

1 ASSISTANCE PROGRAM AND THE STATE-COUNTY SPECIAL ASSISTANCE
2 PROGRAM, TO ESTABLISH THE OFFICE OF INSPECTOR GENERAL IN THE
3 DEPARTMENT OF HUMAN RESOURCES, TO ELIMINATE THE SOCIAL
4 SERVICES COMMISSION, TO APPROPRIATE FUNDS TO ESTABLISH A
5 BIOMETRIC IDENTIFICATION SYSTEM AND FUND ONE PROGRAM
6 INTEGRITY WORKER IN EACH COUNTY, TO ESTABLISH A RESERVE OF
7 TANF FUNDS, AND TO MAKE NECESSARY STATUTORY AND
8 CONFORMING CHANGES.

9 The General Assembly of North Carolina enacts:

10 **PART 1. WELFARE REFORM INITIATIVES.**

11 Section 1.1. The title of Part 2 of Article 2 of Chapter 108A of the General
12 Statutes reads as rewritten:

13 "~~Part 2. Aid to Families with Dependent Children. Work First Program.~~"

14 Section 1.2. G.S. 108A-24 reads as rewritten:

15 "**§ 108A-24. Definitions.**

16 As used in Chapter 108A:

17 (1) 'Applicant' is any person who requests assistance or on whose behalf
18 assistance is requested.

19 (1a) 'Attainment' means to equal or exceed the outcomes and goals set forth
20 in a County Plan or the State Plan.

21 (1b) 'Biometric' means a digitized image of selected features of an individual
22 encoded and processed in a manner that ensures an extraordinarily high
23 correlation between the digital data and the actual characteristics of an
24 individual.

25 (1c) 'Child Development Agreement' ('CDA') means an agreement between a
26 county and a recipient of Work First Program assistance which
27 describes the parental responsibilities and child development goals
28 required to maintain eligibility for qualification for Work First Family
29 Assistance and Work First Services, and what the county will provide to
30 assist the recipient in achieving those child development goals.

31 (1d) 'Community service' means work exchanged for temporary public
32 assistance.

33 (1e) 'County block grant' means nonreverting federal and State money
34 appropriated to implement and maintain a county's Work First Program.

35 (1f) 'County department of social services' means a county department of
36 social services, consolidated human services agency, or other local
37 agency designated to administer or provide services pursuant to this
38 Article.

39 (1g) 'County Plan' is the biennial Work First Program plan prepared by each
40 county pursuant to this Article and submitted to the Department for
41 incorporation into the State Plan.

42 (2) 'Department' is the Department of Human Resources, unless the context
43 clearly indicates otherwise.

- 1 (3) ~~'Dependent child' is a person under 18 years of age who is living with a~~
2 ~~natural parent, adoptive parent, stepparent, or any other person related~~
3 ~~by blood, marriage, or legal adoption, in a place of residence maintained~~
4 ~~by one or more of such persons as his or their own home, and who is~~
5 ~~deprived of parental support or care; it shall also include a minor who~~
6 ~~has been eligible for AFDC who is now living in a foster care facility~~
7 ~~or child caring institution; it shall also include a dependent child in~~
8 ~~school under 21 years of age as provided by Titles IV-A and XIX of the~~
9 ~~Social Security Act.~~
- 10 (3a) 'Employment' means work that requires either a contribution to FICA or
11 the filing of a State N.C. Form D-400, or the equivalent.
- 12 (3b) 'Family' means a unit consisting of a minor child or children and one or
13 more of their biological parents, adoptive parents, or grandparents living
14 together and in which one or more of the parents is employed or
15 performing community service.
- 16 (3c) 'Federal TANF funds' means the Temporary Assistance for Needy
17 Families block grant funds provided for in Title IV-A of the Social
18 Security Act.
- 19 (3d) 'First Stop Employment Assistance' is the program established to assist
20 recipients of Work First Program assistance or food stamps with
21 employment through job registration, job search, job preparedness, and
22 community service.
- 23 (3e) 'Full-time employment' means employment averaging over 30 hours a
24 week for at least 50 consecutive weeks and which either requires a
25 contribution to FICA for four consecutive quarters or the filing of a
26 State N.C. Form D-400.
- 27 (3f) 'FICA' means the taxes imposed by the Federal Insurance Contribution
28 Act, 26 U.S.C. § 3101, et seq.
- 29 (4) Repealed by Session Laws 1983, c. 14, s. 3.
- 30 (4a) 'Mutual Responsibility Agreement' ('MRA') is an agreement between a
31 county and a recipient of Work First Program assistance which
32 describes the conditions for eligibility for the assistance and what the
33 county will provide to assist the recipient in moving from assistance to
34 self-sufficiency. Improvement in literacy shall be a part of a MRA with
35 persons who cannot read above the eighth grade level. A MRA is a
36 prerequisite for any temporary Work First Program assistance under this
37 Article.
- 38 (4b) 'Parent' means biological parent, adoptive parent, or grandparent.
- 39 (5) 'Recipient' is a person to whom, or on whose behalf, assistance is
40 granted under this Article.
- 41 (6) 'Resident,' unless otherwise defined by federal regulation, is a person
42 who is living in North Carolina at the time of application with the intent
43 to remain permanently or for an indefinite period; or who is a person

- 1 who enters North Carolina seeking employment or with a job
2 commitment.
- 3 (7) 'Secretary' is the Secretary of Human Resources, unless the context
4 clearly indicates otherwise.
- 5 (8) 'State Plan' is the biennial Work First Program plan, based upon the
6 aggregate of the County Plans, prepared by the Department for the
7 State's Work First Program pursuant to this Article, and submitted
8 sequentially to the Budget Director, to the General Assembly, to the
9 Governor, and to the appropriate federal officials.
- 10 (9) 'Temporary' is a time period, not to exceed 60 cumulative months,
11 which meets the federal requirement of Title IV-A.
- 12 (10) 'Title IV-A' means the Social Security Act, 42 U.S.C. § 601, et seq., as
13 amended by the Personal Responsibility and Work Opportunity
14 Reconciliation Act of 1996, P.L. 104-193, and to other provisions of
15 federal law as may apply to assistance provided in this Article.
- 16 (11) 'Underemployment' means anything less than full-time employment
17 except unemployment.
- 18 (12) 'Unemployment' means no FICA contributions for four consecutive
19 quarters or earnings less than those required for filing a State N.C. Form
20 D-400.
- 21 (13) 'Work' is lawful activity exchanged for cash, goods, uses, or services.
- 22 (14) 'Work First Diversion Assistance' is a short-term cash payment that is
23 intended to produce a substantial reduction in the likelihood of a family
24 requiring Work First Family Assistance.
- 25 (15) 'Work First Family Assistance' is a program of time-limited periodic
26 payments to assist in maintaining the children of eligible families while
27 the adult family members engage in activities to prepare for entering
28 and to enter the workplace.
- 29 (16) 'Work First Program' is the temporary assistance to needy families
30 program established in this Article.
- 31 (17) 'Work First Program assistance' means the goods, uses, or services
32 provided under the Work First Program.
- 33 (18) 'Work First Services' are services funded from appropriations made
34 pursuant to this Article and designed to facilitate the purposes of the
35 Work First Program."

36 Section 1.3. G.S. 108A-25 reads as rewritten:

37 **"§ 108A-25. Creation of programs.**

38 (a) The following programs of public assistance are hereby established, and shall
39 be administered by the county department of social services or board of commissioners or
40 the Department of Human Resources under federal regulations or under rules ~~and~~
41 ~~regulations~~ adopted by the ~~Social Services Commission~~ and under the supervision of the
42 Department of Human Resources:

- 43 (1) ~~Aid to families with dependent children;~~ Work First Program;

- 1 (2) State-county special assistance for adults;
- 2 (3) Food stamp program;
- 3 (4) Foster care and adoption assistance payments;
- 4 (5) Low income energy assistance program.

5 (b) The program of medical assistance is hereby established as a program of
6 public assistance and shall be administered by the county departments of social services
7 under rules and regulations adopted by the Department of Human Resources.

8 (c) The Department of Human Resources ~~is hereby authorized to~~ shall accept all
9 grants-in-aid for programs of public assistance which may be available to the State by the
10 federal government. The provisions of this Article shall be liberally construed in order
11 that the State and its citizens may benefit fully from ~~such~~ the federal grants-in-aid."

12 Section 1.4. G.S. 108A-27 reads as rewritten:

13 **"§ 108A-27. Authorization of Aid to Families with Dependent Children Program. Work**
14 **First Program.**

15 The (a) Each county Department is authorized to shall establish and supervise an Aid to
16 Families with Dependent Children Program. develop, implement, and administer a biennial
17 County Plan that begins to reduce unemployment and underemployment in that county.
18 This program is to County Plan shall be administered by county departments of social services
19 under federal regulations and rules and regulations of the Social Services Commission. in
20 accordance with:

- 21 (1) This Article;
- 22 (2) Applicable federal, State, and local laws; and
- 23 (3) Rules adopted pursuant to this Article by the Department.

24 (b) The Department shall adopt rules regarding the biennial County Plans that
25 shall be the most flexible and least restrictive while ensuring that federal and State laws,
26 regulations, and goals for the State are met or achieved.

27 (c) The Department shall establish, administer, and supervise the Work First
28 Program in accordance with:

- 29 (1) This Article;
- 30 (2) The State Plan;
- 31 (3) Rules adopted pursuant to this Article by the Department; and
- 32 (4) Applicable federal and State laws."

33 Section 1.5. Part 2 of Article 2 of Chapter 108A of the General Statutes is
34 amended by adding the following new sections:

35 **"§ 108A-27.1. Assistance not an entitlement.**

36 Any assistance programs established under this Part are not entitlements, and nothing
37 in this Part shall create any property right.

38 **"§ 108A-27.2. Purpose; program description.**

39 (a) The purpose of the Work First Program is to provide eligible families with
40 short-term assistance to facilitate their movement to self-sufficiency through lawful
41 employment.

42 (b) The Work First Program shall include program administration and four
43 categories of assistance to participants:

- 1 (1) First Stop Employment Assistance;
- 2 (2) Work First Diversion Assistance;
- 3 (3) Work First Family Assistance; and
- 4 (4) Work First Services.

5 (c) A case in which benefits are paid only for a child may be considered a family
6 for the Work First Program.

7 **"§ 108A-27.3. Duties of county boards of commissioners.**

8 (a) The duties of the county boards of commissioners under the Work First
9 Program are as follows:

- 10 (1) Establish county outcome and performance goals based on county
11 economic, educational, and employment factors and adopt criteria for
12 determining the progress of the county in moving persons and families
13 to self-sufficiency.
- 14 (2) Establish eligibility criteria for recipients.
- 15 (3) Prescribe the method of calculating benefits for recipients.
- 16 (4) Determine and list individuals and families eligible for the Work First
17 Program.
- 18 (5) Develop and enter into Mutual Responsibility Agreements with Work
19 First Program recipients.
- 20 (6) Develop and enter into Child Development Agreements with every
21 eligible parent who has a MRA.
- 22 (7) Provide community service work for any recipient who cannot find
23 employment.
- 24 (8) Make payments of Work First Diversion Assistance and Work First
25 Family Assistance to recipients having MRAs and CDAs.
- 26 (9) Monitor compliance with Mutual Responsibility Agreements and
27 enforce the agreement provisions.
- 28 (10) Monitor compliance with Child Development Agreements and enforce
29 the agreement provisions.
- 30 (11) Ensure compliance with State and federal law, rules, and regulations for
31 the Work First Program.
- 32 (12) Adopt and submit to the Department a biennial County Plan.

33 (b) County boards of commissioners shall not delegate the responsibilities
34 described in subdivisions (a)(1), (a)(11), and (a)(12) of this section but may delegate
35 other duties to public or private entities.

36 **"§ 108A-27.4. Duties of the Department.**

37 The Department shall have the following duties:

- 38 (1) Establish and maintain a uniform system of identifying Work First
39 Program, food stamp, and Medicaid recipients. This system shall
40 provide security and portability throughout the State and between the
41 departments within the State involved in the Work First Program, the
42 food stamp program, and the Medicaid program. The system shall use
43 multiple biometrics to ensure greater than ninety-nine percent (99%)

1 accuracy for interdepartmental identification. The Department shall
2 ensure that the biometric identification system will be able to interface
3 with any existing departmental biometric identification system.

