Security
44 Commission.

1 The regulation issued by the Commissioner shall not permit employment at the
2 subminimum rate for a period in excess of 52 weeks."

3 Section 16. G.S. 105A-2(1) reads as rewritten:

4 "(1) 'Claimant agency' means and includes:

- 5 a. The State Education Assistance Authority as enabled by
6 Article 23 of Chapter 116 of the General Statutes;
- 7 b. The North Carolina Department of Human Resources when
8 in the exercise of its authority to collect health profession
9 student loans made pursuant to G.S. 131-121;
- 10 c. The North Carolina Department of Human Resources when
11 in the performance of its duties under the Medical
12 Assistance Program enabled by Chapter 108A, Article 2,
13 Part 6, and any county operating the same Program at the
14 local level, when and only to the extent such a county is in
15 the performance of Medical Assistance Program collection
16 functions;
- 17 d. The North Carolina Department of Human Resources when
18 in the performance of its duties, under the Child Support
19 Enforcement Program as enabled by Chapter 110, Article 9
20 and Title IV, Part D of the Social Security Act to obtain
21 indemnification for past paid public assistance or to collect
22 child support arrearages owed to an individual receiving
23 program services and any county operating the program at
24 the local level, when and only to the extent that the county
25 is engaged in the performance of those same duties;
- 26 e. The University of North Carolina, including its constituent
27 institutions as specified by G.S. 116-2(4);
- 28 f. The University of North Carolina Hospitals at Chapel Hill
29 in the conduct of its financial affairs and operations
30 pursuant to G.S. 116-37;
- 31 g. The Board of Governors of the University of North Carolina
32 and the State Board of Education through the College
33 Scholarship Loan Committee when in the performance of its
34 duties of administering the Scholarship Loan Fund for
35 Prospective College Teachers enabled by Chapter 116,
36 Article 5;
- 37 h. The Office of the North Carolina Attorney General on
38 behalf of any State agency when the claim has been reduced
39 to a judgment;
- 40 i. The State Board of Community Colleges through
41 community colleges as enabled by Chapter 115D in the
42 conduct of their financial affairs and operations;
- 43 j. State facilities as listed in G.S. 122C-181(a), School for the
44 Deaf at Morganton, North Carolina Sanatorium at McCain,

1 Western Carolina Sanatorium at Black Mountain, Eastern
2 North Carolina Sanatorium at Wilson, and Gravelly
3 Sanatorium at Chapel Hill under Chapter 143, Article 7;
4 Governor Morehead School under Chapter 115, Article 40;
5 Central North Carolina School for the Deaf under Chapter
6 115, Article 41; Wright School for Treatment and Education
7 of Emotionally Disturbed Children under Chapter 122C;
8 and these same institutions by any other names by which
9 they may be known in the future;

- 10 k. The North Carolina Department of Revenue;
- 11 l. The Administrative Office of the Courts;
- 12 m. The Division of Forest Resources of the Department of
13 Environment, Health, and Natural Resources;
- 14 n. The Administrator of the Teachers' and State Employees'
15 Comprehensive Major Medical Plan, established in Article 3
16 of General Statutes Chapter 135;
- 17 o. The State Board of Education through the Superintendent
18 of Public Instruction when in the performance of his duties
19 of administering the Scholarship Loan Fund for Prospective
20 Teachers enabled by Chapter 115C, Article 32A and the
21 scholarship loan and grant programs enabled by Chapter
22 115C, Article 24C, Part 1;
- 23 p. The Board of Trustees of the Teachers' and State
24 Employees' Retirement System and the Board of Trustees of
25 the Local Governmental Employees' Retirement System in
26 the performance of their duties pursuant to Chapters 120,
27 128, 135 and 143 of the General Statutes;
- 28 q. The North Carolina Teaching Fellows Commission in the
29 performance of its duties pursuant to Chapter 115C, Article
30 24C, Part 2;
- 31 r. The North Carolina Department of Human Resources when
32 in the performance of its collection duties for intentional
33 program violations and violations due to inadvertent
34 household error under the Food Stamp Program enabled by
35 Chapter 108A, Article 2, Part 5, and any county operating
36 the same Program at the local level, when and only to the
37 extent such a county is in the performance of Food Stamp
38 Program collection functions.

39 The North Carolina Department of Human Resources
40 when, in the performance of its duties under the ~~Aid to~~
41 ~~Families with Dependent Children Program or the Aid to~~
42 ~~Families with Dependent Children Emergency Assistance~~
43 ~~Program provided in Part 2 of Article 2 of Chapter 108A or~~
44 ~~the Work First Cash Assistance Program established~~

1 ~~pursuant to the federal waivers received by the Department~~
2 ~~on February 5, 1996, Work First Program provided in Part 2~~
3 ~~of Article 2 of Chapter 108A, or under the State-County~~
4 ~~Special Assistance for Adults Program provided in Part 3 of~~
5 ~~Article 2 of Chapter 108A, it seeks to collect public~~
6 ~~assistance payments obtained through an intentional false~~
7 ~~statement, intentional misrepresentation, intentional failure~~
8 ~~to disclose a material fact, or inadvertent household error;~~
9 s. The Employment Security Commission of North Carolina.
10 t. Any State agency in the collection of salary overpayments
11 from former employees.
12 u. The State Board of Education through the Superintendent
13 of Public Instruction when in the performance of his duties
14 of administering the program under which the State
15 encourages participation in the National Board for
16 Professional Teaching Standards (NBPTS) Program, enabled
17 by Section 19.28 of Chapter 769 of the 1993 Session Laws."

18 Section 17. G.S. 110-129(6) reads as rewritten:

19 "(6) 'Disposable income' means any form of periodic payment to an
20 individual, regardless of sources, including but not limited to
21 wages, salary, commission, self-employment income, bonus pay,
22 severance pay, sick pay, incentive pay, vacation pay, compensation
23 as an independent contractor, worker's compensation,
24 unemployment compensation benefits, disability, annuity,
25 survivor's benefits, pension and retirement benefits, interest,
26 dividends, rents, royalties, trust income and other similar payments,
27 which remain after the deduction of amounts for federal, State,
28 and local taxes, Social Security, and involuntary retirement
29 contributions. However, Supplemental Security Income, ~~Aid for~~
30 ~~Dependent Children~~, Work First Family Assistance, and other
31 public assistance payments shall be excluded from disposable
32 income. For employers, disposable income means 'wage' as it is
33 defined by G.S. 95-25.2(16). Unemployment compensation benefits
34 shall be treated as disposable income only for the purposes of
35 income withholding under the provisions of G.S. 110-136.4, and
36 the amount withheld shall not exceed twenty-five percent (25%) of
37 the unemployment compensation benefits."

38 Section 18. G.S. 110-130.1 reads as rewritten:

39 **"§ 110-130.1. ~~Non-AFDC~~ Non-Work First services.**

40 (a) All child support collection and paternity determination services provided
41 under this Article to recipients of public assistance shall be made available to any
42 individual not receiving public assistance in accordance with federal law and as
43 contractually authorized by the nonrecipient, upon proper application and payment
44 of a nonrefundable application fee of ten dollars (\$10.00).

1 (b) Repealed by Session Laws 1989, c. 490.

2 (b1) In cases in which a public assistance debt which accrued pursuant to G.S.
3 110-135 remains unrecovered, support payments shall be transmitted to the
4 Department of Human Resources for appropriate distribution. When services are
5 terminated and all costs and any public assistance debts have been satisfied, the
6 support payment shall be redirected to the client.

7 (c) Actions or proceedings to establish, enforce, or modify a duty of support or
8 establish paternity as initiated under this Article shall be brought in the name of the
9 county or State agency on behalf of the public assistance recipient or nonrecipient
10 client. Collateral disputes between a custodial parent and noncustodial parent,
11 involving visitation, custody and similar issues, shall be considered only in separate
12 proceedings from actions initiated under this Article. The attorney representing the
13 designated representative of programs under Title IV-D of the Social Security Act
14 shall be deemed attorney of record only for proceedings under this Article, and not
15 for the separate proceedings. No attorney/client relationship shall be considered to
16 have been created between the attorney who represents the child support
17 enforcement agency and any person by virtue of the action of the attorney in
18 providing the services required.

19 (c1) The Department is hereby authorized to use the electronic and print media
20 in attempting to locate absent and deserting parents. Due diligence must be taken to
21 ensure that the information used is accurate or has been verified. Print media shall be
22 under no obligation or duty, except that of good faith, to anyone to verify the
23 correctness of any information furnished to it by the Department or county
24 departments of social services.

25 (d) Any fee imposed by the North Carolina Department of Revenue or the
26 Secretary of the Treasury to cover their costs of withholding for ~~non-AFDC~~ non-
27 Work First arrearages certified for the collection of past due support from State or
28 federal income tax refunds shall be borne by the client by deducting the fee from the
29 amount collected.

30 Any income tax refund offset amounts which are subsequently determined to have
31 been incorrectly withheld and distributed to a client, and which must be refunded by
32 the State to a responsible parent or the nondebtor spouse, shall constitute a debt to
33 the State owed by the client."

34 Section 19. G.S. 111-21 reads as rewritten:

35 "**§ 111-21. Disqualifications for relief.**

36 No aid to needy blind persons shall be given under the provisions of this Article to
37 any individual for any period with respect to which he is receiving aid under the laws
38 of North Carolina providing aid ~~for dependent children~~ Work First Family
39 Assistance and/or relief for the aged, and/or aid for the permanently and totally
40 disabled."

41 Section 20. G.S. 120-70.71 reads as rewritten:

42 "**§ 120-70.71. Powers and duties.**

43 The Commission shall study State government policy and programs affecting the
44 family, specifically addressing family issues from the point of existing laws,

1 governmental programs needed or already functioning, and current family life issues.
2 The Commission shall work in close collaboration with various agencies and
3 programs dealing with the family. Among the issues the Commission may consider
4 studying are the following:

- 5 (1) The feasibility of establishing model projects that would be located
6 primarily in low-income, high dropout rate communities in North
7 Carolina:
 - 8 a. To teach adults in the family to read; and
 - 9 b. To provide after school care for school-aged children using
10 volunteers who could be retirees in the provision of services;
- 11 (2) The fiscal impact of a cash stipend created by a tax deduction or
12 by industry dollars to promote literacy or the obtainment of a
13 General Education Development Degree for persons who are
14 presently illiterate or outside the school system;
- 15 (3) The need for day care for children and senior citizens, ~~an increase~~
16 ~~in Aid to Families with Dependent Children~~ changes in Work First
17 Family Assistance payments and eligibility requirements,
18 coordination of State law with federal welfare reform programs, in-
19 home services for the elderly, additional funding for adult day
20 care, and incentives for industries to develop day care programs;
- 21 (4) The relationship between the decline of real income and the tax
22 structure, college tax credits, the minimum wage, and welfare
23 support systems;
- 24 (5) The State's efforts in the areas of adolescent pregnancy and
25 teaching about adolescent sexuality;
- 26 (6) A comprehensive review of State and federal programs
27 encouraging business and industry to provide adequate child care
28 for their employees;
- 29 (7) An analysis of what the State is currently doing to encourage
30 North Carolina businesses and industry to provide adequate child
31 care for their employees;
- 32 (8) A survey of North Carolina employers that presently provide child
33 care options for their employees and what types of options they
34 provide;
- 35 (9) A comprehensive study of the types of tax incentives and other
36 incentives that would encourage North Carolina businesses --
37 especially those that have 50 or more employees -- to either
38 provide on-site child care facilities or provide other child care
39 options and the cost to the State of these tax incentives;
- 40 (10) Recommendations of what the State could be doing to encourage
41 North Carolina businesses to provide on-site child care facilities or
42 other child care options for their employees;

- (11) Recommendations of a comprehensive policy for North Carolina to encourage businesses within the State to provide on-site child care facilities or other child care options for their employees;
- (12) The concept of requiring coverage of child health supervision services in all health insurance policies sold or delivered within the State;
- (13) The issue of domestic violence; and
- (14) The problem of suicide among the youth of the State."

Section 21. Within 60 days of the effective date of this act, the Department of Human Resources is directed to apply for a waiver from the Health Care Finance Administration of the U.S. Department of Health and Human Services to expand transitional Medicaid benefits from 12 months to 24 months for recipients who are otherwise eligible for Medicaid. Prior to implementing expanded transitional Medicaid benefits pursuant to federal waiver, the Department shall determine the cost, if any, to expand transitional Medicaid benefits and report their findings to the General Assembly.

Section 22. Notwithstanding any law to the contrary, the Department of Human Resources may designate a pilot county for the purpose of conducting a demonstration work-study project for Work First Program participants in the county that will provide participants with the option to attend community college paid with Work First funds while continuing to require the participants to meet work requirements. This pilot shall be funded by the pilot county using the federal and State funding allocated to the pilot county for the Work First Program. The Department shall evaluate the work-study project and report to the General Assembly on or before March 1, 1999.

Section 23. The Department of Human Resources, the Department of Commerce, including the Employment Security Commission, the Office of State Budget and Management and the Fiscal Research Division of the General Assembly shall develop forecasting methodology to predict trends that may impact Work First Program recipients arising from the imposition of program limitations and restrictions prior to recipients achieving self-sufficiency. The forecasting methodology shall be designed to predict, to the extent possible, the economic impact and societal consequences that may be experienced in the State or by a significant number of recipient families prior to the emergence of a crisis.

Section 24. The requirement that the Department prepare and submit the State Plan to the General Assembly for approval in accordance with the procedures set forth in G.S. 143-16.1 shall not be applicable for fiscal year 1997-98. Not later than May 1, 1997, the Department of Human Resources shall submit a final draft of the proposed State Plan to the Fiscal Research Division of the General Assembly. Fiscal Research shall submit the proposed plan to the House and Senate Appropriations Subcommittees on Human Resources for subsequent approval by the General Assembly. The House and Senate Appropriations Subcommittees on Human Resources shall conduct public hearings or a joint hearing on the proposed State Plan not earlier than five business days after its submission. If the General

1 Assembly fails to act upon the proposed State Plan, the plan as submitted shall
2 become the State Plan for fiscal year 1997-98.

3 Section 25. Not later than April 20 of each fiscal year and more
4 frequently as requested, the Department of Human Resources shall report to the Joint
5 Legislative Commission on Governmental Operations and the Fiscal Research
6 Division on use of funds transferred from federal TANF funds to State departments
7 or divisions for purposes of child care development, reducing out-of-wedlock births
8 and substance abuse treatment. The report shall include information on program
9 activities, objectives, accomplishments, including actual results, and itemized
10 expenditures.

11 Section 26. This act is effective when it becomes law.

MINUTES

HOUSE COMMITTEE ON WELFARE REFORM

MAY 26, 1998

2:30 PM

ROOM 1327 LB

The House Committee on Welfare Reform met at 2:30 PM on Tuesday May 26, 1998 in Room 1327 of the Legislative Building. Representative Cherie Berry presided, the following members were present: Representatives Alexander, Capps, Clary, Esposito, Gardner, Hill, Howard, Jeffus, Moore, Morris, Nye, Redwine, Starnes, & G. Wilson. Staff present to assist the committee were John Young and Susan Sabre. Visitor registration sheet is attached and made part of the minutes.

Chairman Berry called the meeting to order. Representative Edgar Starnes moved that the committee discuss the House Committee Substitute for House Bill 1446. The motion passed.

Susan Sabre, Staff, came forward to explain the changes proposed in the committee substitute (Attachment #1) for the original bill which was a product of the Joint Legislative Public Assistance Commission. The changes broaden the scope of biometric identification.

On Page one Line 10 have added the phrase "child care". This means child care assistance is also going to be subject to biometric identification as well as Work First, Food Stamps and Medical Assistance programs.

The next change (Page one, Line 11) adds to the recipients who are going to be tested, "applicants and payees". This provides the broadest base of coverage against fraudulent use of the system.

The last major change (Page one, Line 13) exempts from the exemption "other than minor parents". These people are under the age of 18, but are themselves "heads of households" and will be receiving aid either for themselves or their children.

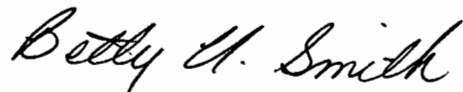
Representative Capps suggested clarifying Line 13 on Page one. He moved that the phrasing be changed to "unless they are minor parents", deleting the phrase "other than". This motion passed.

Page 2
Welfare Reform Committee
May, 26, 1998

Representative Gardner moved that the committee give a favorable report to the House Committee Substitute as amended, then roll it into a new committee substitute and give an unfavorable report as to the original bill. The motion passed.

The meeting was adjourned at 3:15 PM.


Representative Cherie K. Berry


Betty U. Smith, Committee Clerk

**1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Cherie Berry** for the Committee on **Welfare Reform**.

- ☐ Committee Substitute for
H.B. 1446 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW REGARDING
THE BIOMETRIC IDENTIFICATION SYSTEM TO MAKE NECESSARY TECHNICAL
CORRECTIONS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PUBLIC
ASSISTANCE COMMISSION.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
☐ Appropriations ☐ Finance ☐
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on ☐ Appropriations ☐ Finance ☐
- ☒ With a favorable report as to committee substitute bill, unfavorable as to original bill.
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ And having received a unanimous vote in committee, is placed on the Consent Calendar.
(PUBLIC BILLS ONLY)
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

HOUSE COMMITTEE ON WELFARE REFORM

May 26, 1998
Room 1327 LB

OPENING REMARKS

Representative Cherie K. Berry, Chairman

BILL TO BE CONSIDERED

HB 1446 Biometrics Technical Corrections

Sponsor: Representative Julia Howard

Co-Sponsor: Representative Cherie Berry

ADJOURNMENT

VISITOR REGISTRATION SHEET

WELFARE REFORM

May 26, 1998

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS[illegible]



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May 25, 1998

MEMORANDUM

TO: House Welfare Reform Committee

FROM: John Young, Committee Staff

**RE: Committee Substitute for
House Bill-1446-An Act to Amend the Law Regarding the
Biometric Identification System to Make Necessary Technical
Corrections, as Recommended by the Joint Legislative Public
Assistance Commission
Representatives Howard and Berry**

The 1997 General Assembly established the Joint Legislative Public Assistance Commission (JLPAC) with a membership of ten House and ten Senate members to monitor implementation and make any necessary recommendations to the General Assembly regarding any changes to the welfare reform legislation (S.L. 1997-443). The JLPAC met seven times and the subject of biometric imaging was discussed at almost every meeting. G.S. 108 A-24(1a) defines "biometric" as "a digitized image of selected features of an individual encoded and processed in a manner that ensures an extraordinarily high correlation between the digital data and the actual characteristics of an individual".

HB 1446 contains the recommendations of JLPAC on changes needed to the biometrics part of welfare reform legislation as contained in Part XII of S.L. 1997-443. They are:

1. The law currently requires that a biometrics system identify *all recipients of Work First, food stamps, and medical assistance* including institutionalized adults and children under the age of 18. The bill would:
 - a. add "child care" to the list of programs requiring biometric identification;

- b. add "applicants" and "payees" to those required to be identified by biometrics;
 - c. exclude "institutionalized adult and children under the age of 18 other than minor parents who are applying for or receiving assistance" from those required to have biometric identification
2. The bill makes clear that biometric identification is a condition of eligibility for Work First, Food Stamp, Medical Assistance and child care. There has been some question raised about whether this language is clear in the current bill. It also makes clear that if a recipient, applicant or payee is denied assistance because of biometric identification, then the recipient's applicant's or payee's whole case (the group of individuals dependent on the recipient, applicant, or payee for eligibility) is denied eligibility.
3. Part XII of P.L. 1997-443 requires biometrics identification to be up and running by October 1, 1998. The Department of Health and Human Services informed JLPAC that this date was not possible because of a number of factors including State bidding processes and federal requirements. The bill gives the Department until October 1, 1999 to start the phase-in process.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 1446

H1446-CSLF-001

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Biometrics Technical Corrections.

(Public)

Sponsors:

Referred to: Welfare Reform

May 25, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGARDING THE BIOMETRIC IDENTIFICATION
3 SYSTEM TO MAKE NECESSARY TECHNICAL CORRECTIONS, AS RECOMMENDED
4 BY THE JOINT LEGISLATIVE PUBLIC ASSISTANCE COMMISSION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 108A-25.1 reads as rewritten:
7 "§ 108A-25.1. Recipient identification system.
8 (a) The Department shall establish and maintain a uniform
9 system in the Department and in all counties of identifying all
10 Work First, food stamp, child care, and medical assistance
11 program ~~recipients~~ recipients, applicants, and payees, except
12 those who are institutionalized adults and children under the age
13 of 18 other than minor parents who are applying for or receiving
14 assistance. This system shall provide security and portability
15 throughout the State and between the departments within the State
16 involved in means-tested public assistance programs and shall
17 have the capability of identifying recipients of assistance from
18 all means-tested programs administered or funded through the
19 Department.
20 (b) The identification system established in this section
21 shall use multiple biometrics to ensure greater than ninety-nine
22 percent (99%) accuracy for interdepartmental identification.

1 (c) The Department shall ensure that the biometric
2 identification system will be compatible with any existing
3 departmental biometric identification system.

4 (d) The Department shall make biometric identification a
5 condition of eligibility for Work First, food stamp, child care,
6 and medical assistance programs for all recipients, applicants,
7 and payees, described in subsection (a) of this section. If any
8 recipient, applicant, or payee is denied assistance on the basis
9 of the identification system established in this section, the
10 recipient's, applicant's, or payee's whole case, or group of
11 individuals whose eligibility for public assistance is dependent
12 on all the other group members' financial and nonfinancial
13 situation, shall be denied assistance."

14 Section 2. Section 12.35 of S.L. 1997-443 reads as
15 rewritten:

16 "Section 12.35. The Department of Health and Human Services
17 shall have the uniform system of recipient identification
18 established in G.S. 108A-25.1 in place and operating ~~before~~
19 ~~October 1, 1998,~~ as soon as possible after federal approval of
20 the phase-in process. The Department shall implement the start
21 of the phase-in process no later than October 1, 1999. Except as
22 otherwise provided in this Part, this Part is effective when it
23 becomes law."

24 Section 3. Funds appropriated by S.L. 1997-443 to the
25 Department of Health and Human Services and the Office of State
26 Budget and Management for the Biometrics Recipient Identification
27 System for the 1997-98 fiscal year shall not revert but shall
28 remain available to the Department for this purpose.

29 Section 4. Section 3 of this act becomes effective June
30 30, 1998. The remainder of this act is effective upon becoming
31 law.

~~rules of the Commission. The Department is authorized to revoke or suspend a certificate at any time it determines that the holder no longer meets the qualifications prescribed for emergency medical technicians or for ambulance attendants, medical responders.~~

~~(b) The Commission shall adopt rules setting forth the qualifications required for certification of ambulance attendants, medical responders and emergency medical technicians.~~

~~(b1) An individual currently certified as an emergency medical technician by the National Registry of Emergency Medical Technicians or by another state where the training/certification education/certification requirements have been approved for reciprocity legal recognition by the Department of Human Resources, Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, and who is either currently residing in North Carolina or affiliated with a permitted ambulance provider offering service within North Carolina, may be eligible for certification as an emergency medical technician without examination. This certification shall be valid for a period not to exceed the length of the applicant's original certification or four years, whichever is less.~~

~~(c) Duly authorized representatives of the Department may issue temporary certificates with or without examination upon finding that this action will be in the public interest. Temporary certificates shall be valid for a period not exceeding 90 days."~~

~~Section 11A.129F. G.S. 131E-161 reads as rewritten:~~

~~"§ 131E-161. Violation declared misdemeanor.~~

~~It shall be the responsibility of the ambulance provider to ensure that the ambulance operation complies with the provisions of this Article and all rules adopted for this Article. Upon the violation of any part of this Article or any rule adopted under authority of this Article, the Department shall have the power to revoke or suspend the permits of all vehicles owned or operated by the violator. The operation of an ambulance without a valid permit or after a permit has been suspended or revoked or without an emergency medical technician and ambulance attendant medical responder aboard as required by G.S. 131E-158, shall constitute a Class 1 misdemeanor."~~

~~Section 11A.130. This Part becomes effective when this act becomes law; provided, however, that for purposes of budget and financial records, this section becomes effective July 1, 1997. The Departments by agreement and at the direction of the Office of State Budget and Management shall undertake certification, revisions, and transfer of budget funds and financial records so that State fiscal year financial records, reports, and accounting are maintained as if this Part had become effective July 1, 1997.~~

PART XII. WELFARE REFORM INITIATIVES AND CONFORMING CHANGES

Requested by: Representatives Berry, Howard, Cansler, Morgan, Senators Martin of Guilford, Cooper, Forrester, Winner

SUBPART A. WELFARE REFORM INITIATIVES.

Section 12.1. The title of Part 2 of Article 2 of Chapter 108A of the General Statutes reads as rewritten:

~~"Part 2. Aid to Families with Dependent Children. Work First Program."~~

Section 12.2. G.S. 108A-24 reads as rewritten:

"§ 108A-24. Definitions.

As used in Chapter 108A:

- (1) 'Applicant' is any person who requests assistance or on whose behalf assistance is requested.
- (1a) 'Biometric' means a digitized image of selected features of an individual encoded and processed in a manner that ensures an extraordinarily high correlation between the digital data and the actual characteristics of an individual.
- (1b) 'Community service' means work exchanged for temporary public assistance.
- (1c) 'County block grant' means federal and State money appropriated to implement and maintain a county's Work First Program.
- (1d) 'County department of social services' means a county department of social services, consolidated human services agency, or other local agency designated to administer services pursuant to this Article.
- (1e) 'County Plan' is the biennial Work First Program plan prepared by each county pursuant to this Article and submitted to the Department for incorporation into the State Plan.
- (2) 'Department' is the Department of Human Resources, unless the context clearly indicates otherwise.
- (3) ~~'Dependent child' is a person under 18 years of age who is living with a natural parent, adoptive parent, stepparent, or any other person related by blood, marriage, or legal adoption, in a place of residence maintained by one or more of such persons as his or their own home, and who is deprived of parental support or care; it shall also include a minor who has been eligible for AFDC who is now living in a foster care facility or child caring institution; it shall also include a dependent child in school under 21 years of age as provided by Titles IV-A and XIX of the Social Security Act.~~ or, in the medical assistance program, a person under 19 years of age.
- (3a) 'Electing County' means a county that elects to develop and is approved to administer a local Work First Program.
- (3b) 'Employment' means work that requires either a contribution to FICA or the filing of a State N.C. Form D-400, or the equivalent.
- (3c) 'Family' means a unit consisting of a minor child or children and one or more of their biological parents, adoptive parents, stepparents, or grandparents living together.
- (3d) 'Federal TANF funds' means the Temporary Assistance for Needy Families block grant funds provided for in Title IV-A of the Social Security Act.
- (3e) 'FICA' means the taxes imposed by the Federal Insurance Contribution Act, 26 U.S.C. § 3101, et seq.
- (3f) 'First Stop Employment Assistance' is the program established to assist recipients of Work First Program assistance with employment through job registration, job search, job preparedness, and community service.
- (3g) 'Full-time employment' means employment which requires the employee to work a regular schedule of hours per day and days per week established as the standard full-time workweek by the employer, but not less than an average of 30 hours per week.
- (4) Repealed by Session Laws 1983, c. 14, s. 3.
- (4a) 'Mutual Responsibility Agreement' ('MRA') is an agreement between a county and a recipient of Work First Program assistance

which describes the conditions for eligibility for the assistance and what the county will provide to assist the recipient in moving from assistance to self-sufficiency. A MRA may provide for recipient parental responsibilities and child development goals and what a county or the State will provide to assist the recipient in achieving those child development goals. Improvement in literacy shall be a part of any MRA, but a recipient shall not be penalized if unable to achieve improvement. A MRA is a prerequisite for any Work First Program assistance under this Article.

- (4b) 'Parent' means biological parent or adoptive parent.
- (5) 'Recipient' is a person to whom, or on whose behalf, assistance is granted under this Article.
- (6) 'Resident,' unless otherwise defined by federal regulation, is a person who is living in North Carolina at the time of application with the intent to remain permanently or for an indefinite period; or who is a person who enters North Carolina seeking employment or with a job commitment.
- (7) 'Secretary' is the Secretary of Human Resources, unless the context clearly indicates otherwise.
- (8) 'Standard Program County' means a county that participates in the Standard Work First Program.
- (9) 'Standard Work First Program' means the Work First Program developed by the Department.
- (10) 'State Plan' is the biennial Work First Program plan, based upon the aggregate of the Electing County Plans and the Standard Work First Program, prepared by the Department for the State's Work First Program pursuant to this Article, and submitted sequentially to the Budget Director, to the General Assembly, to the Governor, and to the appropriate federal officials for approval.
- (11) 'Temporary' is a time period, not to exceed 60 cumulative months, which meets the federal requirement of Title IV-A.
- (12) 'Title IV-A' means the Social Security Act, 42 U.S.C. § 601, et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, and to other provisions of federal law as may apply to assistance provided in this Article.
- (13) 'Work' is lawful activity exchanged for cash, goods, uses, or services.
- (14) 'Work First Diversion Assistance' is a short-term cash payment that is intended to substantially reduce the likelihood of a family requiring Work First Family Assistance.
- (15) 'Work First Family Assistance' is a program of time-limited periodic payments to assist in maintaining the children of eligible families while the adult family members engage in activities to prepare for entering and to enter the workplace.
- (16) 'Work First Program' is the Temporary Assistance for Needy Families program established in this Article.
- (17) 'Work First Program assistance' means the goods or services provided under the Work First Program.
- (18) 'Work First Services' are services funded from appropriations made pursuant to this Article and designed to facilitate the purposes of the Work First Program."