4 (2) Provide technical assistance to counties developing and implementing
5 their County Plans, including providing information concerning
6 applicable federal law and regulations and changes to federal law and
7 regulations that effect the permissible use of federal funds and scope of
8 the Work First Program in a county.

9 (3) Adopt necessary rules, terms of funding, and promulgate criteria that
10 allows counties maximum flexibility in designing and implementing
11 County Plans.

12 (4) Ensure that County Plans comply with federal and State laws, rules, and
13 regulations.

14 (5) Establish schedules for counties to submit their County Plans to ensure
15 that all County Plans are adopted by the counties by the first day of
16 February of each even-numbered calendar year.

17 (6) Accept County Plans after ensuring that the aggregate of the County
18 Plans is in compliance with federal law and regulations for receipt of
19 federal funds and maximizes federal receipts for the Work First
20 Program.

21 (7) Coordinate activities of other State agencies providing technical support
22 to counties developing their County Plans.

23 (8) At the request of the counties, provide assistance to counties in their
24 activities with private sector individuals and organizations relative to
25 County Plans.

26 (9) Pay counties, on the first day of the quarter, one-fourth of the counties'
27 annual block grant funds. Once paid, these funds shall be nonreverting.

28 (10) Provide for exceptions to criteria and standards for federal programs.

29 (11) Describe authorized federal and State work activities.

30 (12) Define requirements for assignment of child support income and
31 compliance with child support enforcement activities.

32 (13) Monitor the performance of counties on a quarterly basis relative to
33 their County Plans and report quarterly to the Director of the Budget
34 and to the Joint Legislative Public Assistance Commission and annually
35 to the General Assembly on the counties' attainment of the outcomes
36 and goals specified in Part II of each County Plan.

37 (14) Prepare and submit, by April 1 of each even-numbered calendar year, a
38 biennial State Plan to the Director of the Budget in accordance with
39 federal laws and regulations and State laws and rules.

40 (15) Establish the baseline for the State maintenance of effort.

41 **"§ 108A-27.5. County Plan.**

1 (a) Each county shall submit to the Department, according to the schedule
2 established by the Department and in compliance with all federal and State laws, rules
3 and regulations, a County Plan.

4 (b) A County Plan shall have the following five parts:

5 (1) Part I. Conditions Within the County;

6 (2) Part II. Outcomes and Goals for the County;

7 (3) Part III. Plans to Achieve the Outcomes and Goals;

8 (4) Part IV. Administration; and

9 (5) Part V. Funding Requirements.

10 (c) Funding requirements shall, at least, identify the amount of a county block
11 grant for Work First Diversion Assistance, a county block grant for Work First Family
12 Assistance, a county block grant for Work First Services, and the county's maintenance of
13 effort contribution. A county may establish a reserve.

14 (d) Each county shall include in its County Plan the following:

15 (1) The number of MRAs and CDAs entered into by the county;

16 (2) A description of the county's priorities for serving families who need
17 child care based on the needs of the community and the availability of
18 services and funding;

19 (3) A list of the community service programs equivalent to full-time
20 employment that are being offered to Work First Program recipients
21 who are unable to find full-time employment; and

22 (4) Any request from the Department for waivers to rules or any proposals
23 for statutory changes to remove any impediments to implementation of
24 the County's Plan.

25 (e) Each county shall provide to the general public an opportunity to review and
26 comment upon its County Plan prior to its submission to the Department.

27 (f) A county may modify its County Plan once each biennium but not at any other
28 time except by special request to the Joint Legislative Public Assistance Oversight
29 Commission.

30 **"§ 108A-27.6. Performance standards; corrective action.**

31 (a) All adult recipients of Work First Program assistance are expected to achieve
32 full-time employment and at least eighth grade literacy. Adult recipients of Work First
33 Program assistance shall comply with the provisions and requirements in their MRAs and
34 CDAs. Failure to comply shall be cause to terminate Work First Program assistance.

35 (b) County performance shall be judged solely upon its ability to attain the
36 outcomes and goals established in that county's County Plan.

37 (c) When a county fails to achieve its Work First Program goals, the Department
38 may take one or more of the following actions to assist the county in meeting its goals:

39 (1) Notify the county of the deficiencies and add additional monitoring and
40 reporting requirements.

41 (2) Require the county to develop and submit for approval by the
42 Department a corrective action plan.

1 If a county fails to achieve its Work First Program goals for two consecutive years, or
2 fails to comply with a corrective action plan developed pursuant to this section, the
3 county shall lose an appropriate portion of the State's block grant to the county in the
4 subsequent State Plan.

5 **"§ 108A-27.7. State Plan.**

6 (a) The Department shall prepare and submit to the Director of the Budget, in
7 accordance with the procedures established in G.S. 143-16.1 for federal block grant
8 funds, a biennial State Plan that proposes the terms of the Work First Program for each
9 fiscal year. The State Plan shall be based upon the aggregate of the County Plans. The
10 State Plan shall include the following:

- 11 (1) Allocations of federal and State funds for the Work First Program,
12 including block grants to counties and the allocation of funding for
13 administration not to exceed the federally established limitations on the
14 use of federal TANF funds and the limits imposed under this Article;
15 (2) Maintenance of effort and levels of State and county funding for the
16 Work First Program;
17 (3) Federal eligibility requirements and a description of the eligibility
18 requirements in each county;
19 (4) A description of eligible federal and State work activities;
20 (5) A description of the federal, State, and each county's financial
21 participation in the Work First Program;
22 (6) Provisions to ensure that no Work First Program recipients, required to
23 participate in work activities, shall be employed or assigned when:
24 a. Any regular employee is on layoff from the same or substantially
25 equivalent job;
26 b. An employer terminates any regular employee or otherwise
27 causes an involuntary reduction in the employer's workforce in
28 order to hire Work First recipients; or
29 c. An employer otherwise causes the displacement of any currently
30 employed worker or positions, including partial displacements
31 such as reductions in hours of nonovertime work, wages, or
32 employment benefits, in order to hire Work First recipients;
33 (7) Provisions to ensure the establishment and maintenance of grievance
34 procedures to resolve complaints by regular employees who allege that
35 the employment or assignment of a Work First Program recipient is in
36 violation of subdivision (6) of this section;
37 (8) Provisions to ensure that Work First Program participants, required to
38 participate in work activities, shall be subject to and have the same
39 rights under federal, State, or local laws applicable to non-Work First
40 Program employees in similarly situated work activities, including, but
41 not limited to, health and safety standards and nondiscrimination laws,
42 provided that nothing in this subdivision shall be construed to prohibit
43 Work First Program participants from receiving State or county services

1 designed to assist Work First Program participants achieve job stability
2 and self-sufficiency;

3 (9) Requirements for assignment of child support income and compliance
4 with child support enforcement activities; and

5 (10) Anything else required by federal or State law, rule, or regulation to be
6 included in the State Plan.

7 (b) The State Plan may provide for automatic Medicaid eligibility for Work First
8 Program recipients.

9 (c) The State Plan may distinguish among potential groups of recipients on
10 whatever basis necessary to enhance program purposes and to increase federal revenues.

11 (d) The Department may modify the State Plan once a biennium but at no other
12 time except by special request to the Joint Legislative Public Assistance Oversight
13 Commission. Any changes to the State Plan shall be reported to the General Assembly
14 during the next session following the changes.

15 **"§ 108A-27.8. Duties of the Director of the Budget/Governor.**

16 (a) The Director of the Budget shall, by April 15 of each even-numbered calendar
17 year, approve and recommend adoption by the General Assembly of the State Plan.

18 (b) At the beginning of every fiscal year, the Director of the Budget shall report to
19 the General Assembly the number of permanent State employees who have been Work
20 First Program recipients during the previous calendar year.

21 (c) After the State Plan has become law, the Governor shall sign it and cause it to
22 be submitted to federal officials in accordance with federal law.

23 **"§ 108A-27.9. Maintenance of effort.**

24 (a) The Department shall maintain the State's maintenance of effort at one hundred
25 percent (100%). A county's maintenance of effort shall be no less than eighty percent
26 (80%).

27 (b) The Department shall provide to counties a list of activities that qualify for
28 maintenance of effort requirements.

29 **"§ 108A-27.10. Exemption from limitations for individuals convicted of certain**
30 **drug-related felonies.**

31 Individuals convicted of Class H or I controlled substance felony offenses in this State
32 shall be eligible to participate in the Work First Program and food stamp program:

33 (1) Six months after release from custody if no additional controlled
34 substance felony offense is committed during that period and successful
35 completion of a required substance abuse treatment program determined
36 appropriate by the county department of social services; or

37 (2) If not in custody, six months after the date of conviction if no additional
38 controlled substance felony offense is committed during that period and
39 successful completion of a required substance abuse treatment program
40 determined appropriate by the county department of social services.

41 A county department of social services shall require individuals who are eligible for
42 Work First Program assistance and food stamp benefits pursuant to this section to

1 undergo substance abuse treatment as a condition for receiving Work First Program or
2 food stamp benefits, if funds and programs are available.

3 **"§ 108A-27.11. Appeals.**

4 The Work First Program is a program of temporary public assistance for the purpose
5 of an appeal under G.S. 108A-79."

6 Section 1.6. (a) G.S. 108A-29 reads as rewritten:

7 **"§ 108A-29. Limitations on eligibility. First Stop Employment Assistance; priority for**
8 **employment services.**

9 ~~(a) The Social Services Commission shall adopt such administrative rules~~
10 ~~concerning work requirements as conditions of eligibility for Aid to Families with~~
11 ~~Dependent Children in order to be in compliance with federal regulations, but such rules~~
12 ~~shall not be more restrictive than the work requirements applicable to the Job~~
13 ~~Opportunities and Basic Skills Training Program provided for in G.S. 108A-30.~~

14 (a1) There is established in the Employment Security Commission, Department of
15 Commerce, a program to be called First Stop Employment Assistance. The Chairman of
16 the Employment Security Commission shall administer the program with the
17 participation and cooperation of county boards of commissioners, the Department of
18 Human Resources, the Department of Labor, the Department of Crime Control and
19 Public Safety, and the community college system.

20 (a2) Individuals seeking to apply or reapply for Work First Program assistance or
21 food stamps who are unemployed or underemployed shall make their 'first stop' in the
22 application process for assistance the Employment Security Commission, where they
23 shall register for a job, unless exempt either temporarily or permanently from
24 participating in a work program by federal or State law, rules, or regulations.

25 (a3) Individuals who are not otherwise exempt shall present verification of
26 registration with the Employment Security Commission at the time of applying for public
27 assistance. Unless exempt, the individual shall not be approved for Work First Program
28 assistance or food stamps until verification is received. Child-only cases are exempt from
29 this requirement.

30 (a4) The Employment Security Commission shall expand its Labor Market
31 Information System. The expansion shall at least include: statistical information on
32 unemployment rates and other labor trends by county; and publications dealing with
33 licensing requirements, economic development, and career projections, and information
34 technology systems which can be used to track participants through the employment and
35 training process.

36 (a5) The First Stop Employment Program shall assist Work First Program and food
37 stamp recipients with employment through job registration, job search, job preparedness,
38 and community service.

39 (a6) The Employment Security Commission shall offer a continuum of services to
40 individuals seeking employment and training assistance ranging from self-help options to
41 labor-intensive case management approaches. The Employment Security Commission
42 shall provide an intense program of employment or reemployment services such as job

1 seeking skills, workshops, employment counseling, and testing to move individuals into
2 the workforce as quickly as possible.

3 (a7) If after evaluation of an individual the Employment Security Commission
4 believes it necessary, the Employment Security Commission also may refer an individual
5 placed in the Job Preparedness component of the First Stop Employment Program to a
6 local community college for enrollment in General Education Development, Adult Basic
7 Education, or Human Resources Development programs which are already in existence.
8 Additionally, the Commission may refer an individual to a literacy council. Whenever an
9 individual is referred to a community college or to a literacy council, the Employment
10 Security Commission shall monitor the individual's progress through close
11 communications with those agencies. The Employment Security Commission shall adopt
12 rules to accomplish this subsection.

13 (a8) The Job Preparedness component of the Program shall last a maximum of 12
14 weeks unless the recipient is registered and is satisfactorily progressing in a program that
15 requires additional time to complete. Every effort shall be made to place the recipient in
16 part-time employment or part-time community service if the time required exceeds the
17 12-week maximum.