Section 12.3. G.S. 108A-25 reads as rewritten:

"§ 108A-25. Creation of programs.

(a) The following programs of public assistance are hereby established, and shall be administered by the county department of social services or the Department of Human Resources under federal regulations or under rules ~~and regulations~~ adopted by the Social Services Commission and under the supervision of the Department of Human Resources:

- (1) ~~Aid to families with dependent children;~~
- (2) State-county special assistance for adults;
- (3) Food stamp program;
- (4) Foster care and adoption assistance payments;
- (5) Low income energy assistance program.

(b) The program of medical assistance is hereby established as a program of public assistance and shall be administered by the county departments of social services under rules ~~and regulations~~ adopted by the Department of Human Resources.

(b1) The Work First Program is established as a program of public assistance and shall be supervised and administered as provided in Part 2 of this Article.

(c) The Department of Human Resources ~~is hereby authorized to~~ may accept all grants-in-aid for programs of public assistance which may be available to the State by the federal government. The provisions of this Article shall be liberally construed in order that the State and its citizens may benefit fully from ~~such~~ the federal grants-in-aid."

Section 12.4. Part 1 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new sections to read:

"§ 108A-25.1. Recipient identification system.

(a) The Department shall establish and maintain a uniform system in the Department and in all counties of identifying all Work First, food stamp, and medical assistance program recipients. This system shall provide security and portability throughout the State and between the departments within the State involved in means-tested public assistance programs and shall have the capability of identifying recipients of assistance from all means-tested programs administered or funded through the Department.

(b) The identification system established in this section shall use multiple biometrics to ensure greater than ninety-nine percent (99%) accuracy for interdepartmental identification.

(c) The Department shall ensure that the biometric identification system will be compatible with any existing departmental biometric identification system.

"§ 108A-25.2. Exemption from limitations for individuals convicted of certain drug-related felonies.

Individuals convicted of Class H or I controlled substance felony offenses in this State shall be eligible to participate in the Work First Program and food stamp program:

- (1) Six months after release from custody if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority; or
- (2) If not committed to custody, six months after the date of conviction if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority.

A county department of social services shall require individuals who are eligible for Work First Program assistance and food stamp benefits pursuant to this section to undergo substance abuse treatment as a condition for receiving Work First Program or food stamp benefits, if funds and programs are available and to the extent allowed by federal law."

Section 12.5. G.S. 108A-27 reads as rewritten:

"§ 108A-27. ~~Authorization of Aid to Families with Dependent Children Program.~~ Authorization and description of Work First Program; Work First Program changes; designation of Electing and Standard Program Counties.

(a) ~~The Department is authorized to shall establish and establish, supervise an Aid to Families with Dependent Children~~ supervise, and monitor the Work First Program. The purpose of the Work First Program is to provide eligible families with short-term assistance to facilitate their movement to self-sufficiency through employment. This program is to be administered by county departments of social services under federal regulations and rules and regulations of the Social Services Commission.

(b) The Work First Program in all counties shall include program administration, First Stop Employment Registration, and three categories of assistance to participants:

- (1) Work First Diversion Assistance;
- (2) Work First Family Assistance; and
- (3) Work First Services.

All counties shall utilize the registration process of the First Stop Employment Assistance Program. All other provisions of the First Stop Employment Assistance Program shall be optional to the counties.

(c) The Department may change the Work First Program when required to comply with federal law. Any changes in federal law that necessitate a change in the Work First Program shall be effected by temporary rule until the next State Plan is approved by the General Assembly. Any change effected by the Department to comply with federal law shall be reported to the Joint Legislative Public Assistance Commission and included in the State Plan submitted during the next session of the General Assembly following the change.

(d) The Department shall allow counties maximum flexibility in the Work First Program while ensuring that the counties comply with federal and State laws and regulations. Subject to any limitations imposed by law, the Department shall allow counties to request to be designated as either Electing Counties or Standard Program Counties in the Work First Program.

(e) All counties shall notify the Department in writing as to whether they desire to be designated as either Electing or Standard Program. A county shall submit in its notification to the Department documentation demonstrating that three-fifths of its county commissioners support its desired designation. Upon receipt of the notification from the county, the Department shall send to the county confirmation of the county's planning designation. A county that desires to be redesignated shall submit a request in writing to the Department at least six months prior to the effective date of the next State Plan. In its request for redesignation, the county shall submit documentation demonstrating that three-fifths of its county commissioners support the redesignation. Upon receipt of the notification from the county, the Department shall send to the county confirmation of the county's planning redesignation. A county's redesignation shall become effective on the effective date of the next State Plan following the redesignation. A county's designation or redesignation shall not be effected except as provided in this Article.

(f) The board of county commissioners in an Electing County shall be responsible for development, administration, and implementation of the Work First Program in that county.

(g) The county department of social services in a Standard Program County shall be responsible for administering and implementing the Standard Work First Program in that county.

(h) The Department and Electing Counties, in developing an Electing County Work First Program or the Standard Work First Program, may distinguish among potential groups of recipients on whatever basis necessary to enhance program purposes and to maximize federal revenues, so long as the rights, including the constitutional rights of equal protection and due process, of individuals are protected. The Department and Electing Counties may provide Work First Program assistance to legal immigrants on the same basis as citizens to the extent permitted by federal law."

Section 12.6. Part 2 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new sections:

"§ 108A-27.1. Time limitations on assistance.

(a) Under the Standard Work First Program, unless an extension or an exemption is provided pursuant to the provisions of this Part or the State Plan, any cash assistance provided to a person or family in the employment program shall only be provided for a cumulative total of 24 months. After having received cash assistance for 24 months, the person or the family may reapply for cash assistance, but not until after 36 months from the last month the person or the family received cash assistance. This subsection shall not apply to child-only cases.

(b) Electing Counties may set any time limitations on assistance it finds appropriate, so long as the time limitations do not conflict or exceed any federal time limitations.

"§ 108A-27.2. General duties of the Department.

The Department shall have the following general duties with respect to the Work First Program:

- (1) Provide technical assistance to counties developing and implementing their County Plans, including providing information concerning applicable federal law and regulations and changes to federal law and regulations that affect the permissible use of federal funds and scope of the Work First Program in a county;
- (2) Describe authorized federal and State work activities;
- (3) Define requirements for assignment of child support income and compliance with child support activities;
- (4) Establish a schedule for counties to submit their County Plans to ensure that all Standard County Plans are adopted by the Standard Program Counties by January 15 of each even-numbered year and all Electing County Plans are adopted by Electing Counties by February 1 of each even-numbered year and review and then recommend a State Plan to the General Assembly;
- (5) Ensure that the County Plans comply with federal and State laws, rules, and regulations, are consistent with the overall purposes and goals of the Work First Program, and maximize federal receipts for the Work First Program;
- (6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal laws and regulations and submit it to the Budget Director for approval;
- (7) Submit the State Plan, as approved by the Budget Director, to the General Assembly for approval;
- (8) Report monthly to the Joint Legislative Public Assistance Commission on the monthly progress reports submitted by the counties to the Department;

- (9) Develop and implement a system to monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Work First Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance. State and county agencies shall cooperate in providing information needed to conduct these evaluations, sharing data and information except where prohibited specifically by federal law or regulation;
- (10) Monitor the performance of counties relative to their County Plans and the overall goals of the Work First Program and report every six months to the Director of the Budget and the Joint Legislative Public Assistance Commission and annually to the General Assembly on the counties' attainment of the outcomes and goals;
- (11) Provide quarterly progress reports to the county departments of social services, the county boards of commissioners, and the Joint Legislative Public Assistance Commission on the performance of counties in achieving Work First Program expectations;
- (12) Report to the Joint Legislative Public Assistance Commission and the House and Senate Appropriations Subcommittees on Human Resources the counties which have requested Electing status, provide copies of the proposed Electing County Plans to the Joint Legislative Public Assistance Commission and the House and Senate Appropriations Subcommittees on Human Resources, and make recommendations to the Joint Legislative Public Assistance Commission, the chairs of the House and Senate Subcommittees on Human Resources, and the General Assembly on which of the proposed Electing County Plans ensure compliance with federal and State laws, rules, and regulations and are consistent with the overall purposes and goals for the Work First Program; and
- (13) Make recommendations to the General Assembly for approval of counties to become Electing Counties which represent, in aggregate, no more than fifteen and one-half percent (15.5%) of the total Work First caseload at October 1 of each year and, for each county submitting a plan, the reasons individual counties were or were not recommended.

"§ 108A-27.3. Electing Counties -- Duties of county boards of commissioners.

(a) The duties of the county boards of commissioners in Electing Counties under the Work First Program are as follows:

- (1) Establish county outcome and performance goals based on county economic, educational, and employment factors and adopt criteria for determining the progress of the county in moving persons and families to self-sufficiency;
- (2) Establish eligibility criteria for recipients;
- (3) Prescribe the method of calculating benefits for recipients;
- (4) Determine and list persons and families eligible for the Work First Program;
- (5) If made a part of the county's Work First Program, develop and enter into Mutual Responsibility Agreements with Work First Program recipients and ensure that the services and resources that are needed to assist participants to comply with the obligations under their Mutual Responsibility Agreements are available;

- (6) Ensure that participants engage in the minimum hours of work activities required by Title IV-A;
- (7) Provide community service work for any recipient who cannot find employment;
- (8) Make payments of Work First Diversion Assistance and Work First Family Assistance to recipients having MRAs;
- (9) Monitor compliance with Mutual Responsibility Agreements and enforce the agreement provisions;
- (10) Monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance, and report the findings to the Department quarterly;
- (11) Ensure compliance with applicable State and federal laws, rules, and regulations for the Work First Program;
- (12) Develop, adopt, and submit to the Department a biennial County Plan;
- (13) Provide monthly progress reports to the Department in a format to be determined by the Department;
- (14) Develop and implement an appeals process for the county's Work First Program that substantially complies with G.S. 108A-79.

(b) The county board of commissioners shall not delegate the responsibilities described in subdivisions (a)(1), (a)(11), and (a)(12) of this section but may delegate other duties to public or private entities. Notwithstanding any delegation of duty, the county board of commissioners shall remain accountable for its duties under the Work First Program.

(c) The county board of commissioners shall appoint a committee of individuals to identify the needs of the population to be served and to review and assist in developing the County Plan to respond to the needs. The committee membership shall include, but is not limited to, representatives of the county board of social services, the board of the area mental health authority, the local public health board, the local school systems, the business community, the board of county commissioners and community-based organizations representative of the population to be served.

(d) The county board of commissioners shall review and approve the County Plan for submission to the Department.

"§ 108A-27.4. Electing Counties -- County Plan.

(a) Each Electing County shall submit to the Department, according to the schedule established by the Department and in compliance with all federal and State laws, rules, and regulations, a biennial County Plan.

(b) An Electing County's County Plan shall have at least the following five parts:

- (1) Part I. Conditions Within the County;
- (2) Part II. Outcomes and Goals for the County;
- (3) Part III. Plans to Achieve and Measure the Outcomes and Goals;
- (4) Part IV. Administration; and
- (5) Part V. Funding Requirements.

(c) Funding requirements shall, at least, identify the amount of a county block grant for Work First Diversion Assistance, a county block grant for Work First Family Assistance, a county block grant for Work First Services, and the county's maintenance of effort contribution. A county may establish a reserve.

(d) The County Plans in Electing Counties may provide that in cases where benefits are paid only for a child, the case is considered a family case.

(e) Each county shall include in its County Plan the following:

- (1) The number of MRAs entered into by the county;
- (2) A description of the county's plans for serving families who need child care, transportation, substance abuse services, and employment support based on the needs of the community and the availability of services and funding;
- (3) A list of the community service programs equivalent to full-time employment that are being offered to Work First Program recipients who are unable to find full-time employment;
- (4) A description of the county's eligibility criteria, benefit calculation, and any other policies adopted by the county relating to eligibility, terms, and conditions for receiving Work First Program assistance, including sanctions, asset and income requirements, time limits and extensions, rewards, exemptions, and exceptions to requirements. If an Electing County Plan proposes to change eligibility requirements, benefits levels, or reduce maintenance of effort, the county shall describe the reasons for these changes and how the county intends to utilize the maintenance of effort savings;
- (5) A description of how the county plans to utilize public and private resources to assist in moving persons and families to self-sufficiency; and
- (6) Any request to the Department for waivers to rules or any proposals for statutory changes to remove any impediments to implementation of the County's Plan.

(f) Each county shall provide to the general public an opportunity to review and comment upon its County Plan prior to its submission to the Department.

(g) A county may modify its County Plan once each biennium but not at any other time unless the county notifies the Department of the proposed modification and the Department determines that the proposed modification is consistent with State and federal law and the goals for the Work First Program.

"§ 108A-27.5. Electing Counties -- Duties of the Department.

In addition to the general duties prescribed in G.S. 108A-27.3, the Department shall have the following duties with respect to establishing, supervising, and monitoring the Work First Program in Electing Counties while allowing Electing Counties maximum flexibility in designing and implementing County Plans:

- (1) Coordinate activities of other State agencies providing technical support to counties developing their County Plans;
- (2) At the request of the counties, provide assistance to counties in their activities with private sector individuals and organizations relative to County Plans; and
- (3) Establish the baseline for the State maintenance of effort.

"§ 108A-27.6. Standard Program Counties -- Duties of county departments of social services and county boards of commissioners.