18 (a9) An individual placed in the Job Search component of the First Stop
19 Employment Program shall look for work and shall accept any suitable employment. The
20 Employment Security Commission shall refer individuals to current job openings and
21 shall make job development contacts for individuals. Individuals shall be required to
22 keep a record of their job search activities on a job search record form provided by the
23 Commission, and the Employment Security Commission will monitor these activities. A
24 'job search record' means a written list of dates, times, places, addresses, telephone
25 numbers, names, and circumstances of job interviews. The Job Search component shall
26 include at least one weekly contact with the Employment Security Commission. The
27 Employment Security Commission shall adopt rules to accomplish this subsection.

28 (a10) The Employment Security Commission shall work with the Private Personnel
29 Service Division of the Department of Labor to develop a relationship with these private
30 employment agencies to utilize their services and make referrals of individuals registered
31 with the Employment Security Commission.

32 (a11) The Employment Security Commission shall notify all employers in the State
33 of the 'Exclusive No-Fault' Referral Service available through the Employment Security
34 Commission to employers who hire personnel through Job Service referrals.

35 (a12) All individuals referred to jobs through the Employment Security Commission
36 shall be instructed in the procedures for applying for the Federal Earned Income Credit
37 (FEIC). All individuals referred to jobs through the Employment Security Commission
38 who qualify for the FEIC shall apply for the FEIC by filing a W-5 form with their
39 employers.

40 (a13) The FEIC shall not be counted as income when eligibility is determined for
41 Work First Program assistance, Medicaid, food stamps, subsidies, public housing, or
42 Supplemental Security Income.

1 (a14) An individual who has not found a job within 12 weeks of being placed in the
2 Job Search component of the Program may also be placed in the Community Service
3 component at the county's option.

4 (a15) Once an individual has registered with the Employment Security Commission
5 and upon verification of the registration by the agency or contractor providing the Work
6 First Program assistance, the individual's eligibility for Work First Program assistance
7 may be evaluated and the application completed. The individual then may be eligible for
8 all the benefits for which the individual is eligible under the county's County Plan.
9 Continued receipt of Work First Program benefits is contingent upon successful
10 participation in the First Stop Employment Program, and lack of cooperation and
11 participation in the First Stop Employment Program may result in the termination of
12 benefits to the individual.

13 (a16) The county board of commissioners shall determine which agencies or
14 nonprofit or private contractors will participate with the Employment Security
15 Commission in developing the rules to implement the First Stop Employment Program.
16 The rules and operations of the program shall be reviewed by the Joint Legislative Public
17 Assistance Commission before implementation.

18 (a17) Each county shall organize a Job Service Employer Committee, based on the
19 membership makeup of the Job Service Employer Committees in existence at the time
20 this act becomes law. Each Job Service Employer Committee shall oversee the operation
21 of the First Stop Employment Program in that county. The Committee shall report to the
22 local Employment Security Commission quarterly on its recommendations to improve the
23 First Stop Employment Program. The Employment Security Commission shall develop
24 the reporting method and time frame and shall coordinate a full report to be presented to
25 the Joint Legislative Public Assistance Commission by the end of each calendar year.

26 (b) Members of families with dependent children and with aggregate family
27 income at or below the level required for eligibility for ~~Aid to Families with Dependent~~
28 ~~Children assistance, Work First Family Assistance, regardless of whether or not they have~~
29 applied for such assistance, shall be given priority in obtaining ~~manpower employment~~
30 services including training and ~~public service employment~~ community service provided by
31 or through State agencies or counties or with funds which are allocated to the State of
32 North Carolina directly or indirectly through prime sponsors or otherwise for the purpose
33 of employment of unemployed persons.

34 (c) [Repealed.]"

35 (b) Each county's Job Service Employer Committee shall develop a study of the
36 "working poor" in their respective counties and shall include the following in the study:

- 37 (1) Determine the extent to which current labor market participation enables
38 individuals and families to earn the amount of disposable income
39 necessary to meet their basic needs;
- 40 (2) Determine how many North Carolinians work and earn wages below
41 one hundred fifty percent (150%) of the Federal Poverty Guideline and
42 study trends in the size and demographic profiles of this underemployed
43 group within the respective county;

- 1 (3) Examine job market factors that contribute to any changes in the
2 composition and numbers of the working poor including, but not limited
3 to, shifts from manufacturing to service, from full-time to part-time
4 work, from permanent to temporary or their contingent employment;
5 (4) Consider and determine the respective responsibilities of the public and
6 private sectors in ensuring that working families and individuals have
7 disposable income adequate to meet their basic needs;
8 (5) Evaluate the effectiveness of the unemployment insurance system in
9 meeting the needs of low-wage workers when they become
10 unemployed;
11 (6) Examine the efficacy of a State earned income tax credit that would
12 enable working families to meet the requirements of the basic needs
13 budget;
14 (7) Examine the wages, benefits, and protections available to part-time and
15 temporary workers, leased employees, independent contractors, and
16 other contingent workers as compared to regular full-time workers;
17 (8) Solicit, receive, and accept grants or other funds from any person or
18 entity and enter into agreements with respect to these grants or other
19 funds regarding the undertaking of studies or plans necessary to carry
20 out the purposes of the committee; and
21 (9) Request any necessary data from either public or private entities that
22 relate to the needs of the committee.

23 Each committee shall prepare and submit a report on the finding for the county
24 which it represents by May 1, 1998, to the Joint Legislative Public Assistance
25 Commission.

26 (c) The First Stop Employment Assistance program becomes effective beginning
27 July 1, 1997. Funds shall be allocated from the Work First Program to establish the First
28 Stop Employment Program and to assist the Job Service Employer Committees in their
29 completion of the study of the working poor.

30 (d) G.S. 126-7.1 reads as rewritten:

31 "**§ 126-7.1. Posting requirement; State employees receive priority consideration;**
32 **reduction-in-force ~~rights~~-rights; Work First hiring.**

33 (a) All vacancies for which any State agency, department, or institution openly
34 recruit shall be posted within at least the following:

- 35 (1) The personnel office of the agency, department, or institution having the
36 vacancy; and
37 (2) The particular work unit of the agency, department, or institution having
38 the vacancy

39 in a location readily accessible to employees. If the decision is made, initially or at any
40 time while the vacancy remains open, to receive applicants from outside the recruiting
41 agency, department, or institution, the vacancy shall be listed with the Office of State
42 Personnel for the purpose of informing current State employees of such vacancy. The
43 State agency, department, or institution may not receive approval from the Office of State

1 Personnel to fill a job vacancy if the agency, department, or institution cannot prove to
2 the satisfaction of the Office of State Personnel that it complied with these posting
3 requirements. The agency, department, or institution which hires any person in violation
4 of these posting requirements shall pay such person when employment is discontinued as
5 a result of such violation for the work performed during the period of time between his
6 initial employment and separation.

7 (a1) State employees to be affected by a reduction in force shall be notified of the
8 reduction in force as soon as practicable, and in any event, no less than 30 days prior to
9 the effective date of the reduction in force.

10 (a2) The State Personnel Commission shall adopt rules to provide that priority
11 consideration for State employees separated from State employment as the result of
12 reductions in force is to enable a State employee's return to career service at a salary
13 grade and salary rate equal to that held in the most recent position. The State Personnel
14 Commission shall provide that a State employee who:

15 (1) Accepts a position at the same salary grade shall be paid at the same
16 salary rate as the employee's previous position.

17 (2) Accepts a position at a lower salary grade than the employee's previous
18 position shall be paid at the same rate as the previous position unless the
19 salary rate exceeds the maximum of the new salary grade. When the
20 salary rate exceeds the maximum of the salary grade, the employee's
21 new salary rate shall be reduced to the maximum of the new salary
22 grade.

23 (b) Subsection (a) of this section does not apply to vacancies which must be filled
24 immediately to prevent work stoppage or the protection of the public health, safety, or
25 security.

26 (c) If a State employee subject to this section:

27 (1) Applies for another position of State employment that would constitute
28 a promotion and;

29 (2) Has substantially equal qualifications as an applicant who is not a State
30 employee

31 then the State employee shall receive priority consideration over the applicant who is not
32 a State employee. This priority consideration shall not apply when the only applicants
33 considered for the vacancy are current State employees.

34 (c1) If a State employee who has been separated due to reduction in force or who
35 has been given notice of imminent separation due to reduction in force:

36 (1) Applies for another position of State employment equal to or lower in
37 salary grade than the position held by the employee at the time of
38 notification or separation; and

39 (2) Is determined qualified for that position

40 then within all State agencies, the State employee shall receive priority consideration
41 over all other applicants but shall receive equal consideration with other applicants who
42 are current State employees not affected by the reduction in force. This priority shall
43 remain in effect for a period of 12 months from the date the employee receives

1 notification of separation by reduction in force. State employees separated due to
2 reduction in force shall receive higher priority than other applicants with employment or
3 reemployment priorities, except that the reemployment priority created by G.S. 126-
4 5(e)(1) shall be considered as equal. The reduction-in-force priority created by this
5 subsection shall be administered in accordance with rules promulgated by the State
6 Personnel Commission.

7 (c2) If the applicants for reemployment for a position include current State
8 employees, a State employee with more than 10 years of service shall receive priority
9 consideration over a State employee having less than 10 years of service in the same or
10 related position classification. This reemployment priority shall be given by all State
11 departments, agencies, and institutions with regard to positions subject to this Chapter.

12 (d) 'Qualifications' within the meaning of subsection (c) of this section shall
13 consist of:

- 14 (1) Training or education;
- 15 (2) Years of experience; and
- 16 (3) Other skills, knowledge, and abilities that bear a reasonable functional
17 relationship to the abilities and skills required in the job vacancy applied
18 for.

19 (e) Each State agency, department, and institution is encouraged to hire into State
20 government employment qualified applicants who are current or former Work First
21 program participants."

22 Section 1.7. Chapter 108A of the General Statutes is amended by adding a
23 new section to read:

24 **"§ 108A-29.1. Substance abuse treatment required; drug testing for Work First**
25 **Program recipients.**

26 (a) Each applicant or current recipient of Work First Program benefits, determined
27 by a Certified Substance Abuse Counselor (CSAC) or by a physician certified by the
28 American Society of Addiction Medicine (ASAM) to be addicted to alcohol or drugs and
29 to be in need of professional substance abuse treatment services shall be required, as part
30 of the person's MRA and as a condition to receiving Work First Program benefits, to
31 participate satisfactorily in an individualized plan of treatment in an appropriate treatment
32 program. As a mandatory program component of participation in an addiction treatment
33 program, each applicant or current recipient shall be required to submit to an approved,
34 reliable, and professionally administered regime of testing for presence of alcohol or
35 drugs, without advance notice, during and after participation, in accordance with the
36 addiction treatment program's individualized plan of treatment, follow-up, and continuing
37 care services for the applicant or current recipient.

38 (b) An applicant or current recipient who fails to comply with any requirement
39 imposed pursuant to this section shall not be eligible for benefits or shall be subject to the
40 termination of benefits, but shall be considered to be receiving benefits for purposes of
41 determining eligibility for medical assistance.

42 (c) The children of any applicant or current recipient shall remain eligible for
43 benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

1 (d) An applicant or current recipient shall not be regarded as failing to comply
2 with the requirements of this section if an appropriate drug or alcohol treatment program
3 is unavailable.

4 (e) Area mental health authorities organized pursuant to Article 4 of Chapter 122C
5 of the General Statutes shall be responsible for administering the provisions of this
6 section."

7 Section 1.8. G.S. 108A-38 reads as rewritten:

8 **"§ 108A-38. Protective and vendor payments.**

9 ~~Instead of the use of personal representatives provided for by G.S. 108A-37, when~~ When
10 necessary to comply with any present or future federal law or regulation in order to
11 obtain federal participation in public assistance payments, the payments may be made
12 direct to vendors to reimburse them for goods and services provided the applicants or
13 recipients, and may be made to protective payees who shall act for the applicant or
14 recipient for receiving and managing assistance. Payments to vendors and protective
15 payees shall be made to the extent provided in, and in accordance with, rules and
16 regulations of the Social Services Commission or the Department, which rules and regulations
17 shall be subject to applicable federal laws and regulations."

18 Section 1.9. G.S. 108A-49 reads as rewritten:

19 **"§ 108A-49. Foster care and adoption assistance payments.**

20 (a) Benefits in the form of foster care assistance shall be granted in accordance
21 with the rules ~~and regulations of the Social Services Commission~~ Department of Human
22 Resources to any dependent child who ~~is~~ would have been eligible to receive AFDC-Aid
23 to Families with Dependent Children (as that program was in effect on June 1, 1995), but
24 for his or her removal from the home of a specified relative for placement in a foster care
25 facility; provided, that the child's placement and care is the responsibility of a county
26 department of social services.