(a) Except as otherwise provided in this Article, the Standard Work First Program shall be administered by the county departments of social services. The county departments of social services in Standard Program Counties shall:

- (1) In consultation with the Department and the county board of commissioners, establish outcome and performance goals for each Standard Program County, based on economic factors and conditions in that county, aimed at reducing child poverty by means of goals that measure the increased numbers of persons employed, the increased numbers of hours worked by and wages earned by recipients, and other measures of child well-being;

- (2) Determine eligibility of persons and families for the Work First Program;
- (3) Enter into Mutual Responsibility Agreements with participants if required under the State Plan and ensure that the services and resources that are needed to assist participants to comply with their obligations under their Mutual Responsibility Agreements are available;
- (4) Comply with State and federal law relating to Work First and Title IV-A;
- (5) Develop the County Plans for submission by the counties to the Department;
- (6) Ensure that participants engage in the minimum hours of work activities required by the State Plan and Title IV-A;
- (7) Ensure that the components of the Work First Program are funded solely from authorized sources and that federal TANF funds are used only for purposes and programs authorized by federal and State law;
- (8) Monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance, and report the findings to the Department quarterly; and
- (9) Provide monthly progress reports to the Department, in a format to be determined by the Department.

(b) In consultation with the Department, a county department of social services may delegate any of its duties under this Article to another public agency or private contractor. Prior to delegating any duty, a county department of social services shall submit its proposed delegation to the Department as the Department may provide. Notwithstanding any delegation of duty, a county department of social services shall remain accountable for its duties under the Work First Program.

(c) The county board of commissioners shall appoint a committee of individuals to identify the needs of the population to be served and to review and assist in developing the County Plan to respond to the needs. The committee membership shall include, but is not limited to, representatives of the county board of social services, the board of the area mental health authority, the local public health board, the local school systems, the business community, the board of county commissioners, and community-based organizations representative of the population to be served.

(d) The county board of commissioners shall review and approve the County Plan for submission to the Department.

"§ 108A-27.7. Standard Program County Plan.

(a) Each Standard Program County shall submit to the Department for approval a biennial County Plan that describes the Work First Diversion Assistance and Work First Services the county proposes to offer.

(b) Prior to submitting its County Plan to the Department, a county shall provide the public with an opportunity to review and comment upon it.

(c) The County Plan of a Standard Program County shall include a description of how the county will:

- (1) Utilize both public and private resources to assist in moving persons and families to self-sufficiency;
- (2) Serve families who need child care, transportation, substance abuse services, and employment support based on the needs of the community and the availability of services and funding; and

- (3) Address the needs of persons and families in any other areas specified by the Department.

"§ 108A-27.8. Standard Program Counties -- Duties of Department.

(a) The Department shall establish, develop, supervise, and monitor the Standard Work First Program. In addition to its general duties prescribed in G.S. 108A-27.2, the Department shall have the following duties with respect to the Standard Work First Program and the Standard Program Counties:

- (1) Establish the requirements for the content of County Plans and review and approve the County Plans submitted by the Standard Program Counties;
- (2) Advise and assist the Social Services Commission in adopting rules necessary to implement the provisions of this Article;
- (3) Supervise disbursement of county block grants to the Standard Program Counties for Work First Services;
- (4) Make payments of Work First Family Assistance and Work First Diversion Assistance;
- (5) Coordinate activities of other State and county agencies in meeting the goals of the Work First Program;
- (6) Work with State and county agencies and with private sector organizations and individuals to develop programs and methods to meet the goals of the Work First Program; and
- (7) Develop a Mutual Responsibility Agreement for use by Standard Program Counties.

(b) The Secretary, in consultation with the Office of State Budget and Management, may adopt temporary rules when necessary to:

- (1) Implement provisions of the State Plan;
- (2) Maximize federal revenues to prevent the loss of federal funds;
- (3) Enhance the ability of the Department to prevent fraud and abuse in the Work First Program; and
- (4) Modify the provisions in the State Plan as necessary to meet changed circumstances after approval of the State Plan.

(c) The Social Services Commission may adopt rules in accordance with G.S. 143B-153 when necessary to implement this Article and subject to delegation by the Secretary of any rule-making authority to implement the provisions of the State Plan.

"§ 108A-27.9. State Plan.

(a) The Department shall prepare and submit to the Director of the Budget, in accordance with the procedures established in G.S. 143-16.1 for federal block grant funds, a biennial State Plan that proposes the goals and requirements for the State and the terms of the Work First Program for each fiscal year. Prior to submitting a State Plan to the General Assembly, the Department shall submit the State Plan to the Joint Legislative Public Assistance Commission for its review and then consult with local governments and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from them.

(b) The State Plan shall consist of generally applicable provisions and two separate sections, one proposing the terms of the Work First Program in Electing Counties, and the other proposing the terms for the Standard Work First Program.

(c) The State Plan shall include the following generally applicable provisions:

- (1) Provisions to ensure that no Work First Program recipients, required to participate in work activities, shall be employed or assigned when:
 - a. Any regular employee is on layoff from the same or substantially equivalent job;

- b. An employer terminates any regular employee or otherwise causes an involuntary reduction in the employer's workforce in order to hire Work First recipients; or
- c. An employer otherwise causes the displacement of any currently employed worker or positions, including partial displacements such as reductions in hours of nonovertime work, wages, or employment benefits, in order to hire Work First recipients;
- (2) Provisions to ensure the establishment and maintenance of grievance procedures to resolve complaints by regular employees who allege that the employment or assignment of a Work First Program recipient is in violation of subdivision (3) of this subsection;
- (3) Provisions to ensure that Work First Program participants, required to participate in work activities, shall be subject to and have the same rights under federal, State, or local laws applicable to non-Work First Program employees in similarly situated work activities, including, but not limited to, wage and hour laws, health and safety standards, and nondiscrimination laws, provided that nothing in this subdivision shall be construed to prohibit Work First Program participants from receiving additional State or county services designed to assist Work First Program participants achieve job stability and self-sufficiency;
- (4) A description of eligible federal and State work activities;
- (5) Requirements for assignment of child support income and compliance with child support activities;
- (6) Incentives for high-performing counties, contingency plans for counties unable to meet financial commitments during the term of the State Plan, and sanctions against counties failing to meet performance expectations, including allocation of any federal penalties that may be assessed against the State as a result of a county's failure to perform; and
- (7) Anything else required by federal or State law, rule, or regulation to be included in the State Plan.

(d) The section of the State Plan proposing the terms of the Work First Program in Electing Counties shall be based upon the aggregate of the Electing County Plans and shall include the following:

- (1) Allocations of federal and State funds for Electing Counties in the Work First Program including block grants to counties and the allocation of funding for administration not to exceed the federally established limitations on the use of federal TANF funds and the limits imposed under this Article;
- (2) Maintenance of effort and levels of State and county funding for Electing Counties in the Work First Program;
- (3) Federal eligibility requirements and a description of the eligibility requirements and benefit calculation in each Electing County; and
- (4) A description of the federal, State, and each Electing County's financial participation in the Work First Program.

The Department may modify the section in the State Plan regarding Electing Counties once a biennium or except as necessary to reflect any modifications made by an Electing County. Any changes to the section of the State Plan regarding Electing Counties shall be reported to the Joint Legislative Public Assistance

Commission at the next meeting of the Commission following the changes and to the General Assembly during the next session following the changes.

(e) The section of State Plan describing the Standard Work First Program shall include:

- (1) Benefit levels, limitations, and payments and the method for calculating benefit levels and payments;
- (2) Eligibility criteria, including asset and income standards;
- (3) Any exceptions or exemptions proposed to work requirements;
- (4) Provisions for when extensions may be granted to a person or family who reaches the time limit for receipt of benefits;
- (5) Provisions for exceptions and exemptions to criteria, time limits, and standards;
- (6) Provisions for sanctions for recipient failure to comply with program requirements;
- (7) Terms and conditions for repayment of Work First Diversion Assistance by recipients who subsequently receive Work First Family Assistance;
- (8) Allocations of federal, State, and county funds for the Standard Work First Program, including county block grants to the counties for Work First Services;
- (9) Levels of State and county funding for the Standard Work First Program;
- (10) Allocation for funding for administration at the State and local level not to exceed the federally established limitations on use of federal TANF funds for program administration; and
- (11) A description of the Department's consultation with local governments and private sector organizations and a summary of any comments received during the 45-day public comment period.

(f) In addition to those items required to be included pursuant to subsection (e) of this section, the State Plan may include proposals to establish the following as part of the Standard Work First Program:

- (1) Demonstration projects in one or more counties to assess the value of any proposed changes in State policy or to test ways to improve programs; and
- (2) Requirement that recipients shall be required to enter into and comply with Mutual Responsibility Agreements as a condition of receiving benefits. If provided for in the State Plan, the terms and conditions of Mutual Responsibility Agreements shall be consistent with program purposes, federal law, and availability of funds.

(g) The State Plan may provide for automatic Medicaid eligibility for all Work First Program recipients.

(h) The State Plan may provide that in cases where benefits are paid only for a child, the case is considered a family case.

"§ 108A-27.10. Duties of the Director of the Budget/Governor.

(a) The Director of the Budget shall, by May 15 of each even-numbered calendar year, approve and recommend adoption by the General Assembly of the State Plan.

(b) At the beginning of every fiscal year, the Director of the Budget shall report to the General Assembly the number of permanent State employees who have been Work First Program recipients during the previous calendar year.

(c) After the State Plan has become law, the Governor shall sign it and cause it to be submitted to federal officials in accordance with federal law.

"§ 108A-27.11. Work First Program funding.

(a) County block grants, except funds for Work First Family Assistance, shall be computed based on the percentage of each county's total AFDC (including AFDC-EA) and JOBS expenditures, except expenditures for cash assistance, to statewide actual expenditures for those programs in fiscal year 1995-96. The resulting percentage shall be applied to the State's total budgeted funds, except funds budgeted for Work First Family Assistance, for Work First Program expenditures at the county level.

(b) The following shall apply to funding for Standard Program Counties:

- (1) The Department shall make payments of Work First Family Assistance and Work First Diversion Assistance subject to the availability of federal, State, and county funds.
- (2) The Department shall reimburse counties for county expenditures under the Work First Program subject to the availability of federal, State, and county funds.

(c) Each Electing County's allocation for Work First Family Assistance shall be computed based on the percentage of each Electing County's total expenditures for cash assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting percentage shall be applied to the total budgeted funds for Work First Family Assistance. The Department shall transmit the federal funds contained in the county block grants to Electing Counties as soon as practicable after they become available to the State and in accordance with federal cash management laws and regulations. The Department shall transmit one-fourth of the State funds contained in county block grants to Electing Counties at the beginning of each quarter. Once paid, the county block grant funds shall not revert.

"§ 108A-27.12. Maintenance of effort.

(a) The Department shall define in the State Plan or by rule the term 'maintenance of effort' based on that term as defined in Title IV-A and shall provide to counties a list of activities that qualify for federal maintenance of effort requirements.

(b) If a county fails to comply with the maintenance of effort requirement in subsection (a) of this section, the Director of the Budget may withhold State moneys appropriated to the county pursuant to G.S. 108A-93.

(c) The Department shall maintain the State's maintenance of effort at one hundred percent (100%) of the amount the State budgeted for programs under this Part during fiscal year 1996-97.

(d) For Standard Program Counties, using the preceding fiscal year as the base year, counties shall maintain a financial commitment to the Work First Program equal to the proportion of State funds allocated to the Work First Program. At no time shall a Standard Program County reduce State or county funds previously obligated or appropriated for child welfare services.

(e) During the first year a county operates as an Electing County, the county's maintenance of effort shall be no less than ninety percent (90%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97. If during the first year of operation as Electing the Electing County achieves one hundred percent (100%) of its goals as set forth in its Electing County Plan, then the Electing County may reduce its maintenance of effort to eighty percent (80%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97 for the second year of the Electing County's operation and for all years thereafter that the county maintains Electing status.

"§ 108A-27.13. Performance standards.

(a) The Department, in consultation with the county department of social services and county board of commissioners, shall establish acceptable levels of performance for Standard Program Counties in meeting Work First expectations, measured by

outcome and performance goals contained in the State Plan. The Department shall establish monitoring mechanisms and reporting requirements to assess progress toward the goals. The well-being of children and economic factors and conditions within the counties, including the increased numbers of persons employed and increased numbers of hours worked by and wages earned by recipients, shall be considered by the Department.

(b) Electing County performance shall be judged upon the county's ability to attain the outcomes and goals established in that county's County Plan.

(c) All adult recipients of Work First Program assistance are expected to achieve full-time employment, subject to applicable exceptions. Adult recipients of Work First Program assistance shall comply with the provisions and requirements in their MRAs.

"§ 108A-27.14. Corrective action.

(a) When any county fails to meet acceptable levels of performance, the Department may take one or more of the following actions to assist the county in meeting its Work First goals:

- (1) Notify the county of the deficiencies and add additional monitoring and reporting requirements.
- (2) Require the county to develop and submit for approval by the Department a corrective action plan.

(b) If any Standard Program County fails to meet acceptable levels of performance for two consecutive years, or fails to comply with a corrective action plan developed pursuant to this section, the Department may assume control of the county's Work First Program, appoint an administrator to administer the county's Work First Program, and exercise the powers assumed to administer the Work First Program either directly or through contract with private or public agencies. County funding shall continue at levels established by the State Plan when the State has assumed control of a county Work First Program. At no time after the State has assumed control of a Work First Program shall a county withdraw funds previously obligated or appropriated to the Work First Program.

(c) If an Electing County fails to achieve its Work First Program goals for two consecutive years, or fails to comply with a corrective action plan developed pursuant to this section, and as a result the federal government imposes a penalty upon the State, then the county shall lose its Electing County status.

"§ 108A-27.15. Assistance not an entitlement; appeals.

(a) Any assistance programs established under this Part, whether administered by the Department or the counties, are not entitlements, and nothing in this Part shall create any property right.

(b) The Standard Work First Program is a program of temporary public assistance for the purpose of an appeal under G.S. 108A-79.

"§ 108A-27.16. Use of Work First Reserve Fund.

(a) By the fifteenth of each month, the Secretary shall certify to the Director of the Budget and the Fiscal Research Division of the General Assembly the actual expenditures for Work First Family Assistance for the fiscal year up until the beginning of that month and the projected expenditures for the remainder of the fiscal year. If on March 1 the actual expenditures for the fiscal year exceed two-thirds of the total amount of expenditures expected for the entire fiscal year, then the Secretary shall attempt to access any available federal funds. If federal funds are unavailable and the General Assembly is not in session, the Director of the Budget may, in the order below:

- (1) Use funds available from the Work First Reserve Fund established pursuant to G.S. 143-15.3C;
- (2) Use funds available to the Department; or

(3) Notwithstanding G.S. 143-23, use funds available from other departments, institutions, or other spending agencies of the State.

(b) The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Public Assistance Commission, and the House of Representatives and Senate Appropriations Subcommittees on Human Resources prior to making any transfer pursuant to this section.

(c) Except as provided in this section, funds from the Work First Reserve Fund established pursuant to G.S. 143-15.3C shall not be expended until appropriated by the General Assembly."

Section 12.7. (a) G.S. 108A-29 reads as rewritten:

"§ 108A-29. Limitations on eligibility. First Stop Employment Assistance; priority for employment services.

~~(a) The Social Services Commission shall adopt such administrative rules concerning work requirements as conditions of eligibility for Aid to Families with Dependent Children in order to be in compliance with federal regulations, but such rules shall not be more restrictive than the work requirements applicable to the Job Opportunities and Basic Skills Training Program provided for in G.S. 108A-30.~~

(a1) There is established in the Department of Commerce a program to be called First Stop Employment Assistance. The Secretary of the Department of Commerce shall administer the program with the participation and cooperation of the Employment Security Commission, county boards of commissioners, the Department of Health and Human Services, the Department of Labor, the Department of Crime Control and Public Safety, and the community college system. The responsibilities of each agency shall be specified in a Memorandum of Understanding between the Departments of Commerce and Health and Human Services, in consultation with the Employment Security Commission, the Department of Labor, and the community college system. The Employment Security Commission shall be the presumptive primary deliverer of job placement services for the Work First Program.

(a2) Individuals seeking to apply or reapply for Work First Program assistance and who are not exempt from work requirements shall register with the First Stop Employment Assistance Program. The point of registration shall be at an office of the Employment Security Commission in the county in which the individual resides or at another location designated in a Memorandum of Understanding between the Employment Security Commission and the local department of social services.

(a3) Individuals who are not otherwise exempt shall present verification of registration at the time of applying for Work First Program assistance. Unless exempt, the individual shall not be approved for Work First Program assistance until verification is received. Child-only cases are exempt from this requirement.

(a4) The Employment Security Commission shall expand its Labor Market Information System. The expansion shall at least include: statistical information on unemployment rates and other labor trends by county; and publications dealing with licensing requirements, economic development, and career projections, and information technology systems which can be used to track participants through the employment and training process.

(a5) The Employment Security Commission shall be the primary job placement entity of the Work First Program. The Employment Security Commission shall assist registrants through job search, job placement, or referral to community service.

(a6) At the county's option, the Employment Security Commission, in consultation with and with the assistance of the agencies specified in the Memorandum of Understanding described in subsection (a2) of this section, shall provide to Work First Program registrants the continuum of services available through its Employment Services division. Each County Plan may provide that the county department of social services enter into a cooperative agreement with the

Employment Security Commission for job registration, job search, and job placement on behalf of Work First Program registrants. The cooperative agreement shall include a provision for payment to the Employment Security Commission by the county department of social services for the cost of providing the services described in this subsection as the same are reflected as a component of the County Plan payable from fund allocations in the county block grant.

(a7) If after evaluation of an individual the Employment Security Commission believes it necessary, the Employment Security Commission also may refer an individual placed in the Job Preparedness component of the First Stop Employment Program to a local community college for enrollment in General Education Development, Adult Basic Education, or Human Resources Development programs which are already in existence. Additionally, the Commission may refer an individual to a literacy council. Through a Memorandum of Understanding between the Employment Security Commission and the local department of social services, a system shall be established to monitor an individual's progress through close communications with the agencies assisting the individual. The Employment Security Commission shall adopt rules to accomplish this subsection.

(a8) The Job Preparedness component of the Program shall last a maximum of 12 weeks unless the recipient is registered and is satisfactorily progressing in a program that requires additional time to complete. Every reasonable effort shall be made to place the recipient in part-time employment or part-time community service if the time required exceeds the 12-week maximum. The Employment Security Commission may contract with service providers to provide the services described in this section and shall monitor the provision of the services by the service providers.

(a9) An individual placed in the Job Search component of the First Stop Employment Program shall look for work and shall accept any suitable employment. The Employment Security Commission shall refer individuals to current job openings and shall make job development contacts for individuals. Individuals shall be required to keep a record of their job search activities on a job search record form provided by the Commission, and the Employment Security Commission will monitor these activities. A 'job search record' means a written list of dates, times, places, addresses, telephone numbers, names, and circumstances of job interviews. The Job Search component shall include at least one weekly contact with the Employment Security Commission. The Employment Security Commission shall adopt rules to accomplish this subsection.

(a10) The Employment Security Commission shall work with the Department of Labor to develop a relationship with these private employment agencies to utilize their services and make referrals of individuals registered with the Employment Security Commission.

(a11) The Employment Security Commission shall notify all employers in the State of the 'Exclusive No-Fault' Referral Service available through the Employment Security Commission to employers who hire personnel through Job Service referrals.

(a12) All individuals referred to jobs through the Employment Security Commission shall be instructed in the procedures for applying for the Federal Earned Income Credit (FEIC). All individuals referred to jobs through the Employment Security Commission who qualify for the FEIC shall apply for the FEIC by filing a W-5 form with their employers.

(a13) The FEIC shall not be counted as income when eligibility is determined for Work First Program assistance, Medicaid, food stamps, subsidies, public housing, or Supplemental Security Income.

(a14) An individual who has not found a job within 12 weeks of being placed in the Job Search component of the Program may also be placed in the Community Service component at the county's option.

(a15) Once an individual has registered as required in subsection (a2) of this section and upon verification of the registration by the agency or contractor providing the Work First Program assistance, the individual's eligibility for Work First Program assistance may be evaluated and the application completed. Continued receipt of Work First Program benefits is contingent upon successful participation in the First Stop Employment Program, and lack of cooperation and participation in the First Stop Employment Program may result in the termination of benefits to the individual.

(a16) The county board of commissioners shall determine which agencies or nonprofit or private contractors will participate with the Employment Security Commission and the local department of social services in developing the rules to implement the First Stop Employment Program.

(a17) Each county shall organize a Job Service Employer Committee, based on the membership makeup of the Job Service Employer Committees in existence at the time this act becomes law. Each Job Service Employer Committee in counties participating in the First Stop Employment Program shall oversee the operation of the Program in that county and shall report to the local Employment Security Commission quarterly on its recommendations to improve the First Stop Employment Program. The Employment Security Commission shall develop the reporting method and time frame and shall coordinate a full report to be presented to the Joint Legislative Public Assistance Commission by the end of each calendar year. Counties having a Workforce Development Board may designate the Board to perform the duties described in this section rather than organizing a Job Service Employer Committee.

(b) Members of families with dependent children and with aggregate family income at or below the level required for eligibility for ~~Aid to Families with Dependent Children assistance~~, Work First Family Assistance, regardless of whether or not they have applied for such assistance, shall be given priority in obtaining ~~manpower employment~~ community service services including training and ~~public service employment~~ community service provided by or through State agencies or counties or with funds which are allocated to the State of North Carolina directly or indirectly through prime sponsors or otherwise for the purpose of employment of unemployed persons.

(c) [Repealed.]

(b) Each county's Job Service Employer Committee or Workforce Development Board shall develop a study of the "working poor" in their respective counties and shall include the following in the study:

- (1) Determine the extent to which current labor market participation enables individuals and families to earn the amount of disposable income necessary to meet their basic needs;
- (2) Determine how many North Carolinians work and earn wages below one hundred fifty percent (150%) of the Federal Poverty Guideline and study trends in the size and demographic profiles of this underemployed group within the respective county;
- (3) Examine job market factors that contribute to any changes in the composition and numbers of the working poor including, but not limited to, shifts from manufacturing to service, from full-time to part-time work, from permanent to temporary or their contingent employment;
- (4) Consider and determine the respective responsibilities of the public and private sectors in ensuring that working families and individuals have disposable income adequate to meet their basic needs;

- (5) Evaluate the effectiveness of the unemployment insurance system in meeting the needs of low-wage workers when they become unemployed;
- (6) Examine the efficacy of a State earned income tax credit that would enable working families to meet the requirements of the basic needs budget;
- (7) Examine the wages, benefits, and protections available to part-time and temporary workers, leased employees, independent contractors, and other contingent workers as compared to regular full-time workers;
- (8) Solicit, receive, and accept grants or other funds from any person or entity and enter into agreements with respect to these grants or other funds regarding the undertaking of studies or plans necessary to carry out the purposes of the committee; and
- (9) Request any necessary data from either public or private entities that relate to the needs of the committee or board.

Each committee or board shall prepare and submit a report on the finding for the county which it represents by May 1, 1998, to the Joint Legislative Public Assistance Commission, the House of Representatives and Senate Appropriations Subcommittees on Human Resources and Natural and Economic Resources. Each committee or board may involve the Department of Commerce in conducting its study and preparing the report.

(c) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of one million five hundred thousand two hundred two dollars (\$1,500,202) for fiscal year 1997-98 shall be allocated to the Department of Commerce for the following purposes:

- (1) To establish First Stop Employment Assistance in the Department of Commerce;
- (2) To expand the Labor Market Information System in the Employment Security Commission; and
- (3) To assist the Job Service Employer Committees or the Workforce Development Boards in their completion of the study of the working poor.

The Department of Commerce shall report its recommendations regarding future funding of the First Stop Employment Assistance Program to the 1997 General Assembly, 1998 Regular Session, upon its convening.

(d) G.S. 126-7.1 reads as rewritten:

"§ 126-7.1. Posting requirement; State employees receive priority consideration; reduction-in-force rights; rights; Work First hiring.

(a) All vacancies for which any State agency, department, or institution openly recruit shall be posted within at least the following:

- (1) The personnel office of the agency, department, or institution having the vacancy; and
- (2) The particular work unit of the agency, department, or institution having the vacancy

in a location readily accessible to employees. If the decision is made, initially or at any time while the vacancy remains open, to receive applicants from outside the recruiting agency, department, or institution, the vacancy shall be listed with the Office of State Personnel for the purpose of informing current State employees of such vacancy. The State agency, department, or institution may not receive approval from the Office of State Personnel to fill a job vacancy if the agency, department, or institution cannot prove to the satisfaction of the Office of State Personnel that it complied with these posting requirements. The agency, department, or institution

which hires any person in violation of these posting requirements shall pay such person when employment is discontinued as a result of such violation for the work performed during the period of time between his initial employment and separation.

(a1) State employees to be affected by a reduction in force shall be notified of the reduction in force as soon as practicable, and in any event, no less than 30 days prior to the effective date of the reduction in force.

(a2) The State Personnel Commission shall adopt rules to provide that priority consideration for State employees separated from State employment as the result of reductions in force is to enable a State employee's return to career service at a salary grade and salary rate equal to that held in the most recent position. The State Personnel Commission shall provide that a State employee who:

- (1) Accepts a position at the same salary grade shall be paid at the same salary rate as the employee's previous position.
- (2) Accepts a position at a lower salary grade than the employee's previous position shall be paid at the same rate as the previous position unless the salary rate exceeds the maximum of the new salary grade. When the salary rate exceeds the maximum of the salary grade, the employee's new salary rate shall be reduced to the maximum of the new salary grade.

(b) Subsection (a) of this section does not apply to vacancies which must be filled immediately to prevent work stoppage or the protection of the public health, safety, or security.

(c) If a State employee subject to this section:

- (1) Applies for another position of State employment that would constitute a promotion and;
- (2) Has substantially equal qualifications as an applicant who is not a State employee

then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees.

(c1) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force:

- (1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and
- (2) Is determined qualified for that position

then within all State agencies, the State employee shall receive priority consideration over all other applicants but shall receive equal consideration with other applicants who are current State employees not affected by the reduction in force. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal. The reduction-in-force priority created by this subsection shall be administered in accordance with rules promulgated by the State Personnel Commission.

(c2) If the applicants for reemployment for a position include current State employees, a State employee with more than 10 years of service shall receive priority consideration over a State employee having less than 10 years of service in the same or related position classification. This reemployment priority shall be given by all State departments, agencies, and institutions with regard to positions subject to this Chapter.

(d) 'Qualifications' within the meaning of subsection (c) of this section shall consist of:

- (1) Training or education;
- (2) Years of experience; and
- (3) Other skills, knowledge, and abilities that bear a reasonable functional relationship to the abilities and skills required in the job vacancy applied for.

(e) Each State agency, department, and institution is encouraged to hire into State government employment qualified applicants who are current or former Work First Program participants."

Section 12.8. Chapter 108A of the General Statutes is amended by adding a new section to read:

"§ 108A-29.1. Substance abuse treatment required; drug testing for Work First Program recipients.

(a) Each applicant or current recipient of Work First Program benefits, determined by a Qualified Substance Abuse Professional (QSAP) or by a physician certified by the American Society of Addiction Medicine (ASAM) to be addicted to alcohol or drugs and to be in need of professional substance abuse treatment services shall be required, as part of the person's MRA and as a condition to receiving Work First Program benefits, to participate satisfactorily in an individualized plan of treatment in an appropriate treatment program. As a mandatory program component of participation in an addiction treatment program, each applicant or current recipient shall be required to submit to an approved, reliable, and professionally administered regimen of testing for presence of alcohol or drugs, without advance notice, during and after participation, in accordance with the addiction treatment program's individualized plan of treatment, follow-up, and continuing care services for the applicant or current recipient.

(b) An applicant or current recipient who fails to comply with any requirement imposed pursuant to this section shall not be eligible for benefits or shall be subject to the termination of benefits, but shall be considered to be receiving benefits for purposes of determining eligibility for medical assistance.

(c) The children of any applicant or current recipient shall remain eligible for benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

(d) An applicant or current recipient shall not be regarded as failing to comply with the requirements of this section if an appropriate drug or alcohol treatment program is unavailable.

(e) Area mental health authorities organized pursuant to Article 4 of Chapter 122C of the General Statutes shall be responsible for administering the provisions of this section.

(f) The requirements of this section may be waived or modified as necessary in the case of individual applicants or recipients to the degree necessary to comply with Medicaid eligibility provisions."

Section 12.8A. G.S. 108A-31 reads as rewritten:

"§ 108A-31. Application for assistance.

Any person ~~or his representative~~ who believes that ~~he or another~~ the person is eligible to receive ~~aid to families with dependent children~~ Work First Program assistance may apply for assistance to the county department of social services in the county in which the ~~applicant person resides~~ resides, or, in the case of residents of Electing Counties, to the public or private entity designated by the board of county commissioners. It shall be made in such form and shall contain such information as the Social Services Commission and federal regulations may require. Counties shall record inquiries for and accept applications from all persons requesting to apply for

Work First Program assistance. Counties shall process applications in a reasonable and timely manner."

Section 12.9. G.S. 108A-38 reads as rewritten:

"§ 108A-38. Protective and vendor payments.