27 (b) Adoption assistance payments for certain adoptive children shall be granted in
28 accordance with the rules ~~and regulations of the Social Services Commission~~ Department to
29 adoptive parents who adopt a child eligible to receive foster care maintenance payments
30 or supplemental security income benefits; provided, that the child cannot be returned to
31 his or her parents; and provided, that the child has special needs which create a financial
32 barrier to adoption.

33 (c) The Department is authorized to use available federal payments to states under
34 Title IV-E of the Social Security Act for foster care and adoption assistance payments."

35 Section 1.10. G.S. 108A-58 reads as rewritten:

36 **"§ 108A-58. Transfer of property for purposes of qualifying for medical assistance;**
37 **periods of ineligibility.**

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

1 establishing eligibility for medical assistance benefits, shall be ineligible to receive
2 medical assistance benefits ~~thereafter~~ as set forth in subsection (c) of this section.

3 Countable real and personal property includes real property, excluding a homesite,
4 intangible personal property, nonessential motor and recreational vehicles, nonincome
5 producing business equipment, boats and motors. The provisions of this act shall not
6 apply to the sale, gift, assignment or transfer of real or personal property if and to the
7 extent that the person applying for medical assistance would have been eligible for such
8 assistance notwithstanding ownership of such property or an interest therein.

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

15 (c) Any person ~~who, by himself or through his legal representative, who~~ sells, gives,
16 assigns or transfers real or personal property or an interest ~~therein in real or personal~~
17 property for the purpose of retaining or establishing eligibility for medical assistance
18 benefits, as provided in subsection (a) of this section, ~~shall~~ shall, after the time of transfer,
19 be ineligible to receive these benefits ~~thereafter~~ until an amount equal to the
20 uncompensated value of the property or interest has been expended by or on behalf of the
21 person for ~~his~~ the person's maintenance and support, including medical expenses, paid or
22 incurred, or shall be ineligible in accordance with the following schedule, whichever is
23 sooner:

- 24 (1) For uncompensated value of at least one thousand dollars (\$1,000) but
25 not more than six thousand dollars (\$6,000), a one-year period of
26 ineligibility from date of sale, gift, assignment or transfer;
- 27 (2) For uncompensated value of more than six thousand dollars (\$6,000)
28 but not more than twelve thousand dollars (\$12,000), a two-year period
29 of ineligibility from date of sale, gift, assignment or transfer;
- 30 (3) For uncompensated value of more than twelve thousand dollars
31 (\$12,000), a two-year period of ineligibility from date of sale, gift,
32 assignment or transfer, plus one additional month of ineligibility for
33 each five hundred dollar (\$500.00) increment or portion thereof by
34 which the uncompensated value exceeds twelve thousand dollars
35 (\$12,000), but in no event to exceed three years.

36 (d) The sale, gift, assignment or transfer for a consideration less than fair market
37 value, less encumbrances, of any tangible personal property which was acquired with the
38 proceeds of sale, assignment or transfer of real or intangible personal property described
39 in subsection (a) of this section or in exchange for such real or intangible personal
40 property shall be presumed to have been for the purpose of evading the provisions of this
41 section if the acquisition and sale, gift, assignment or transfer of the tangible personal
42 property is by or on behalf of a person receiving medical assistance or within one year of
43 making application for such assistance and the consequences of the sale, gift, assignment

1 of transfer of such tangible personal property shall be determined under the provisions of
2 subsections (c), (f) and (g) of this section.

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

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

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

25 (h) This section shall not apply to applicants for or recipients of ~~aid to families with~~
26 ~~dependent children~~ Work First Family Assistance or to persons entitled to medical
27 assistance by virtue of their eligibility for ~~aid to families with dependent children~~ Work
28 First Family Assistance.

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

30 Section 1.11. G.S. 108A-80 reads as rewritten:

31 "**§ 108A-80. Confidentiality of records.**

32 (a) Except as provided in (b) below, it shall be unlawful for any person to obtain,
33 disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or
34 other information concerning persons applying for or receiving public assistance or social
35 services that may be directly or indirectly derived from the records, files or
36 communications of the Department or the county boards of social services, or county
37 departments of social services or acquired in the course of performing official duties
38 except for the purposes directly connected with the administration of the programs of
39 public assistance and social services in accordance with federal law, rules and regulations
40 ~~and regulations, and~~ the rules ~~and regulations~~ of the ~~Social Services Commission or the~~
41 Department.

42 (b) ~~The Department~~ Each county shall furnish a copy of the recipient check register
43 monthly to ~~each its~~ county auditor showing a complete list of all recipients of ~~Aid To~~

1 ~~Families with Dependent Children Work First Family Assistance and State-County Special~~
2 Assistance for Adults, their addresses, and the amounts of the monthly grants. This
3 register shall be a public record open to public inspection during the regular office hours
4 of the county auditor, but said register or the information contained therein may not be
5 used for any commercial or political purpose. Any violation of this section shall
6 constitute a Class 1 misdemeanor.

7 (c) Any listing of recipients of benefits under any public assistance or social
8 services program compiled by or used for official purposes by a county board of social
9 services or a county department of social services shall not be used as a mailing list for
10 political purposes. This prohibition shall apply to any list of recipients of benefits of any
11 federal, State, county or mixed public assistance or social services program. Further, this
12 prohibition shall apply to the use of such listing by any person, organization, corporation,
13 or business, including but not limited to public officers or employees of federal, State,
14 county, or other local governments, as a mailing list for political purposes. Any violation
15 of this section shall be punishable as a Class 1 misdemeanor.

16 (d) ~~The Social Services Commission~~ Department of Human Resources shall have the
17 authority to adopt rules and regulations governing access to case files for social services
18 and public assistance programs, ~~except the Medical Assistance Program. The Secretary of the~~
19 ~~Department of Human Resources shall have the authority to adopt rules and regulations~~
20 ~~governing access to medical assistance case files. programs."~~

21 Section 1.12. (a)G.S. 143B-168.15 reads as rewritten:

22 **"§ 143B-168.15. Use of State funds.**

23 (a) State funds allocated to local projects for services to children and families shall
24 be used to meet assessed needs, expand coverage, and improve the quality of these
25 services. The local plan shall address the assessed needs of all children to the extent
26 feasible. It is the intent of the General Assembly that the needs of both young children
27 below poverty who remain in the home, as well as the needs of young children below
28 poverty who require services beyond those offered in child care settings, be addressed.
29 Therefore, as local partnerships address the assessed needs of all children, they should
30 devote an appropriate amount of their State allocations, considering these needs and other
31 available resources, to meet the needs of children below poverty and their families.

32 (b) Depending on local, regional, or statewide needs, funds may be used to support
33 activities and services that shall be made available and accessible to providers, children,
34 and families on a voluntary basis. Of the total funds allocated to all local partnerships
35 ~~that are designated by the Secretary for direct services, seventy five percent (75%) shall be~~
36 ~~used for any one or more of the following activities and services:~~

37 (1) ~~Child day care services, including:~~

38 a. ~~Child day care subsidies to reduce waiting lists;~~

39 b. ~~Raising the county child day care subsidy rate to the State market~~
40 ~~rate, if applicable, in return for improvements in the quality of~~
41 ~~child day care services;~~

42 e. ~~Raising the income eligibility for child day care subsidies to~~
43 ~~seventy five percent (75%) of the State median family income;~~

- 1 d. ~~Start-up funding for child day care providers;~~
2 e. ~~Assistance to enable child day care providers to conform to~~
3 licensing and building code requirements;
4 f. ~~Child day care resources and referral services;~~
5 g. ~~Enhancement of the quality of child day care provided;~~
6 h. ~~Technical assistance for child day care providers;~~
7 i. ~~Quality grants for child day care centers or family child day care~~
8 homes;
9 j. ~~Expanded services or enhanced rates for children with special~~
10 needs;
11 k. ~~Head Start services;~~
12 l. ~~Development of comprehensive child day care services that~~
13 include child health and family support;
14 m. ~~Activities to reduce staff turnover;~~
15 n. ~~Activities to serve children with special needs;~~
16 o. ~~Transportation services related to providing child day care~~
17 services;
18 p. ~~Evaluation of plan implementation of child day care services; and~~
19 q. ~~Needs and resources assessments for child day care services.~~
20 (2) ~~Family and child-centered services, including early childhood~~
21 education and child development services, including:
22 a. ~~Enhancement of the quality of family and child-centered~~
23 services provided;
24 b. ~~Technical assistance for family and child-centered services;~~
25 c. ~~Needs and resource assessments for family and child-centered~~
26 services;
27 d. ~~Home-centered services; and~~
28 e. ~~Evaluation of plan implementation of family and child-centered~~
29 services.
30 (3) ~~Other appropriate activities and services for child day care providers~~
31 and for family and child-centered services, including:
32 a. ~~Staff and organizational development, leadership and~~
33 administrative development, technology assisted education, and
34 long-range planning; and
35 b. ~~Procedures to ensure that infants and young children receive needed~~
36 health, immunization, and related services. seventy percent (70%)
37 shall be used in child care-related activities and programs which
38 improve access to child care services, develop new child care
39 services, or improve the quality of child care services in all
40 settings.
41 (c) Long-term plans for local projects that do not receive their full allocation in the
42 first year, other than those selected in 1993, should consider how to meet the assessed
43 needs of low-income children and families within their neighborhoods or communities.

1 These plans also should reflect a process to meet these needs as additional allocations and
2 other resources are received.

3 (d) State funds designated for start-up and related activities may be used for capital
4 expenses or to support activities and services for children, families, and providers. State
5 funds designated to support direct services for children, families, and providers shall not
6 be used for major capital expenses unless the North Carolina Partnership approves this
7 use of State funds based upon a finding that a local partnership has demonstrated that (i)
8 this use is a clear priority need for the local plan, (ii) it is necessary to enable the local
9 partnership to provide services and activities to underserved children and families, and
10 (iii) the local partnership will not otherwise be able to meet this priority need by using
11 State or federal funds available to that local partnership. The funds approved for capital
12 projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total
13 funds for direct services allocated to a local partnership in those two consecutive fiscal
14 years.

15 (e) State funds allocated to local partnerships shall not supplant current
16 expenditures by counties on behalf of young children and their families, and maintenance
17 of current efforts on behalf of these children and families shall be sustained. State funds
18 shall not be applied without the Secretary's approval where State or federal funding
19 sources, such as Head Start, are available or could be made available to that county.

20 (f) Local partnerships may carry over funds from one fiscal year to the next,
21 subject to the following conditions:

22 (1) Local partnerships in their first year of receiving direct services funding
23 may, on a one-time basis only, carry over any unspent funds to the
24 subsequent fiscal year.

25 (2) Any local partnership may carry over any unspent funds to the
26 subsequent fiscal year, subject to the limitation that funds carried over
27 may not exceed the increase in funding the local partnership received
28 during the current fiscal year over the prior fiscal year.

29 (g) Not less than thirty percent (30%) of each local partnership's direct services
30 allocation shall be used to expand child ~~day~~-care subsidies. To the extent practicable,
31 these funds shall be used to enhance the affordability, availability, and quality of child
32 ~~day~~-care services as described in this section. The North Carolina Partnership may
33 increase this percentage requirement up to a maximum of fifty percent (50%) when,
34 based upon the local waiting list for subsidized child care or the total percentage of
35 children served whose families are income eligible for subsidized child care, the North
36 Carolina Partnership determines a higher percentage is justified."

37 (b) Part 10B of Article 3 of Chapter 143B of the General Statutes is amended by
38 adding a new section to read:

39 "**§ 143B-168.17. Priority/programs for children in Work First families.**

40 (a) All programs authorized and funded in whole or in part under this Part shall
41 give the children in Work First Program families priority in appropriate programs or
42 services.

1 (b) Counties which do not have programs funded in whole or in part under this
2 Part shall develop programs which first address the needs of children in participating
3 Work First Program families whenever funds under this Part become available.

4 (c) Counties may use funds provided under this Part for Work First Services but
5 shall not use funds provided for Work First Services for programs authorized under this
6 Part."

7 Section 1.13. G.S. 153A-255 reads as rewritten:

8 **"§ 153A-255. Authority to provide social service programs.**

9 (a) Each county shall have the duty to provide temporary assistance to its poor
10 residents.

11 (b) Each county shall provide social service programs pursuant to Chapter 108A
12 and Chapter 111 and may otherwise undertake, sponsor, organize, engage in, and support
13 other social service programs intended to further the health, welfare, education,
14 employment, safety, comfort, and convenience of its citizens."

15 Section 1.14. G.S. 108A-28, 108A-28.1, 108A-30, 108A-31, 108A-32, 108A-
16 33, 108A-34, 108A-35, 108A-39.1, and 108A-92 are repealed.

17 Section 1.15. Article 12G of Chapter 120 of the General Statutes is repealed.

18 Section 1.16. (a)The Department of Labor shall establish a pilot project creating
19 Individual Development Accounts (IDA) to assist working families.

20 (b) There is appropriated from the General Fund to the Department of Labor the
21 sum of three hundred thousand dollars (\$300,000) for the 1997-98 fiscal year and the sum
22 of three hundred thousand dollars (\$300,000) for the 1998-99 fiscal year to establish a
23 pilot project creating Individual Development Accounts (IDA) to:

- 24 (1) Provide individuals and families, especially the underemployed, an
25 opportunity and an incentive to accumulate assets.
- 26 (2) Promote investments in education, homeownership, and microenterprise
27 development.
- 28 (3) Demonstrate that household savings strategies, such as the development
29 of IDAs, can be a powerful strategy for assisting working persons and
30 families to achieve long-term self-sufficiency.
- 31 (4) Utilize and build comprehensive community partnerships that support
32 asset building in low-wealth communities.

33 (c) The funds appropriated by this section shall be made available to serve as
34 matching funds for personal savings of qualified participants selected to participate in a
35 multiyear demonstration to last not more than five years. Other expenses of the
36 demonstration, including training, technical assistance, evaluation, and other program and
37 administrative expenses, shall be covered from other public and private sources.
38 Matching funds provided from the funds appropriated in this section may be used by
39 qualified participants for home purchase, investment in a business or self-employment
40 venture owned by the participant, or costs of postsecondary education or training for the
41 participant. Participants shall not be restricted as to the amounts or sources of funds
42 deposited in the account, but in order to create the incentive for continued savings, only

1 savings from earned income will qualify for State matching funds. Tax return reports of
2 earned income shall be used to verify compliance.

3 (d) This section becomes effective July 1, 1997.

4 Section 1.17. (a) In order to ensure that the intent of the people is carried out, it is the
5 intent of the General Assembly to sit in Special Session to enact the first State Plan
6 developed pursuant to this act. Thereafter, the State Plan shall be adopted as part of the
7 Current Operations Appropriations Act.

8 (b) While sitting in Special Session, the General Assembly shall entertain requests
9 by counties for proposed changes to statutory requirements or rules which a county
10 considers an impediment to its County Plan. In subsequent regular sessions, county
11 requests for changes shall be in the form of local bills.

12 (c) The requirement that the Department prepare and submit the State Plan to the
13 General Assembly for approval in accordance with the procedures set forth in G.S. 143-
14 16.1 shall not be applicable for fiscal year 1997-98. Until the counties have prepared
15 their County Plans and the State has prepared its State Plan in accordance with this act
16 and that State Plan has been enacted by the General Assembly and it becomes law, either
17 during its Regular Session 1998, or by Special Session, the provisions of the State Plan
18 submitted to the federal government on October 16, 1996, shall remain in effect. State
19 Plans submitted after the 1997-98 fiscal year shall be enacted by the General Assembly in
20 order to be effective.

21 Section 1.18. (a) All funds intended for the Work First Program shall be appropriated
22 to that Program through the 1997-99 biennium. No Work First Program funds shall be
23 diverted into other programs during the 1997-99 biennium.

24 (b) The administrative costs of the Work First Program, at any level, shall not
25 exceed eight percent (8%) of the State's federal TANF block grant funds, and one-time
26 expenditures for equipment and support shall not exceed ten percent (10%) of the State's
27 federal TANF block grant funds.

28 (c) Federal, State, and county funding for the Work First Program shall be
29 commingled and shall not be separated to frustrate the purposes of the Work First
30 Program.

31 (d) The commingled block grants paid quarterly to counties shall not be reverted.

32 Section 1.19. Notwithstanding any other provision of law, beginning July 1,
33 1997, each county shall dedicate seventy-five percent (75%) of the total AFDC and Work
34 First Cash Assistance benefit amount that was determined fraudulent or erroneous and
35 recovered by that county pursuant to the AFDC Fraud Control Program to enhance and
36 improve program integrity.

37 Section 1.20. (a) There is established a Joint Legislative Public Assistance
38 Commission. The Joint Legislative Public Assistance Commission shall monitor and
39 oversee the implementation of the provisions of this act and shall make any necessary
40 recommendations to the General Assembly regarding any further changes to law or rule.
41 The Speaker of the House of Representatives shall appoint 10 members, two of whom
42 shall be cochair, and the President Pro Tempore of the Senate shall appoint 10 members,

1 two of whom shall be cochair. The Joint Legislative Public Assistance Commission shall
2 first convene within 30 days after this act becomes law.

3 (b) There is appropriated from the General Fund to the General Assembly the sum
4 of one hundred thousand dollars (\$100,000) for the 1997-98 fiscal year and the sum of
5 one hundred thousand dollars (\$100,000) for the 1998-99 fiscal year for the Joint
6 Legislative Public Assistance Commission.

7 (c) This section becomes effective July 1, 1997.

8 Section 1.21. The Legislative Research Commission may study issues relating
9 to the Medical Assistance Program and the State-County Special Assistance Program,
10 including the following: the need for further restrictions and longer periods of
11 disqualification for the transfer of property for purposes of qualifying for medical
12 assistance and State-County Special Assistance, and appropriate recovery from recipient
13 estates of benefits paid by the Medical Assistance Program and the State-County Special
14 Assistance Program. The Legislative Research Commission may report the results of its
15 study, along with any legislative proposals and cost analyses, to the 1998 General
16 Assembly.

17 Section 1.22. (a) Article 3 of Chapter 143B of the General Statutes is amended
18 by adding a new Part to read:

19 **"PART 31. OFFICE OF INSPECTOR GENERAL.**

20 **"§ 143B-216.50. Department of Human Resources Inspector General.**

21 (a) The Office of Inspector General is established in the Department of Human
22 Resources to provide a central point for coordination of and responsibility for activities
23 that promote accountability, integrity, and efficiency in the Department and in means-
24 tested public assistance programs. The Office of Inspector General is designated as the
25 State Law Enforcement Bureau (SLEB) to take custody and control of food stamps from
26 the federal Food and Consumer Service to make them available to nonfederal law
27 enforcement and investigative agencies to conduct criminal and food stamp program
28 violation investigations.

29 (b) It shall be the duty and responsibility of the Inspector General to:

30 (1) Advise in the development of performance measures, standards, and
31 procedures for the evaluation of the Department.

32 (2) Assess the reliability and validity of the information provided by the
33 Department on performance measures and standards and make
34 recommendations for improvement, if necessary.

35 (3) Review the actions taken by the Department to improve program
36 performance and meet program standards and make recommendations
37 for improvement, if necessary.

38 (4) Provide direction for, supervise, and coordinate audits, investigations,
39 and management reviews relating to the programs and operations of the
40 Department.

41 (5) Conduct, supervise, or coordinate other activities and programs carried
42 out or financed by the Department for the purpose of promoting
43 economy and efficiency in the administration of, or preventing and

1 detecting fraud and abuse in, its programs and operations, including
2 coordinating activities between local program integrity workers and the
3 State.

4 (6) Keep the Secretary of Human Resources informed concerning fraud,
5 abuses, and deficiencies relating to programs and operations
6 administered or financed by the Department, recommend corrective
7 action concerning fraud, abuses, and deficiencies, and report on the
8 progress made in implementing corrective action.

9 (7) Ensure effective coordination and cooperation between the State
10 Auditor, federal auditors, and other governmental bodies with a view
11 toward avoiding duplication.

12 (8) Review, as appropriate, rules relating to the programs and operations of
13 the Department and make recommendations concerning their impact.

14 (9) Ensure that an appropriate balance is maintained between audit,
15 investigative, and other accountability activities.

16 (c) The Inspector General shall be appointed by the Secretary. The appointment
17 shall be made after notifying the Governor in writing, at least seven days prior to an offer
18 of employment, of the Secretary's intention to hire the Inspector General.

19 (d) The Inspector General shall report to and be under the general supervision of
20 the Secretary and shall not be subject to supervision by any other employee of the
21 Department. The Inspector General shall be appointed without regard to political
22 affiliation.

23 (e) The Inspector General may be removed from office by the Secretary. The
24 Secretary shall notify the Governor, in writing, of the intention to terminate the Inspector
25 General at least seven days prior to the removal.

26 (f) The Secretary shall not prevent or prohibit the Inspector General from
27 initiating, carrying out, or completing any audit or investigation.

28 (g) The Inspector General shall have access to any records, data, and other
29 information of the Department the Inspector General believes necessary to carry out the
30 Inspector General's duties. The Inspector General is also authorized to request such
31 information or assistance as may be necessary from the Department or from any federal,
32 State, or local government entity.

33 **"§ 143B-216.51. Inspector General – Department audits.**

34 (a) To ensure that Department audits are performed in accordance with applicable
35 auditing standards, the Inspector General shall possess the following qualifications:

36 (1) A bachelors degree from an accredited college or university with a
37 major in accounting, or with a major in business which includes five
38 courses in accounting, and five years of experience as an internal
39 auditor or independent postauditor, electronic data processing auditor,
40 accountant, or any combination thereof. The experience shall at a
41 minimum consist of audits of units of government or private business
42 enterprises operating for profit or not for profit;

1 (2) A masters degree in accounting, business administration, or public
2 administration from an accredited college or university and four years of
3 experience as required in subdivision (1) of this subsection; or

4 (3) A certified public accountant license issued pursuant to law or a
5 certified internal audit certificate issued by the Institute of Internal
6 Auditors or earned by examination, and four years of experience as
7 required in subdivision (1) of this subsection.

8 The Inspector General shall, to the extent both necessary and practicable, include on
9 the Inspector General's staff individuals with electronic data processing auditing
10 experience.

11 (b) In carrying out the auditing duties and responsibilities of this Part, the
12 Inspector General shall review and evaluate internal controls necessary to ensure the
13 fiscal accountability of the Department. The Inspector General shall conduct financial,
14 compliance, electronic data processing, and performance audits of the Department and
15 prepare audit reports of the findings. The scope and assignment of the audits shall be
16 determined by the Inspector General; however, the Secretary may at any time direct the
17 Inspector General to perform an audit of a special program, function, or organizational
18 unit. The performance of the audit shall be under the direction of the Inspector General.

19 (c) Audits undertaken pursuant to this Part shall be conducted in accordance with
20 the current Standards for the Professional Practice of Internal Auditing and subsequent
21 Internal Auditing Standards or Statements on Internal Auditing Standards published by
22 the Institute of Internal Auditors, Inc., or, where appropriate, in accordance with
23 generally accepted governmental auditing standards. All audit reports issued by internal
24 audit staff shall include a statement that the audit was conducted pursuant to the
25 appropriate standards.

26 (d) Audit workpapers and reports shall be public records to the extent that they do
27 not include information which, under the laws of the State, is confidential and exempt
28 from Chapter 132 of the General Statutes.

29 (e) At the conclusion of each audit, the Inspector General shall submit tentative
30 findings and recommendations to the person responsible for supervision of the program
31 function or operational unit who shall respond to any adverse findings within 20 working
32 days after receipt of the tentative findings. The response and the Inspector General's
33 rebuttal to the response shall be included in the final audit report.

34 (f) The Inspector General shall submit the final report to the Secretary and to the
35 State Auditor.

36 (g) The State Auditor, in connection with any audit of the Department pursuant to
37 law, shall give appropriate consideration to internal audit reports and the resolution of
38 findings therein. The Joint Legislative Commission on Governmental Operations may
39 inquire into the reasons or justifications for failure of the Secretary to correct the
40 deficiencies reported in internal audits that are also reported by the State Auditor and
41 shall take appropriate action. The State Auditor shall also review a sample of the
42 Department's internal audit reports at least once every three years to determine
43 compliance with current Standards for the Professional Practice of Internal Auditing or, if

1 appropriate, generally accepted governmental auditing standards. If the State Auditor
2 finds that these standards have not been complied with, the State Auditor shall include a
3 statement of this finding in the audit report of the Department.