~~Instead of the use of personal representatives provided for by G.S. 108A-37, when~~
When necessary to comply with any present or future federal law or regulation in order to obtain federal participation in public assistance payments, the payments may be made direct to vendors to reimburse them for goods and services provided the applicants or recipients, and may be made to protective payees who shall act for the applicant or recipient for receiving and managing assistance. Payments to vendors and protective payees shall be made to the extent provided in, and in accordance with, rules ~~and regulations~~ of the Social Services Commission or the Department, which rules ~~and regulations~~ shall be subject to applicable federal laws and regulations."

Section 12.10. G.S. 108A-49 reads as rewritten:

"§ 108A-49. Foster care and adoption assistance payments.

(a) Benefits in the form of foster care assistance shall be granted in accordance with the rules ~~and regulations~~ of the Social Services Commission to any dependent child who ~~is~~ would have been eligible to receive ~~AFDC~~ Aid to Families with Dependent Children (as that program was in effect on June 1, 1995), but for his or her removal from the home of a specified relative for placement in a foster care facility; provided, that the child's placement and care is the responsibility of a county department of social services.

(b) Adoption assistance payments for certain adoptive children shall be granted in accordance with the rules ~~and regulations~~ of the Social Services Commission to adoptive parents who adopt a child eligible to receive foster care maintenance payments or supplemental security income benefits; provided, that the child cannot be returned to his or her parents; and provided, that the child has special needs which create a financial barrier to adoption.

(c) The Department is authorized to use available federal payments to states under Title IV-E of the Social Security Act for foster care and adoption assistance payments."

Section 12.11. G.S. 108A-58 reads as rewritten:

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

(a) Any person, otherwise eligible, who, either while receiving medical assistance benefits or within one year prior to the date of applying for medical assistance benefits, unless some other time period is mandated by controlling federal law, sells, gives, assigns or transfers countable real or personal property or an interest ~~therein; either by himself or through his legal representative, in real or personal property~~ for the purpose of retaining or establishing eligibility for medical assistance benefits, shall be ineligible to receive medical assistance benefits ~~thereafter~~ as set forth in subsection (c) of this section.

Countable real and personal property includes real property, excluding a homesite, intangible personal property, nonessential motor and recreational vehicles, nonincome producing business equipment, boats and motors. The provisions of this act shall not apply to the sale, gift, assignment or transfer of real or personal property if and to the extent that the person applying for medical assistance would have been eligible for such assistance notwithstanding ownership of such property or an interest therein.

(b) Any sale, gift, assignment or transfer of real or personal property or an interest ~~therein; in real or personal property~~, as provided in subsection (a) of this section, shall be presumed to have been made for the purpose of retaining or establishing

eligibility for medical assistance benefits unless the person, or ~~his~~ the person's legal representative, who sells, gives, assigns or transfers the property or interest, receives valuable consideration at least equal to the fair market value, less encumbrances, of the property or interest.

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

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

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

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

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

(g) In the event that there is more than one sale, gift, assignment or transfer of property or an interest therein by a person receiving medical assistance or within one year of the date of an application for medical assistance, unless some other time

period is mandated by controlling federal law, the uncompensated value, for the purposes of subsection (c), shall be the aggregate uncompensated value of all sales, gifts, assignments and transfers. The date which is the midpoint between the date of the first and last sale, gift, assignment or transfer shall be the date from which the period of ineligibility shall be determined under subsection (c).

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

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

Section 12.12. G.S. 108A-80 reads as rewritten:

"§ 108A-80. Confidentiality of records.

(a) Except as provided in (b) below, it shall be unlawful for any person to obtain, disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or other information concerning persons applying for or receiving public assistance or social services that may be directly or indirectly derived from the records, files or communications of the Department or the county boards of social services, or county departments of social services or acquired in the course of performing official duties except for the purposes directly connected with the administration of the programs of public assistance and social services in accordance with federal law, rules and ~~regulations and regulations~~, and the rules ~~and regulations~~ of the Social Services Commission or the Department.

(b) The Department shall furnish a copy of the recipient check register monthly to each county auditor showing a complete list of all recipients of ~~Aid To Families with Dependent Children~~ Work First Family Assistance in Standard Program Counties and State-County Special Assistance for Adults, their addresses, and the amounts of the monthly grants. An Electing County whose checks are not being issued by the State shall furnish a copy of the recipient check register monthly to its county auditor showing a complete list of all recipients of Work First Family Assistance in the Electing County, their addresses, and the amounts of the monthly payments. ~~This register~~ These registers shall be a public ~~record~~ records open to public inspection during the regular office hours of the county auditor, but ~~said register~~ the registers or the information contained therein may not be used for any commercial or political purpose. Any violation of this section shall constitute a Class 1 misdemeanor.

(c) Any listing of recipients of benefits under any public assistance or social services program compiled by or used for official purposes by a county board of social services or a county department of social services shall not be used as a mailing list for political purposes. This prohibition shall apply to any list of recipients of benefits of any federal, State, county or mixed public assistance or social services program. Further, this prohibition shall apply to the use of such listing by any person, organization, corporation, or business, including but not limited to public officers or employees of federal, State, county, or other local governments, as a mailing list for political purposes. Any violation of this section shall be punishable as a Class 1 misdemeanor.

(d) The Social Services Commission ~~shall have the authority to~~ may adopt rules ~~and regulations~~ governing access to case files for social services and public assistance programs, except the Medical Assistance Program. The Secretary of the Department of Human Resources shall have the authority to adopt rules ~~and regulations~~ governing access to medical assistance case files."

Section 12.12A. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-15.3C. Work First Reserve Fund.

(a) The State Controller shall establish a restricted reserve in the General Fund to be known as the Work First Reserve Fund. At the end of each fiscal year, the State Controller shall reserve State funds into this reserve in an amount equalling one-fourth of any Work First Program funds from State General Fund appropriations remaining unexpended at the end of the fiscal year, up to a maximum balance in the account of fifty million dollars (\$50,000,000). The General Assembly may appropriate additional funds into this reserve.

(b) Funds in the Work First Reserve Fund shall be used only for the purposes described in Title IV of the Social Security Act and only as provided in G.S. 108A-27.16.

(c) The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Public Assistance Commission, and the House and Senate Appropriations Subcommittees on Human Resources prior to using the funds described in subsection (a) of this section."

Section 12.13. G.S. 153A-255 reads as rewritten:

"§ 153A-255. Authority to provide social service programs.

Each county shall provide social service programs pursuant to Chapter 108A and Chapter 111 and may otherwise undertake, sponsor, organize, engage in, and support other social service programs intended to further the health, welfare, education, employment, safety, comfort, and convenience of its citizens."

Section 12.14. G.S. 108A-28, 108A-28.1, 108A-30, 108A-32, 108A-33, 108A-34, 108A-35, 108A-39.1, and 108A-92 are repealed.

Section 12.15. Article 12G of Chapter 120 of the General Statutes is repealed.

Section 12.16. (a) The Department of Labor, in conjunction with the Department of Health and Human Services, shall establish a pilot project creating Individual Development Accounts (IDA) to assist working families.

(b) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of three hundred thousand dollars (\$300,000) for the 1997-98 fiscal year and the sum of three hundred thousand dollars (\$300,000) for the 1998-99 fiscal year shall be transferred to the Department of Labor to establish a pilot project creating Individual Development Accounts (IDA) to:

- (1) Provide individuals and families, especially the underemployed, an opportunity and an incentive to accumulate assets.
- (2) Promote investments in education, homeownership, and microenterprise development.
- (3) Demonstrate that household savings strategies, such as the development of IDAs, can be a powerful strategy for assisting working persons and families to achieve long-term self-sufficiency.
- (4) Utilize and build comprehensive community partnerships that support asset building in low-wealth communities.

(c) The funds allocated in this section shall be made available to serve as matching funds for personal savings of qualified participants selected to participate in a multiyear demonstration to last not more than five years. Other expenses of the demonstration, including training, technical assistance, evaluation, and other program and administrative expenses, shall be covered from other public and private sources. Matching funds provided from the funds allocated in this section may be used by qualified participants for home purchase, investment in a business or self-employment venture owned by the participant, or costs of postsecondary education or training for the participant. Participants shall not be restricted as to the amounts or sources of funds deposited in the account, but in order to create the incentive for continued savings, only savings from earned income will qualify for State matching funds. Tax return reports of earned income shall be used to verify compliance. Funds contained

in Individual Development Accounts shall not be counted as assets in the Work First Program.

Section 12.17. (a) Notwithstanding any other provision of law, beginning October 1, 1997, each county shall dedicate the full return to the county for AFDC and Work First Cash Assistance benefit amount that was determined fraudulent or erroneous and recovered by that county pursuant to the AFDC Fraud Control Program to enhance and improve program integrity.

(b) The return to the county shall be determined as follows:

- (1) For collections relative to AFDC or Work First cash assistance payments made prior to January 1, 1997, the return shall be equal to the county's distributive share and one-half of the State's distributive share of the total AFDC and Work First cash assistance benefits recovered.
- (2) For collections relative to Work First cash assistance benefits paid on or after January 1, 1997, the return shall be equal to seventy-five percent (75%) of the total amount recovered.

(c) The Department of Health and Human Services shall ensure that persons charged with, or suspected of, AFDC or Work First fraud not be subjected to any of the following:

- (1) Coercion;
- (2) Discrimination in targeting persons for civil action or criminal prosecution; or
- (3) Civil investigation or civil action without being (i) properly informed as to those matters that might arise out of the investigation, or action that might result in criminal prosecution and (ii) in such a case, being properly advised of their right not to incriminate themselves.

Section 12.18. (a) There is established a Joint Legislative Public Assistance Commission. The Joint Legislative Public Assistance Commission shall perform the duties and functions provided in this Part, shall monitor implementation of the provisions of this Part, and shall make any necessary recommendations to the General Assembly regarding any further changes to law or rule. The Speaker of the House of Representatives shall appoint 10 members, two of whom shall be cochair, and the President Pro Tempore of the Senate shall appoint 10 members, two of whom shall be cochair. The Joint Legislative Public Assistance Commission shall first convene within 30 days after this part becomes law.

(b) The Department shall report any changes made to the State Plan to the Joint Legislative Public Assistance Commission within 60 days after the change.

Section 12.19. The Legislative Research Commission may study issues relating to the Medical Assistance Program and the State-County Special Assistance Program, including the following: the need for further restrictions and longer periods of disqualification for the transfer of property for purposes of qualifying for medical assistance and State-County Special Assistance, and appropriate recovery from recipient estates of benefits paid by the Medical Assistance Program and the State-County Special Assistance Program. The Legislative Research Commission may report the results of its study, along with any legislative proposals and cost analyses, to the 1998 General Assembly.

Section 12.20. (a) Counties desiring to be designated as Electing Counties shall submit a request in writing to the Department of Health and Human Services not later than October 31, 1997. The Department shall notify Electing Counties not later than November 15, 1997.

(b) The requirement that the Department prepare and submit the State Plan to the General Assembly for approval in accordance with the procedures set

forth in G.S. 143-16.1 shall not be applicable for fiscal year 1997-98. Until the counties have prepared their county plans and the State has prepared the State Plan in accordance with this Part and that State Plan has been enacted by the General Assembly and it becomes law, the provisions of the State Plan submitted to the federal government on October 16, 1996, shall remain in effect. State Plans submitted after the 1997-98 fiscal year shall be enacted by the General Assembly and become law in order to be effective.

(c) Utilizing Government Auditing Standards issued by the Comptroller General of the United States, an independent evaluator shall evaluate the operation of the Work First Program in the Standard Program Counties and in the Electing Counties, based on criteria established by the State Auditor in consultation with the Standard Program Counties and the Electing Counties. The evaluation shall include a review of the Electing Counties' methodologies and the impact of those methodologies upon the Work First Program. The independent evaluator shall present a report of the findings to the 2000 General Assembly. The Department shall select the independent evaluator to perform the evaluation. The report shall include the following:

- (1) Whether the Electing County/Standard Program County system should be continued or modified, and the rationale for the recommendation;
- (2) Five-year projections as to the impact of continuing the Electing County/Standard Program County system, based on anticipated outcome measures related to child well-being, economic data, and other means of measuring the success of the system;
- (3) Whether the numbers of Electing Counties should be expanded and under what conditions.

Any Electing County may elect to contract for its own independent evaluation. Any Electing County that elects to contract for its own independent evaluation shall submit a report of its evaluation to the Department for inclusion in the report described in this subsection. The report shall be presented to the House and Senate Appropriations Subcommittees on Human Resources, the Joint Legislative Public Assistance Commission, and the Joint Legislative Commission on Governmental Operations on or before February 1, 2000.

(d) The Department of Health and Human Services shall study the movement of recipients of Work First Program assistance between counties within the State, particularly the movement of recipients into and out of Electing Counties, and the reasons for movement, including differences in eligibility criteria, benefit levels, and time limits. The Department shall report the results of its study to the House and Senate Appropriations Subcommittees on Human Resources, the Joint Legislative Public Assistance Commission, and the Joint Legislative Commission on Governmental Operations on or before February 1, 2000.

(e) The Department of Health and Human Services shall monitor the following and report its findings quarterly to the House and Senate Appropriations Subcommittees on Human Resources and the Joint Legislative Public Assistance Commission:

- (1) The number of Work First Program recipients anticipated to remain without work and lose benefits due to time limits imposed by federal and State law and local policy;
- (2) Efforts being made by counties and the State to intensify efforts designed to prevent recipients from losing benefits where they are making reasonable efforts to become and remain employed; and
- (3) The reasons recipients who are subject to termination for failure to meet work requirements were unable to find work.

The Joint Legislative Public Assistance Commission shall further examine ways that Work First Program recipients can overcome obstacles to finding employment and remaining employed.

Section 12.20A. (a) The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall proceed, in consultation with the community college system, to develop an amended Work First State Plan to secure federal Welfare-to-Work grant funds to assist Work First Program recipients in obtaining employment. The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall identify potential sources of State funds which may be used as a match for the federal grant. The Governor shall designate the Department of Commerce as the State's lead agency for the Welfare-to-Work initiative. The Governor also shall pursue a waiver from the federal government to permit the Job Service Employer Committees to administer the program at the local level.

(b) The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall develop a plan to implement the Welfare-to-Work initiative in this State, develop performance goals and measures for this initiative, and estimate the cost impact on the State budget for the next five years of implementing the initiative. The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall report to the General Assembly its findings and recommendations by April 1, 1998. The Department of Commerce shall not expend any State or federal funds for the Welfare-to-Work initiative until the amended State Plan is submitted to the General Assembly and the amended State Plan becomes law.