4 (h) The Inspector General shall monitor the implementation of the Department's
5 response to any audit of the Department conducted by the State Auditor pursuant to law.
6 No later than six months after the State Auditor publishes a report of the audit of the
7 Department, the Inspector General shall report to the Secretary on the status of corrective
8 actions taken. A copy of the report shall be filed with the Joint Legislative Commission
9 on Governmental Operations.

10 (i) The Inspector General shall develop long-term and annual audit plans based on
11 the findings of periodic risk assessments. The plan, where appropriate, should include
12 postaudit samplings of payments and accounts. The plan shall show the individual audits
13 to be conducted during each year and related resources to be devoted to the respective
14 audits. The State Controller may utilize audits performed by the Inspector General. The
15 plan shall be submitted to the Secretary for approval. A copy of the approved plan shall
16 be submitted to the State Auditor.

17 **"§ 143B-216.52. Inspector General – investigations.**

18 (a) In carrying out the investigative duties and responsibilities specified in this
19 section, the Inspector General shall initiate, conduct, supervise, and coordinate
20 investigations designed to detect, deter, prevent, and eradicate fraud, waste,
21 mismanagement, misconduct, and other abuses in the Department and in means-tested
22 public assistance programs. For these purposes, the Inspector General shall:

23 (1) Receive and consider complaints and conduct, supervise, or coordinate
24 such inquiries, investigations, or reviews as the Inspector General deems
25 appropriate.

26 (2) Establish policies and standards for the investigation, detection, and
27 elimination of fraud, abuse, waste, and mismanagement in the
28 Department and in means-tested public assistance programs.

29 (3) Establish and conduct training programs for local and State program
30 integrity workers to improve detection of fraud and abuse.

31 (4) Conduct, supervise, and coordinate a program aimed at eliminating food
32 stamp violations, enter into any agreements with the federal government
33 necessary to establish this program, and serve as the official authorized
34 to accept food stamps from the federal Food and Consumer Service for
35 this purpose.

36 (5) Report expeditiously to the State Bureau of Investigation or other law
37 enforcement agencies, as appropriate, whenever the Inspector General
38 has reasonable grounds to believe there has been a violation of criminal
39 law.

40 (6) Conduct investigations and other inquiries free of actual or perceived
41 impairment to the independence of the Inspector General or the
42 Inspector General's office. This shall include freedom from any

1 interference with investigations and timely access to records and other
2 sources of information.

3 (7) Submit in a timely fashion final reports on investigations conducted by
4 the Inspector General to the Secretary.

5 (b) The Inspector General shall, not later than September 30 of each year, prepare
6 an annual report summarizing the activities of the office during the immediately
7 preceding State fiscal year. The final report shall be furnished to the Secretary. Such
8 report shall include, but need not be limited to:

9 (1) A description of activities relating to the development, assessment, and
10 validation of performance measures.

11 (2) A description of significant abuses and deficiencies relating to programs
12 and to operations of the Department disclosed by investigations, audits,
13 reviews, or other activities during the reporting period.

14 (3) A description of the recommendations for corrective action made by the
15 Inspector General during the reporting period with respect to significant
16 problems, abuses, or deficiencies identified.

17 (4) The identification of each significant recommendation described in
18 previous annual reports on which corrective action has not been
19 completed.

20 (5) A summary of each audit and investigation completed during the
21 reporting period."

22 (b) The Department shall immediately proceed with the implementation of this
23 section, including proceeding with all actions necessary to establish a State Law
24 Enforcement Bureau (SLEB) program for food stamps in this State.

25 Section 1.23. Part 6 of Chapter 143B of the General Statutes is repealed. All
26 functions, powers, duties, and obligations previously vested in the Social Services
27 Commission is transferred to and vested in the Department of Human Resources by a
28 Type I transfer, as defined in G.S. 143A-6.

29 **PART 2. STATUTORY TECHNICAL AND CONFORMING CHANGES.**

30 **SUBPART A. STATUTORY TECHNICAL AND CONFORMING CHANGES** 31 **RELATING TO ENACTMENT OF THE WORK FIRST PROGRAM.**

32 Section 2.1. G.S. 1-110(a) reads as rewritten:

33 "(a) Subject to the provisions of subsection (b) of this section with respect to prison
34 inmates, any superior or district court judge or clerk of the superior court may authorize a
35 person to sue as an indigent in their respective courts when the person makes affidavit
36 that he or she is unable to advance the required court costs. The clerk of superior court
37 shall authorize a person to sue as an indigent if the person makes the required affidavit
38 and meets one or more of the following criteria:

39 (1) Receives food stamps.

40 (2) Receives ~~Aid to Families with Dependent Children (AFDC)~~ Work First
41 Family Assistance.

42 (3) Receives Supplemental Security Income (SSI).

- 1 (4) Is represented by a legal services organization that has as its primary
2 purpose the furnishing of legal services to indigent persons.
- 3 (5) Is represented by private counsel working on the behalf of or under the
4 auspices of a legal services organization under subdivision (4) of this
5 section.
- 6 (6) Is seeking to obtain a domestic violence protective order pursuant to
7 G.S. 50B-2.

8 A superior or district court judge or clerk of superior court may authorize a person
9 who does not meet one or more of these criteria to sue as an indigent if the person is
10 unable to advance the required court costs. The court to which the summons is returnable
11 may dismiss the case and charge the court costs to the person suing as an indigent if the
12 allegations contained in the affidavit are determined to be untrue or if the court is
13 satisfied that the action is frivolous or malicious."

14 Section 2.2. G.S. 15-155.1 reads as rewritten:

15 "**§ 15-155.1. Reports to district attorneys of aid to dependent children and**
16 **illegitimate-out-of-wedlock births.**

17 The Department of Human Resources, by and through the Secretary of Human
18 Resources, shall promptly after June 19, 1959, make a report to each district attorney,
19 setting out the names and addresses of all mothers who reside in his prosecutorial district
20 as defined in G.S. 7A-60 and are recipients of ~~aid to dependent children assistance~~
21 the provisions of Part 2, Article 2, Chapter 108A of the General Statutes. Such report
22 shall in some manner show the identity of the unwed mothers and shall set forth the
23 number of children born to each said mother. Such a report shall also be made monthly
24 thereafter setting out the names and addresses of all such mothers who reside in the
25 district and who may have become recipients of ~~aid to dependent children assistance under~~
26 the provisions of Part 2, Article 2, Chapter 108A of the General Statutes since the date of
27 the last report."

28 Section 2.3. G.S. 15-155.2(a) reads as rewritten:

29 "(a) Upon receipt of such reports as are provided for in G.S. 15-155.1, the district
30 attorney of superior court may make an investigation to determine whether the mother of
31 an ~~illegitimate-out-of-wedlock~~ child or who is a recipient of ~~aid to a dependent child or~~
32 ~~children, Work First Family Assistance,~~ has abandoned, is willfully neglecting or is
33 refusing to support and maintain the child within the meaning of G.S. 14-326 or 49-2 or
34 is diverting any part of the funds received as ~~aid to a dependent child~~ Work First Family
35 Assistance to any purpose other than for the support and maintenance of ~~such dependent a~~
36 child in violation of G.S. 108-76.1. In making this investigation the district attorney is
37 authorized to call upon:

- 38 (1) Any county board of social services or the Department of Human
39 Resources for personal, clerical or investigative assistance and for
40 access to any records kept by either such board and relating to the
41 matter under investigation and such boards are hereby directed to assist
42 in all investigations hereunder and to furnish all records relating thereto
43 when so requested by the district attorney;

1 (2) The board of county commissioners of any county within his district for
2 legal or clerical assistance in making any investigation or investigations
3 in such county and such boards are hereby authorized to furnish such
4 assistance in their discretion; and

5 (3) The district attorney of any inferior court in his district for personal
6 assistance in making any investigation or investigations in the county in
7 which the court is located and any district attorney so called upon is
8 hereby authorized to furnish such assistance by and with the consent of
9 the board of county commissioners of the county in which the court is
10 located, which board shall provide and fix his compensation for
11 assistance furnished."

12 Section 2.4. G.S. 95-25.3(d) reads as rewritten:

13 "(d) The Commissioner, in order to prevent curtailment of opportunities for
14 employment of the economically disadvantaged and the unemployed, may, by regulation,
15 establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable
16 wage rate in effect under subsection (a) which shall apply to all persons (i) who have
17 been unemployed for at least 15 weeks and who are economically disadvantaged, or (ii)
18 who are, or whose families are, receiving aid to families with dependent children provided
19 ~~under Part A of Title IV of the Social Security Act, Work First Family Assistance~~ or who are
20 receiving supplemental security benefits under Title XVI of the Social Security Act.

21 Pursuant to regulations issued by the Commissioner, certificates establishing
22 eligibility for such subminimum wage shall be issued by the Employment Security
23 Commission.

24 The regulation issued by the Commissioner shall not permit employment at the
25 subminimum rate for a period in excess of 52 weeks."

26 Section 2.5. G.S. 105A-2(1) reads as rewritten:

27 "(1) 'Claimant agency' means and includes:

- 28 a. The State Education Assistance Authority as enabled by Article
29 23 of Chapter 116 of the General Statutes;
- 30 b. The North Carolina Department of Human Resources when in
31 the exercise of its authority to collect health profession student
32 loans made pursuant to G.S. 131-121;
- 33 c. The North Carolina Department of Human Resources when in
34 the performance of its duties under the Medical Assistance
35 Program enabled by Chapter 108A, Article 2, Part 6, and any
36 county operating the same Program at the local level, when and
37 only to the extent such a county is in the performance of Medical
38 Assistance Program collection functions;
- 39 d. The North Carolina Department of Human Resources when in
40 the performance of its duties, under the Child Support
41 Enforcement Program as enabled by Chapter 110, Article 9 and
42 Title IV, Part D of the Social Security Act to obtain
43 indemnification for past paid public assistance or to collect child

- 1 support arrearages owed to an individual receiving program
2 services and any county operating the program at the local level,
3 when and only to the extent that the county is engaged in the
4 performance of those same duties;
- 5 e. The University of North Carolina, including its constituent
6 institutions as specified by G.S. 116-2(4);
- 7 f. The University of North Carolina Hospitals at Chapel Hill in the
8 conduct of its financial affairs and operations pursuant to G.S.
9 116-37;
- 10 g. The Board of Governors of the University of North Carolina and
11 the State Board of Education through the College Scholarship
12 Loan Committee when in the performance of its duties of
13 administering the Scholarship Loan Fund for Prospective College
14 Teachers enabled by Chapter 116, Article 5;
- 15 h. The Office of the North Carolina Attorney General on behalf of
16 any State agency when the claim has been reduced to a judgment;
- 17 i. The State Board of Community Colleges through community
18 colleges as enabled by Chapter 115D in the conduct of their
19 financial affairs and operations;
- 20 j. State facilities as listed in G.S. 122C-181(a), School for the Deaf
21 at Morganton, North Carolina Sanatorium at McCain, Western
22 Carolina Sanatorium at Black Mountain, Eastern North Carolina
23 Sanatorium at Wilson, and Gravely Sanatorium at Chapel Hill
24 under Chapter 143, Article 7; Governor Morehead School under
25 Chapter 115, Article 40; Central North Carolina School for the
26 Deaf under Chapter 115, Article 41; Wright School for
27 Treatment and Education of Emotionally Disturbed Children
28 under Chapter 122C; and these same institutions by any other
29 names by which they may be known in the future;
- 30 k. The North Carolina Department of Revenue;
- 31 l. The Administrative Office of the Courts;
- 32 m. The Division of Forest Resources of the Department of
33 Environment, Health, and Natural Resources;
- 34 n. The Administrator of the Teachers' and State Employees'
35 Comprehensive Major Medical Plan, established in Article 3 of
36 General Statutes Chapter 135;
- 37 o. The State Board of Education through the Superintendent of
38 Public Instruction when in the performance of his duties of
39 administering the Scholarship Loan Fund for Prospective
40 Teachers enabled by Chapter 115C, Article 32A and the
41 scholarship loan and grant programs enabled by Chapter 115C,
42 Article 24C, Part 1;

- 1 p. The Board of Trustees of the Teachers' and State Employees'
2 Retirement System and the Board of Trustees of the Local
3 Governmental Employees' Retirement System in the performance
4 of their duties pursuant to Chapters 120, 128, 135 and 143 of the
5 General Statutes;
- 6 q. The North Carolina Teaching Fellows Commission in the
7 performance of its duties pursuant to Chapter 115C, Article 24C,
8 Part 2;
- 9 r. The North Carolina Department of Human Resources when in
10 the performance of its collection duties for intentional program
11 violations and violations due to inadvertent household error
12 under the Food Stamp Program enabled by Chapter 108A,
13 Article 2, Part 5, and any county operating the same Program at
14 the local level, when and only to the extent such a county is in
15 the performance of Food Stamp Program collection functions.
16 The North Carolina Department of Human Resources when,
17 in the performance of its duties under the ~~Aid to Families with
18 Dependent Children Program or the Aid to Families with
19 Dependent Children Emergency Assistance Program provided
20 in Part 2 of Article 2 of Chapter 108A or the Work First Cash
21 Assistance Program established pursuant to the federal waivers
22 received by the Department on February 5, 1996, Work First
23 Program provided in Part 2 of Article 2 of Chapter 108A of the
24 General Statutes,~~ or under the State-County Special Assistance
25 for Adults Program provided in Part 3 of Article 2 of Chapter
26 108A, it seeks to collect public assistance payments obtained
27 through an intentional false statement, intentional
28 misrepresentation, intentional failure to disclose a material fact,
29 or inadvertent household error;
- 30 s. The Employment Security Commission of North ~~Carolina.~~
31 Carolina;
- 32 t. Any State agency in the collection of salary overpayments from
33 former ~~employees.~~ employees; or
- 34 u. The State Board of Education through the Superintendent of
35 Public Instruction when in the performance of his duties of
36 administering the program under which the State encourages
37 participation in the National Board for Professional Teaching
38 Standards (NBPTS) Program, enabled by Section 19.28 of
39 Chapter 769 of the 1993 Session Laws."

40 Section 2.6. G.S. 110-129(6) reads as rewritten:

- 41 "(6) 'Disposable income' means any form of periodic payment to an
42 individual, regardless of sources, including but not limited to wages,
43 salary, commission, self-employment income, bonus pay, severance

1 pay, sick pay, incentive pay, vacation pay, compensation as an
2 independent contractor, worker's compensation, unemployment
3 compensation benefits, disability, annuity, survivor's benefits, pension
4 and retirement benefits, interest, dividends, rents, royalties, trust income
5 and other similar payments, which remain after the deduction of
6 amounts for federal, State, and local taxes, Social Security, and
7 involuntary retirement contributions. However, Supplemental Security
8 Income, ~~Aid for Dependent Children~~, Work First Family Assistance, and
9 other public assistance payments shall be excluded from disposable
10 income. For employers, disposable income means 'wage' as it is defined
11 by G.S. 95-25.2(16). Unemployment compensation benefits shall be
12 treated as disposable income only for the purposes of income
13 withholding under the provisions of G.S. 110-136.4, and the amount
14 withheld shall not exceed twenty-five percent (25%) of the
15 unemployment compensation benefits."

16 Section 2.7. G.S. 110-130.1 reads as rewritten:

17 "**§ 110-130.1. ~~Non-AFDC~~ Non-Work First services.**

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

23 (b) Repealed by Session Laws 1989, c. 490.

24 (b1) In cases in which a public assistance debt which accrued pursuant to G.S. 110-
25 135 remains unrecovered, support payments shall be transmitted to the Department of
26 Human Resources for appropriate distribution. When services are terminated and all costs
27 and any public assistance debts have been satisfied, the support payment shall be
28 redirected to the client.

29 (c) Actions or proceedings to establish, enforce, or modify a duty of support or
30 establish paternity as initiated under this Article shall be brought in the name of the
31 county or State agency on behalf of the public assistance recipient or nonrecipient client.
32 Collateral disputes between a custodial parent and noncustodial parent, involving
33 visitation, custody and similar issues, shall be considered only in separate proceedings
34 from actions initiated under this Article. The attorney representing the designated
35 representative of programs under Title IV-D of the Social Security Act shall be deemed
36 attorney of record only for proceedings under this Article, and not for the separate
37 proceedings. No attorney/client relationship shall be considered to have been created
38 between the attorney who represents the child support enforcement agency and any
39 person by virtue of the action of the attorney in providing the services required.

40 (c1) The Department is hereby authorized to use the electronic and print media in
41 attempting to locate absent and deserting parents. Due diligence must be taken to ensure
42 that the information used is accurate or has been verified. Print media shall be under no

1 obligation or duty, except that of good faith, to anyone to verify the correctness of any
2 information furnished to it by the Department or county departments of social services.

3 (d) Any fee imposed by the North Carolina Department of Revenue or the
4 Secretary of the Treasury to cover their costs of withholding for ~~non-AFDC-non-Work~~
5 First arrearages certified for the collection of past due support from State or federal
6 income tax refunds shall be borne by the client by deducting the fee from the amount
7 collected.

8 Any income tax refund offset amounts which are subsequently determined to have
9 been incorrectly withheld and distributed to a client, and which must be refunded by the
10 State to a responsible parent or the nondebtor spouse, shall constitute a debt to the State
11 owed by the client."

12 Section 2.8. G.S. 111-21 reads as rewritten:

13 **"§ 111-21. Disqualifications for relief.**

14 No aid to needy blind persons shall be given under the provisions of this Article to
15 any individual for any period with respect to which he is receiving aid under the laws of
16 North Carolina ~~providing aid for dependent children-Work First Family Assistance and/or~~
17 relief for the aged, and/or aid for the permanently and totally disabled."

18 **SUBPART B. STATUTORY TECHNICAL AND CONFORMING CHANGES**
19 **RELATING TO THE ABOLISHMENT OF THE SOCIAL SERVICES**
20 **COMMISSION AND THE COMMISSION ON THE FAMILY.**

21 Section 2.9. G.S. 7A-289.14 reads as rewritten:

22 **"§ 7A-289.14. Duties of Secretary of Human Resources.**

23 It shall be the duty of the Secretary of Human Resources to arrange for the
24 appropriate unit or units of the Department of Human Resources to implement this
25 Article as follows:

- 26 (1) To designate the appropriate unit of the Department of Human
27 Resources to be responsible for coordination of state-level services in
28 relation to delinquency prevention and youth services so that any citizen
29 may go to one place in State government to receive services or access to
30 services.
- 31 (2) Repealed by Session Laws 1977, c. 627, s. 20.
- 32 (3) To arrange appropriate coordination and planning within the child-
33 serving agencies of the Department of Human Resources and promote
34 interdepartmental coordination.
- 35 (4) To assist local governments and private service agencies in the
36 development of community-based programs, and to provide information
37 on the availability of potential funding sources and whatever assistance
38 may be requested in making application for needed funding.
- 39 (5) To approve yearly program evaluations and to make recommendations
40 to the General Assembly concerning continuation funding that might be
41 supported by that evaluation.

- 1 (6) To approve program evaluation standards by which all programs
2 developed under the provisions of this Article may be objectively
3 evaluated.

4 Such standards as may be developed for the purpose of program evaluation
5 shall be in addition to any current standards as may be applicable under
6 the existing authority of the ~~Social Services Commission and the~~
7 Department of Human Resources.

8 Minimum operating standards as well as program evaluation
9 standards as may be needed for new program models designed to fulfill
10 the intent of this Article, may be developed at the discretion of the
11 ~~Secretary either by the Social Services Commission or the Secretary.~~
12 Secretary.

- 13 (7) To develop a formula for funding on a matching basis community-based
14 services as provided for in this Article. This formula shall be based upon
15 the county's or counties' relative ability to fund community-based
16 programs for juveniles.

17 Local governments receiving State matching funds for programs
18 under the provisions of this Article must maintain the same overall level
19 of effort that existed at the time of the filing of the county assessment of
20 youth needs with the Department of Human Resources as provided in
21 G.S. 7A-289.16 of this Article."

22 Section 2.10. G.S. 7A-548(a2) reads as rewritten:

23 "(a2) Upon completion of the investigation, the Director shall give the Department
24 written notification of the results of the investigation required by G.S. 7A-544. Upon
25 completion of an investigation of child sexual abuse in a day care facility or day care
26 home, the Director shall also make written notification of the results of the investigation
27 to the State Bureau of Investigation.

28 The Director of the Department of Social Services shall submit a report of alleged
29 abuse, neglect, or dependency cases or child fatalities that are the result of alleged
30 maltreatment to the central registry under the policies adopted by the ~~Social Services~~
31 Commission-Department of Human Resources.

32 Section 2.11. G.S. 7A-552 reads as rewritten:

33 "**§ 7A-552. Central registry.**

34 The Department of Human Resources shall maintain a central registry of abuse,
35 neglect, and dependency cases and child fatalities that are the result of alleged
36 maltreatment that are reported under this Article in order to compile data for appropriate
37 study of the extent of abuse and neglect within the State and to identify repeated abuses
38 of the same juvenile or of other juveniles in the same family. This data shall be furnished
39 by county directors of social services to the Department of Human Resources and shall be
40 confidential, subject to policies adopted by the ~~Social Services Commission-Department of~~
41 Human Resources providing for its use for study and research and for other appropriate
42 disclosure. Data shall not be used at any hearing or court proceeding unless based upon a
43 final judgment of a court of law."

1 Section 2.12. G.S. 48-1-101(14) reads as rewritten:

2 "(14) 'Preplacement assessment' means a document, whether prepared before
3 or after placement, that contains the information required by G.S. 48-3-
4 303 and any rules adopted by the ~~Social Services Commission~~
5 Department of Human Resources."

6 Section 2.13. G.S. 48-2-502(c) reads as rewritten:

7 "(c) The ~~Social Services Commission~~ Department of Human Resources may adopt
8 rules to implement the provisions of this section."

9 Section 2.14. G.S. 48-3-203(e) reads as rewritten:

10 "(e) In addition to the authority granted in G.S. 131D-10.5, the ~~Social Services~~
11 ~~Commission~~ Department of Human Resources may adopt rules for placements by
12 agencies consistent with the purposes of this Chapter."

13 Section 2.15. G.S. 48-3-204(a) reads as rewritten:

14 "(a) The ~~Social Services Commission~~ Department of Human Resources may adopt
15 rules requiring agencies to adopt and follow appropriate recruitment plans for prospective
16 adoptive parents."

17 Section 2.16. G.S. 48-3-303(i) reads as rewritten:

18 "(i) The ~~Social Services Commission~~ Department of Human Resources shall have
19 authority to establish by rule additional standards for preplacement assessments."

20 Section 2.17. G.S. 48-3-308(a) reads as rewritten:

21 "(a) Each agency shall have a procedure for allowing an individual who has
22 received an unfavorable preplacement assessment to have the assessment reviewed by the
23 agency. In addition to the authority in G.S. 131D-10.5, the ~~Social Services Commission~~
24 Department of Human Resources shall have authority to may adopt rules implementing this
25 section."

26 Section 2.18. G.S. 108A-1 reads as rewritten:

27 **"§ 108A-1. Creation.**

28 Every county shall have a board of social services or a consolidated human services
29 board created pursuant to G.S. 153A-77(b) which shall establish county policies for
30 the programs established by this Chapter in conformity with the rules and regulations of
31 ~~the Social Services Commission~~ and under the supervision of the Department of Human
32 Resources. Provided, however, county policies for the program of medical assistance
33 shall be established in conformity with the rules and regulations of the Department of
34 Human Resources."

35 Section 2.19. G.S. 108A-3 reads as rewritten:

36 **"§ 108A-3. Method of appointment; residential qualifications; fee or compensation
37 for services; consolidated human services board appointments.**

38 (a) Three-Member Board. – The board of commissioners shall appoint one
39 member who may be a county commissioner or a citizen selected by the board; the ~~Social~~
40 ~~Services Commission~~ Department of Human Resources shall appoint one member; and the
41 two members so appointed shall select the third member. In the event the two members
42 so appointed are unable to agree upon selection of the third member, the senior regular
43 resident superior court judge of the county shall make the selection.

1 (b) Five-Member Board. – The procedure set forth in subsection (a) shall be
2 followed, except that both the board of commissioners and the ~~Social Services Commission~~
3 Department of Human Resources shall appoint two members each, and the four so
4 appointed shall select the fifth member. If the four are unable to agree upon the fifth
5 member, the senior regular superior court judge of the county shall make the selection.