Section 12.21. (a) Chapter 114 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 6.

"Office of the Inspector General.

"§ 114-40. Inspector General.

(a) The Office of Inspector General is established in the Department of Justice to provide a central point for coordination of and responsibility for activities related to detection, prosecution, and prevention of fraud, abuse, and waste in means-tested public assistance programs. The Office of Inspector General is designated as the State Law Enforcement Bureau (SLEB) to take custody and control of food stamps from the federal Food and Consumer Service to make them available to nonfederal law enforcement and investigative agencies to conduct criminal and food stamp program violation investigations.

(b) It shall be the duty and responsibility of the Inspector General to:

- (1) Receive complaints and information concerning alleged fraud, abuse, and waste in means-tested public assistance programs;
- (2) Investigate complaints and information received concerning alleged fraud, abuse, or waste in means-tested public assistance programs and, whenever the Inspector General finds it appropriate to do so, to pursue action for any violations of law relating to means-tested public assistance programs, whether by civil action or by criminal prosecution;
- (3) Review the activities performed in the Department of Health and Human Services, Divisions of Medical Assistance and Social Services, and in local district attorney's offices relating to detection, prosecution, and prevention of fraud, abuse, or waste in means-tested public assistance programs;

- (4) Coordinate and implement fraud, abuse, and waste detection, prosecution, and prevention activities between local program integrity workers, local district attorney's offices, and the State;
- (5) Keep the Secretary of Health and Human Services informed concerning fraud, abuse, waste, and deficiencies relating to means-tested public assistance programs administered or financed by the Department of Health and Human Services, recommend corrective action concerning fraud, abuses, and deficiencies, and report to the Secretary and the Joint Legislative Public Assistance Commission on the progress made in implementing corrective action;
- (6) Ensure effective coordination and cooperation between the State Auditor, federal auditors, the Department of Health and Human Services, and other governmental bodies in fraud, abuse, and waste detection, prosecution, and prevention activities relating to means-tested public assistance programs with a view toward avoiding duplication; and
- (7) Educate State and local law enforcement agencies concerning fraud, abuse, and waste detection, prosecution, and prevention in public assistance programs and encourage pursuit of prosecution of violations.

(c) The Inspector General shall be appointed by the Attorney General and shall report to an official designated by the Attorney General. The Inspector General shall be appointed without regard to political affiliation.

(d) The Inspector General may be removed from office by the Attorney General.

(e) The Inspector General shall have access to any records, data, or other information of the Department of Health and Human Services and local county agencies the Inspector General believes necessary to carry out the Inspector General's duties. The Inspector General may request any information or assistance as may be necessary from the Department or from any federal, State, or local government entity.
"§ 114-41. Inspector General; investigations.

(a) In carrying out the duties and responsibilities specified in this Article, the Inspector General may initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, abuse, and waste in means-tested public assistance programs. For these purposes, the Inspector General shall:

- (1) Receive and consider complaints and conduct, supervise, or coordinate such inquiries, investigations, or reviews as the Inspector General finds appropriate. The Inspector General may receive complaints and information directly from local program integrity workers;
- (2) Establish policies and standards for the investigation, detection, and elimination of fraud, abuse, waste, and mismanagement in the means-tested public assistance programs;
- (3) Establish and coordinate training programs for local and State program integrity workers to improve detection of fraud, abuse, and waste;
- (4) Provide assistance to the federal government aimed at eliminating food stamp violations;
- (5) Report expeditiously to the State Bureau of Investigation or other law enforcement agencies, as appropriate, whenever the Inspector General has reasonable grounds to believe there has been a violation of criminal law. The Inspector General may, whenever the Inspector General finds it to be appropriate, prosecute violations of criminal law or bring a civil action relating to fraud,

abuse, or waste in means-tested public assistance programs on behalf of the State;

- (6) Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the Inspector General or when the Inspector General has reasonable grounds to believe there has been a violation of criminal law; and
- (7) Submit in a timely fashion final reports on investigations conducted by the Inspector General to the Attorney General.

(b) The Inspector General shall, not later than September 30 of each year, prepare an annual report summarizing the activities of the office during the immediately preceding State fiscal year. The final report shall be furnished to the Attorney General and to the Secretary of the Department of Health and Human Services. The report shall include a summary of investigative activities.

"§ 114-42. Inspector General; complaints.

(a) Any person who knows or has reasonable cause to believe that a person has committed, or is in the process of committing, a violation of law relating to fraud, abuse, or waste in a public assistance program, may prepare and file with the Inspector General a complaint that identifies the person making the report and the person who allegedly committed or is committing the wrongful act or omission, describes the wrongful act or omission, and explains how the person reporting knew or came to believe that the person committed or is in the process of committing the wrongful act or omission.

(b) The Inspector General shall prescribe a form for complaints under this section. The Inspector General shall provide a blank copy of the form to any person, free of charge. No complaint is defective, however, because it is not made on the form prescribed by the Inspector General."

(b) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of five hundred thousand dollars (\$500,000) for fiscal year 1997-98 shall be allocated to the Department of Justice to establish and support the Office of Inspector General.

(c) Article 3 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 31. Office of the Internal Auditor.

"§ 143B-216.50. Department of Health and Human Services; office of the Internal Auditor.

(a) The office of Internal Auditor is established in the Department of Health and Human Services. The office of the Internal Auditor shall provide independent reviews and analyses of various functions and programs within the Department that will provide management information to promote accountability, integrity, and efficiency within the Department.

(b) It shall be the duty and responsibility of the Internal Auditor to:

- (1) Advise in the development of performance measures, standards, and procedures for the evaluation of the Department;
- (2) Assess the reliability and validity of performance measures and the information provided by the Department on performance measures and standards and make recommendations for improvement, if necessary;
- (3) Review the actions taken by the Department of Health and Human Services to improve program performance and meet program standards and make recommendations for improvement, if necessary;

- (4) Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to programs and operations of the Department;
- (5) Conduct independent analyses of programs carried out or financed by the Department of Health and Human Services for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting waste, management, misconduct, fraud and abuse in its programs and operations;
- (6) Keep the Secretary of the Department of Health and Human Services informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the Department of Health and Human Services, recommend corrective action concerning fraud, abuses, and deficiencies, and report on the progress made in implementing corrective action;
- (7) Ensure effective coordination and cooperation between the State Auditor, federal auditors, and other governmental bodies with a view toward avoiding duplication; and
- (8) Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.

(c) The Internal Auditor shall be appointed by the Secretary. The Internal Auditor shall be appointed without regard to political affiliation.

(d) The Internal Auditor shall report to an official designated by the Secretary.

(e) The Internal Auditor shall have access to any records, data, or other information of the Department the Internal Auditor believes necessary to carry out the Internal Auditor's duties.

"§ 143B-216.51. Department of Health and Human Services office of the Internal Auditor; Department audits.

(a) To ensure that Department audits are performed in accordance with applicable auditing standards, the Internal Auditor shall possess the following qualifications:

- (1) A bachelors degree from an accredited college or university with a major in accounting, or with a major in business which includes five courses in accounting, and five years' experience as an internal auditor or independent postauditor, electronic data processing auditor, accountant, or any combination thereof. The experience shall, at a minimum, consist of audits of units of government or private business enterprises operating for profit or not for profit;
- (2) A masters degree in accounting, business administration, or public administration from an accredited college or university and four years of experience as required in subdivision (1) of this subsection; or
- (3) A certified public accountant license issued pursuant to law or a certified internal audit certificate issued by the Institute of Internal Auditors or earned by examination, and four years' experience as required in subdivision (1) of this subsection.

The Internal Auditor shall, to the extent both necessary and practicable, include on the Internal Auditor's staff individuals with electronic data processing auditing experience.

(b) In carrying out the auditing duties and responsibilities of this Part, the Internal Auditor shall review and evaluate internal controls necessary to ensure the fiscal accountability of the Department. The Internal Auditor shall conduct financial, compliance, electronic data processing, and performance audits of the Department and prepare audit reports of findings. The scope and assignment of the audits shall

be determined by the Internal Auditor; however, the Secretary may at any time direct the Internal Auditor to perform an audit of a special program, function, or organizational unit. The performance of the audit shall be under the direction of the Internal Auditor.

(c) Audits undertaken pursuant to this Part shall be conducted in accordance with auditing standards prescribed by the State Auditor. All audit reports issued by internal audit staff shall include a statement that the audit was conducted pursuant to these standards.

(d) The Internal Auditor shall maintain, for 10 years, a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the Internal Auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of his office shall be retained according to an agreement between the Internal Auditor and State Archives. To promote cooperation and avoid unnecessary duplication of audit effort, audit work papers related to issued audit reports shall be, unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal governments in connection with some matter officially before them. Except as otherwise provided in this subsection, or upon subpoena issued by a duly authorized court or court official, audit work papers shall be kept confidential. Audit reports shall be public records to the extent that they do not include information which, under State laws, is confidential and exempt from Chapter 132 of the General Statutes or would compromise the security systems of the Department.

(e) The Internal Auditor shall submit the final report to the Secretary.

(f) The State Auditor shall review a sample of the Department's internal audit reports and related work papers when determined by the State Auditor that, when conducting audits, it would be efficient to consider the work of the Internal Auditor. If the State Auditor finds deficiencies in the work of the Internal Auditor, the State Auditor shall include a statement of these findings in the audit report of the Department. The office of the Internal Auditor will cause to be made an external quality control review at least once every three years by a qualified organization not affiliated with the office of the Internal Auditor. The external quality review should determine whether the Department's internal quality control system is in place and operating effectively to provide reasonable assurance that established policies and procedures and applicable audit standards are being followed.

(g) The Internal Auditor shall monitor the implementation of the Department's response to any audit of the Department conducted by the State Auditor pursuant to law. No later than six months after the State Auditor publishes a report of the audit of the Department, the Internal Auditor shall report to the Secretary on the status of corrective actions taken. A copy of the report shall be filed with the Joint Legislative Commission on Governmental Operations.

(h) The Internal Auditor shall develop long-term and annual audit plans based on the findings of periodic risk assessments. The plan, where appropriate, should include postaudit samplings of payments and accounts. The plan shall show the individual audits to be conducted during each year and related resources to be devoted to the respective audits. The State Controller may utilize audits performed by the Internal Auditor. The plan shall be submitted to the Secretary for approval. A copy of the approved plan shall be submitted to the State Auditor."

(d) The Department of Justice and the Department of Health and Human Services shall immediately proceed with the implementation of this section, including proceeding with all actions necessary to establish a State Law Enforcement Bureau (SLEB) program for food stamps in the State.

**SUBPART B. STATUTORY TECHNICAL AND CONFORMING CHANGES
RELATING TO ENACTMENT OF THE WORK FIRST PROGRAM.**

Section 12.22. G.S. 1-110(a) reads as rewritten:

"(a) Subject to the provisions of subsection (b) of this section with respect to prison inmates, any superior or district court judge or clerk of the superior court may authorize a person to sue as an indigent in their respective courts when the person makes affidavit that he or she is unable to advance the required court costs. The clerk of superior court shall authorize a person to sue as an indigent if the person makes the required affidavit and meets one or more of the following criteria:

- (1) Receives food stamps.
- (2) Receives ~~Aid to Families with Dependent Children (AFDC)~~ Work First Family Assistance.
- (3) Receives Supplemental Security Income (SSI).
- (4) Is represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons.
- (5) Is represented by private counsel working on the behalf of or under the auspices of a legal services organization under subdivision (4) of this section.
- (6) Is seeking to obtain a domestic violence protective order pursuant to G.S. 50B-2.

A superior or district court judge or clerk of superior court may authorize a person who does not meet one or more of these criteria to sue as an indigent if the person is unable to advance the required court costs. The court to which the summons is returnable may dismiss the case and charge the court costs to the person suing as an indigent if the allegations contained in the affidavit are determined to be untrue or if the court is satisfied that the action is frivolous or malicious."

Section 12.23. G.S. 15-155.1 reads as rewritten:

"§ 15-155.1. Reports to district attorneys of ~~aid to dependent children~~ Work First Family Assistance and illegitimate out-of-wedlock births.

The Department of Human Resources, by and through the Secretary of Human Resources, shall promptly after June 19, 1959, make a report to each district attorney, setting out the names and addresses of all mothers who reside in his prosecutorial district as defined in G.S. 7A-60 and are recipients of ~~aid to dependent children assistance~~ under the provisions of Part 2, Article 2, Chapter 108A of the General Statutes. Such report shall in some manner show the identity of the unwed mothers and shall set forth the number of children born to each said mother. Such a report shall also be made monthly thereafter setting out the names and addresses of all such mothers who reside in the district and who may have become recipients of ~~aid to dependent children assistance~~ under the provisions of Part 2, Article 2, Chapter 108A of the General Statutes since the date of the last report."

Section 12.24. G.S. 15-155.2(a) reads as rewritten:

"(a) Upon receipt of such reports as are provided for in G.S. 15-155.1, the district attorney of superior court may make an investigation to determine whether the mother of an ~~illegitimate out-of-wedlock~~ child or who is a recipient of ~~aid to a dependent child or children~~ Work First Family Assistance, has abandoned, is willfully neglecting or is refusing to support and maintain the child within the meaning of G.S. 14-326 or 49-2 or is diverting any part of the funds received as ~~aid to a dependent child~~ Work First Family Assistance to any purpose other than for the support and maintenance of ~~such dependent~~ a child in violation of G.S. 108-76.1. In making this investigation the district attorney is authorized to call upon:

- (1) Any county board of social services or the Department of Human Resources for personal, clerical or investigative assistance and for access to any records kept by either such board and relating to the matter under investigation and such boards are hereby directed to assist in all investigations hereunder and to furnish all records relating thereto when so requested by the district attorney;
- (2) The board of county commissioners of any county within his district for legal or clerical assistance in making any investigation or investigations in such county and such boards are hereby authorized to furnish such assistance in their discretion; and
- (3) The district attorney of any inferior court in his district for personal assistance in making any investigation or investigations in the county in which the court is located and any district attorney so called upon is hereby authorized to furnish such assistance by and with the consent of the board of county commissioners of the county in which the court is located, which board shall provide and fix his compensation for assistance furnished."

Section 12.25. G.S. 95-25.3(d) reads as rewritten:

"(d) The Commissioner, in order to prevent curtailment of opportunities for employment of the economically disadvantaged and the unemployed, may, by regulation, establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect under subsection (a) which shall apply to all persons (i) who have been unemployed for at least 15 weeks and who are economically disadvantaged, or (ii) who are, or whose families are, receiving aid to ~~families with dependent children provided under Part A of Title IV of the Social Security Act, Work First Family Assistance~~ or who are receiving supplemental security benefits under Title XVI of the Social Security Act.

Pursuant to regulations issued by the Commissioner, certificates establishing eligibility for such subminimum wage shall be issued by the Employment Security Commission.

The regulation issued by the Commissioner shall not permit employment at the subminimum rate for a period in excess of 52 weeks."

Section 12.26. G.S. 105A-2(1) reads as rewritten:

"(1) 'Claimant agency' means and includes:

- a. The State Education Assistance Authority as enabled by Article 23 of Chapter 116 of the General Statutes;
- b. The North Carolina Department of Human Resources when in the exercise of its authority to collect health profession student loans made pursuant to G.S. 131-121;
- c. The North Carolina Department of Human Resources when in the performance of its duties under the Medical Assistance Program enabled by Chapter 108A, Article 2, Part 6, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Medical Assistance Program collection functions;
- d. The North Carolina Department of Human Resources when in the performance of its duties, under the Child Support Enforcement Program as enabled by Chapter 110, Article 9 and Title IV, Part D of the Social Security Act to obtain indemnification for past paid public assistance or to collect child support arrearages owed to an individual receiving program services and any county operating the program at

- the local level, when and only to the extent that the county is engaged in the performance of those same duties;
- e. The University of North Carolina, including its constituent institutions as specified by G.S. 116-2(4);
 - f. The University of North Carolina Hospitals at Chapel Hill in the conduct of its financial affairs and operations pursuant to G.S. 116-37;
 - g. The Board of Governors of the University of North Carolina and the State Board of Education through the College Scholarship Loan Committee when in the performance of its duties of administering the Scholarship Loan Fund for Prospective College Teachers enabled by Chapter 116, Article 5;
 - h. The Office of the North Carolina Attorney General on behalf of any State agency when the claim has been reduced to a judgment;
 - i. The State Board of Community Colleges through community colleges as enabled by Chapter 115D in the conduct of their financial affairs and operations;
 - j. State facilities as listed in G.S. 122C-181(a), School for the Deaf at Morganton, North Carolina Sanatorium at McCain, Western Carolina Sanatorium at Black Mountain, Eastern North Carolina Sanatorium at Wilson, and Gravelly Sanatorium at Chapel Hill under Chapter 143, Article 7; Governor Morehead School under Chapter 115, Article 40; Central North Carolina School for the Deaf under Chapter 115, Article 41; Wright School for Treatment and Education of Emotionally Disturbed Children under Chapter 122C; and these same institutions by any other names by which they may be known in the future;
 - k. The North Carolina Department of Revenue;
 - l. The Administrative Office of the Courts;
 - m. The Division of Forest Resources of the Department of Environment, Health, and Natural Resources;
 - n. The Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan, established in Article 3 of General Statutes Chapter 135;
 - o. The State Board of Education through the Superintendent of Public Instruction when in the performance of his duties of administering the Scholarship Loan Fund for Prospective Teachers enabled by Chapter 115C, Article 32A and the scholarship loan and grant programs enabled by Chapter 115C, Article 24C, Part 1;
 - p. The Board of Trustees of the Teachers' and State Employees' Retirement System and the Board of Trustees of the Local Governmental Employees' Retirement System in the performance of their duties pursuant to Chapters 120, 128, 135 and 143 of the General Statutes;
 - q. The North Carolina Teaching Fellows Commission in the performance of its duties pursuant to Chapter 115C, Article 24C, Part 2;
 - r. The North Carolina Department of Human Resources when in the performance of its collection duties for intentional

program violations and violations due to inadvertent household error under the Food Stamp Program enabled by Chapter 108A, Article 2, Part 5, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Food Stamp Program collection functions.

The North Carolina Department of Human Resources when, in the performance of its duties under the ~~Aid to Families with Dependent Children Program or the Aid to Families with Dependent Children Emergency Assistance Program provided in Part 2 of Article 2 of Chapter 108A or the Work First Cash Assistance Program established pursuant to the federal waivers received by the Department on February 5, 1996, Work First Program provided in Part 2 of Article 2 of Chapter 108A of the General Statutes~~, or under the State-County Special Assistance for Adults Program provided in Part 3 of Article 2 of Chapter 108A, it seeks to collect public assistance payments obtained through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error;

- s. The Employment Security Commission of North ~~Carolina~~ Carolina;
- t. Any State agency in the collection of salary overpayments from former ~~employees~~ employees; or
- u. The State Board of Education through the Superintendent of Public Instruction when in the performance of his duties of administering the program under which the State encourages participation in the National Board for Professional Teaching Standards (NBPTS) Program, enabled by Section 19.28 of Chapter 769 of the 1993 Session Laws."

Section 12.27. G.S. 110-129(6) reads as rewritten:

- "(6) 'Disposable income' means any form of periodic payment to an individual, regardless of sources, including but not limited to wages, salary, commission, self-employment income, bonus pay, severance pay, sick pay, incentive pay, vacation pay, compensation as an independent contractor, worker's compensation, unemployment compensation benefits, disability, annuity, survivor's benefits, pension and retirement benefits, interest, dividends, rents, royalties, trust income and other similar payments, which remain after the deduction of amounts for federal, State, and local taxes, Social Security, and involuntary retirement contributions. However, Supplemental Security Income, ~~Aid for Dependent Children~~, Work First Family Assistance, and other public assistance payments shall be excluded from disposable income. For employers, disposable income means 'wage' as it is defined by G.S. 95-25.2(16). Unemployment compensation benefits shall be treated as disposable income only for the purposes of income withholding under the provisions of G.S. 110-136.4, and the amount withheld shall not exceed twenty-five percent (25%) of the unemployment compensation benefits."

Section 12.28. G.S. 110-130.1 reads as rewritten:

"§ 110-130.1. ~~Non-AFDC~~ Non-Work First services.

(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of ten dollars (\$10.00).

(b) Repealed by Session Laws 1989, c. 490.

(b1) In cases in which a public assistance debt which accrued pursuant to G.S. 110-135 remains unrecovered, support payments shall be transmitted to the Department of Human Resources for appropriate distribution. When services are terminated and all costs and any public assistance debts have been satisfied, the support payment shall be redirected to the client.

(c) Actions or proceedings to establish, enforce, or modify a duty of support or establish paternity as initiated under this Article shall be brought in the name of the county or State agency on behalf of the public assistance recipient or nonrecipient client. Collateral disputes between a custodial parent and noncustodial parent, involving visitation, custody and similar issues, shall be considered only in separate proceedings from actions initiated under this Article. The attorney representing the designated representative of programs under Title IV-D of the Social Security Act shall be deemed attorney of record only for proceedings under this Article, and not for the separate proceedings. No attorney/client relationship shall be considered to have been created between the attorney who represents the child support enforcement agency and any person by virtue of the action of the attorney in providing the services required.

(c1) The Department is hereby authorized to use the electronic and print media in attempting to locate absent and deserting parents. Due diligence must be taken to ensure that the information used is accurate or has been verified. Print media shall be under no obligation or duty, except that of good faith, to anyone to verify the correctness of any information furnished to it by the Department or county departments of social services.

(d) Any fee imposed by the North Carolina Department of Revenue or the Secretary of the Treasury to cover their costs of withholding for ~~non-AFDC non-~~Work First arrearages certified for the collection of past due support from State or federal income tax refunds shall be borne by the client by deducting the fee from the amount collected.

Any income tax refund offset amounts which are subsequently determined to have been incorrectly withheld and distributed to a client, and which must be refunded by the State to a responsible parent or the nondebtor spouse, shall constitute a debt to the State owed by the client."

Section 12.29. G.S. 111-21 reads as rewritten:

"§ 111-21. Disqualifications for relief.

No aid to needy blind persons shall be given under the provisions of this Article to any individual for any period with respect to which he is receiving aid under the laws of North Carolina providing ~~aid for dependent children~~ Work First Family Assistance and/or relief for the aged, and/or aid for the permanently and totally disabled."

SUBPART C. STATUTORY TECHNICAL AND CONFORMING CHANGES RELATING TO THE ABOLISHMENT OF THE COMMISSION ON THE FAMILY.

Section 12.30. G.S. 143-318.14A(a) reads as rewritten:

"(a) Except as provided in subsection (e) below, all official meetings of commissions, committees, and standing subcommittees of the General Assembly (including, without limitation, joint committees and study committees), shall be held

in open session. For the purpose of this section, the following also shall be considered to be 'commissions, committees, and standing subcommittees of the General Assembly':

- (1) The Legislative Research Commission;
- (2) The Legislative Services Commission;
- (3) The Advisory Budget Commission;
- (4) The Joint Legislative Utility Review Committee;
- (5) The Joint Legislative Commission on Governmental Operations;
- (6) The Joint Legislative Commission on Municipal Incorporations;
- ~~(7) The Commission on the Family;~~
- (8) The Joint Select Committee on Low-Level Radioactive Waste;
- (9) The Environmental Review Commission;
- (10) The Joint Legislative Transportation Oversight Committee;
- (11) The Joint Legislative Education Oversight Committee;
- (12) The Joint Legislative Commission on Future Strategies for North Carolina;
- (13) The Commission on Children with Special Needs;
- (14) The Legislative Committee on New Licensing Boards;
- (15) The Agriculture and Forestry Awareness Study Commission;
- (16) The North Carolina Study Commission on Aging; and
- (17) The standing Committees on Pensions and Retirement."

Section 12.31. G.S. 143B-150.8 reads as rewritten:

"§ 143B-150.8. Advisory Committee on Family-Centered Services; responsibilities.

(a) The Advisory Committee on Family-Centered Services shall have the following responsibilities:

- (1) Provide guidance and advice to the Secretary in the development of a plan for the statewide implementation of an inter-agency family preservation services program whereby family-centered preservation services are available to all counties by July 1, 1995, through the coordinated efforts of the Division of Social Services, Division of Youth Services, and Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (2) Recommend standards for:
 - a. Oversight and development of family-centered preservation services;
 - b. Development and maintenance of inter-agency training and technical assistance in the provision of family-centered services;
 - c. Professional staff qualifications, program monitoring, and data collection;
 - d. Statewide evaluation of locally-based family preservation programs;
 - e. Coordination of funding sources for family preservation programs;
 - f. Procedures for awarding grants to local agencies providing family-centered services; and
 - g. Annual reports to the Governor and the General Assembly on the services provided and achievements of the Family Preservation Services Program.
- (3) The Committee shall submit a written report not later than May 1, 1992, and not later than October 1 of each year thereafter, to the Governor, to the Joint Legislative Commission on Governmental Operations, ~~and to the Commission on the Family.~~ Operations.

The report shall address the progress in implementation of the Family Preservation Services Program. The report shall include an accounting of funds expended and anticipated funding needs for full implementation of the program. The report shall also include the following information for each county participating in the Program and for the Program as a whole:

- a. The number of families receiving service through the Program;
- b. The number of children at risk of placement prior to initiation of service in families receiving Program services;
- c. Among those children in sub-subdivision b., the number of children placed in foster care, in group homes, and in other facilities outside their homes and families;
- d. The average cost of the service provided to families under the Program;
- e. The estimated cost of out-of-home placement, through foster care, group homes, or other facilities, which would otherwise have been expended on behalf of children at risk of placement who successfully remain united with their families as a result of services provided through the Program. Cost estimates should be based on average length of stay and average cost of such out-of-home placements;
- f. The number of children who remain unified with their families for one, two, and three years after receiving services under the Program; and
- g. An overall statement of the progress of the Program and local projects during the preceding year, along with recommendations for improvements.

(b) The Committee may use funds allocated to it to contract for services to monitor local projects and for an independent evaluation of the Family Preservation Services Program."

Section 12.32. Of the funds appropriated in this act to the Department of Human Resources, the sum of three million nine hundred seventy-five thousand dollars (\$3,975,000) for the 1997-98 fiscal year shall be used to establish the uniform system of recipient identification established in G.S. 108A-25.1 and to provide counties with workstations for biometric imaging.

Section 12.33. Of the funds appropriated in this act to the Department of Human Resources, the sum of twenty-five thousand dollars (\$25,000) for the 1997-98 fiscal year and the sum of forty thousand dollars (\$40,000) for the 1998-99 fiscal year shall be transferred to the General Assembly for the Joint Legislative Public Assistance Commission.

Section 12.34. Of the funds appropriated in this act to the Department of Human Resources, the sum of sixteen million dollars (\$16,000,000) for the 1997-98 fiscal year and the sum of twenty million dollars (\$20,000,000) for the 1998-99 fiscal year shall be placed in the Work First Reserve Fund established pursuant to G.S. 143-15.3C.

Section 12.35. The Department of Health and Human Services shall have the uniform system of recipient identification established in G.S. 108A-25.1 in place and operating before October 1, 1998. Except as otherwise provided in this Part, this Part is effective when it becomes law.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary
RESERVE TO IMPLEMENT WELFARE REFORM

Section 12.36. (a) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of five million seventy-five thousand two hundred two dollars (\$5,075,202) for the 1997-98 fiscal year and the sum of three million nine hundred thousand dollars (\$3,900,000) for the 1998-99 fiscal year shall be placed in a Restrictive Reserve to Implement Welfare Reform. These funds shall be allocated from the Reserve as follows:

- (1) \$275,000 for the 1997-98 fiscal year and \$400,000 for the 1998-99 fiscal year to support the establishment of a uniform system of public assistance programs as authorized under G.S. 108A-25.1, and to provide counties with workstations for biometric imaging;
 - (2) \$2,500,000 in each fiscal year to fund program integrity activities in each county;
 - (3) \$500,000 for the 1997-98 fiscal year to establish and support an Office of Inspector General in the Department of Justice;
 - (4) \$300,000 in each fiscal year to establish a pilot project in the Department of Labor for creation of Individual Development Accounts;
 - (5) \$1,500,202 for the 1997-98 fiscal year for the following purposes:
 - a. To establish First Stop Employment Assistance in the Department of Commerce;
 - b. To expand the Labor Market Information System in the Employment Security Commission; and
 - c. To assist the Job Service Employer Committees or the Workforce Development Boards in their completion of the study of the working poor.
- Funds shall not be allocated under this subdivision unless and until the Office of State Budget and Management has certified that federal funds are not available for these purposes; and
- (6) \$700,000 for the 1998-99 fiscal year for the continued support of the Office of Inspector General in the Department of Justice, and for the First Stop Employment Assistance in the Department of Commerce. These funds shall be allocated by the Office of State Budget and Management on the basis of need.
- (b) This section becomes effective July 1, 1997.