6 (c) Provided further that each member so appointed under subsection (a) and
7 subsection (b) of this section by the ~~Social Services Commission~~ Department of Human
8 Resources and by the county board of commissioners or the senior regular resident
9 superior court judge of the county, shall be bona fide residents of the county from which
10 they are appointed to serve, and will receive as their fee or compensation for their
11 services rendered from the Department of Human Resources directly or indirectly only
12 the fees and compensation as provided by G.S. 108A-8.

13 (d) Consolidated Human Services Board. – The board of county commissioners
14 shall be the sole appointing authority for members of a consolidated human services
15 board and shall appoint those members in accordance with G.S. 153A-77(c)."

16 Section 2.20. G.S. 108A-5 reads as rewritten:

17 "**§ 108A-5. Order of appointment.**

18 (a) Three-Member Board: The term of the member appointed by the ~~Social Services~~
19 ~~Commission~~ Department of Human Resources shall expire on June 30, 1981, and every
20 three years thereafter; the term of the member appointed by the board of commissioners
21 shall expire on June 30, 1983, and every three years thereafter; and the term of the third
22 member shall expire on June 30, 1982, and every three years thereafter.

23 (b) Five-Member Board: Whenever a board of commissioners of any county
24 decides to expand a three-member board to a five-member board of social services, the
25 ~~Social Services Commission~~ Department of Human Resources shall appoint an additional
26 member for a term expiring at the same time as the term of the existing member
27 appointed by the board of commissioners, and the board of commissioners shall appoint
28 an additional member for a term expiring at the same time as the term of the existing
29 member appointed by the ~~Social Services Commission~~ Department of Human Resources.
30 The change to a five-member board shall become effective at the time when the
31 additional members shall have been appointed by both the county board of
32 commissioners and the ~~Social Services Commission~~ Department of Human Resources.
33 Thereafter all appointments shall be for three-year terms.

34 (c) Change from Five-Member to Three-Member Board: The change shall become
35 effective on the first day of July following the decision to change by the board of
36 commissioners. On that day, the following two seats on the board of social services shall
37 cease to exist:

38 (1) The seat held by the member appointed by the ~~Social Services~~
39 ~~Commission~~ Department of Human Resources whose term would have
40 expired on June 30, 1983, or triennially thereafter; and

41 (2) The seat held by the member appointed by the board of commissioners
42 whose term would have expired June 30, 1981, or triennially thereafter."

43 Section 2.21. G.S. 108A-9 reads as rewritten:

1 **"§ 108A-9. Duties and responsibilities.**

2 The county board of social services shall have the following duties and
3 responsibilities:

- 4 (1) To select the county director of social services according to the merit
5 system rules of the State Personnel Commission;
- 6 (2) To advise county and municipal authorities in developing policies and
7 plans to improve the social conditions of the community;
- 8 (3) To consult with the director of social services about problems relating to
9 his office, and to assist him in planning budgets for the county
10 department of social services;
- 11 (4) To transmit or present the budgets of the county department of social
12 services for public assistance, social services, and administration to the
13 board of county commissioners;
- 14 (5) To have such other duties and responsibilities as the General Assembly,
15 the Department of Human Resources ~~or the Social Services Commission~~
16 or the board of county commissioners may assign to it."

17 Section 2.22. G.S. 108A-10 reads as rewritten:

18 **"§ 108A-10. Fees.**

19 The county board of social services is authorized to enter into contracts with any
20 governmental or private agency, or with any person, whereby the board of social services
21 agrees to render services to or for such agency or person in exchange for a fee to cover
22 the cost of rendering such service. This authority is to be limited to services voluntarily
23 rendered and voluntarily received, but shall not apply where the charging of a fee for a
24 particular service is specifically prohibited by statute or regulation. The fees to be
25 charged under the authority of this section are to be based upon a plan recommended by
26 the county director of social services and approved by the local board of social services
27 and the board of county commissioners. In no event is the fee charged to exceed the cost
28 to the board of social services. Fee policies may not conflict with rules and regulations
29 adopted by the ~~Social Services Commission~~ or Department of Human Resources regarding
30 fees.

31 The fees collected under the authority of this section are to be deposited to the
32 account of the social services department so that they may be expended for social
33 services purposes in accordance with the provisions of Article 3 of Chapter 159, the
34 Local Government Budget and Fiscal Control Act. No individual employee is to receive
35 any compensation over and above his regular salary as a result of rendering services for
36 which a fee is charged.

37 The county board of social services shall annually report to the county commissioners
38 receipts received under this section. Fees collected under this section shall not be used to
39 replace any other funds, either State or local, for the program for which the fees were
40 collected."

41 Section 2.23. G.S. 108A-14(a) reads as rewritten:

42 "(a) The director of social services shall have the following duties and
43 responsibilities:

- 1 (1) To serve as executive officer of the board of social services and act as
2 its secretary;
- 3 (2) To appoint necessary personnel of the county department of social
4 services in accordance with the merit system rules of the State Personnel
5 Commission;
- 6 (3) To administer the programs of public assistance and social services
7 established by this Chapter under pertinent rules and regulations;
- 8 (4) To administer funds provided by the board of commissioners for the
9 care of indigent persons in the county under policies approved by the
10 county board of social services;
- 11 (5) To act as agent of the ~~Social Services Commission~~ and Department of
12 Human Resources in relation to work required by the ~~Social Services~~
13 ~~Commission~~ and Department of Human Resources in the county;
- 14 (6) To investigate cases for adoption and to supervise adoptive placements;
- 15 (7) To issue employment certificates to children under the regulations of the
16 State Department of Labor;
- 17 (8) To supervise adult care homes under the rules and regulations of the
18 ~~Social Services Commission~~; Department of Human Resources;
- 19 (9) To assist and cooperate with the Department of Correction and their
20 representatives;
- 21 (10) To act in conformity with the provisions of Article 7, Chapter 35 of the
22 General Statutes with regard to sterilization of mentally ill and mentally
23 retarded persons;
- 24 (11) To investigate reports of child abuse and neglect and to take appropriate
25 action to protect such children pursuant to the Child Abuse Reporting
26 Law, Article 44 of Chapter 7A;
- 27 (12) To accept children for placement in foster homes and to supervise
28 placements for so long as such children require foster home care;
- 29 (13) To respond by investigation to notification of a proposed adoptive
30 placement pursuant to G.S. 48-3(b) and (c); and
- 31 (14) To receive and evaluate reports of abuse, neglect, or exploitation of
32 disabled adults and to take appropriate action as required by the
33 Protection of the Abused, Neglected, or Exploited Disabled Adults Act,
34 Article 6 of this Chapter, to protect these adults."

35 Section 2.24. G.S. 108A-15.1(a) reads as rewritten:

36 "(a) Except as otherwise provided by this section and subject to any limitations that
37 may be imposed by the board of county commissioners under G.S. 153A-77, a
38 consolidated human services board created pursuant to G.S. 153A-77(b) shall have the
39 responsibility and authority to carry out the programs established in this Chapter in
40 conformity with the rules and regulations of the ~~Social Services Commission~~ and under the
41 supervision of the Department of Human Resources in the same manner as a county
42 social services board."

43 Section 2.25. G.S. 108A-40 reads as rewritten:

1 **"§ 108A-40. Authorization of State-County Special Assistance for Adults Program.**

2 The Department is authorized to establish and supervise a State-County Special
3 Assistance for Adults Program. This program is to be administered by county
4 departments of social services under rules and regulations of the ~~Social Services~~
5 ~~Commission-Department.~~"

6 Section 2.26. G.S. 108A-41 reads as rewritten:

7 **"§ 108A-41. Eligibility.**

8 (a) Assistance shall be granted under this Part to all persons in adult care homes
9 for care found to be essential in accordance with the rules and regulations adopted by the
10 ~~Social Services Commission-Department of Human Resources~~ and prescribed by G.S.
11 108A-42(b).

12 (b) Assistance shall be granted to any person who:

13 (1) Is 65 years of age and older, or is between the ages of 18 and 65 and is
14 permanently and totally disabled; and

15 (2) Has insufficient income or other resources to provide a reasonable
16 subsistence compatible with decency and health as determined by the
17 rules and regulations of the ~~Social Services Commission;~~ Department of
18 Human Resources; and

19 (3) Is a resident of North Carolina.

20 (c) When determining whether a person has insufficient resources to provide a
21 reasonable subsistence compatible with decency and health, there shall be excluded from
22 consideration the person's primary place of residence and the land on which it is situated,
23 and in addition there shall be excluded real property contiguous with the person's primary
24 place of residence in which the property tax value is less than twelve thousand dollars
25 (\$12,000).

26 (d) The county shall also have the option of granting assistance to Certain
27 Disabled persons as defined in the rules and regulations adopted by the ~~Social Services~~
28 ~~Commission-Department of Human Resources.~~ Nothing in this Part should be interpreted
29 so as to preclude any individual county from operating any program of financial
30 assistance using only county funds."

31 Section 2.27. G.S. 108A-42(c) reads as rewritten:

32 "(c) Disability shall be reviewed by medical consultants employed by the
33 Department. The final decision on the disability shall be made by these medical
34 consultants under rules and regulations adopted by the ~~Social Services Commission-~~
35 Department of Human Resources."

36 Section 2.28. G.S. 108A-43 reads as rewritten:

37 **"§ 108A-43. Application procedure.**

38 (a) Applications under this Part shall be made to the county director of social
39 services who, with the approval of the county board of social services and in conformity
40 with the rules and regulations of the ~~Social Services Commission,~~ Department of Human
41 Resources, shall determine whether assistance shall be granted and the amount of such
42 assistance; but the county board of social services may delegate to the county director the

1 authority to approve or reject all applications for assistance under this Part, in which
2 event the county director shall not be required to report his actions to the board.

3 (b) The amount of assistance which any eligible person may receive shall be
4 determined with regard to the resources and necessary expenditures of the applicant, in
5 accordance with the appropriate rules and regulations of the ~~Social Services Commission~~
6 Department of Human Resources."

7 Section 2.29. G.S. 108A-45 reads as rewritten:

8 **"§ 108A-45. Participation.**

9 The State-County Special Assistance for Adults Program established by this Part shall
10 be administered by all the county departments of social services under rules and
11 regulations adopted by the ~~Social Services Commission~~ and under the supervision of the
12 Department. Provided that, assistance for certain disabled persons shall be provided
13 solely at the option of the county."

14 Section 2.30. G.S. 108A-47 reads as rewritten:

15 **"§ 108A-47. Limitations on payments.**

16 No payment of assistance under this Part shall be made for the care of any person in
17 an adult care home that is owned or operated in whole or in part by any of the following:

- 18 (1) A member of the ~~Social Services Commission~~, Department of Human
19 Resources, of any county board of social services, or of any board of
20 county commissioners;
- 21 (2) An official or employee of the Department, unless the official or
22 employee has been appointed temporary manager of the facility
23 pursuant to G.S. 131E-237, or of any county department of social
24 services;
- 25 (3) A spouse of a person designated in subdivisions (1) and (2)."

26 Section 2.31. G.S. 108A-48(a) reads as rewritten:

27 "(a) The Department is authorized to establish a State Foster Care Benefits Program
28 with appropriations by the General Assembly for the purpose of providing assistance to
29 children who are placed in foster care facilities by county departments of social services
30 in accordance with the rules and regulations of the ~~Social Services Commission~~
31 Department of Human Resources. Such appropriations, together with county
32 contributions for this purpose, shall be expended to provide for the costs of keeping
33 children in foster care facilities."

34 Section 2.32. G.S. 108A-50(c) reads as rewritten:

35 "(c) Eligibility for an adoptive child to receive assistance shall be determined by the
36 Department ~~under the rules and regulations of the Social Services Commission~~ and pursuant
37 to its rules."

38 Section 2.33. G.S. 108A-52 reads as rewritten:

39 **"§ 108A-52. Determination of eligibility.**

40 Any person who believes that he or another person is eligible to receive food stamps
41 may apply for such assistance to the county department of social services in the county in
42 which the applicant resides. The application shall be made in such form and shall contain
43 such information as the ~~Social Services Commission~~ Department of Human Resources may

1 require. Upon receipt of an application for food stamps, the county department of social
2 services shall make a prompt evaluation or investigation of the facts alleged in the
3 application in order to determine the applicant's eligibility for such assistance and to
4 obtain such other information as the Department may require. Upon the completion of
5 such investigation, the county department of social services shall, within a reasonable
6 period of time, determine eligibility."

7 Section 2.34. G.S. 108A-55(d) reads as rewritten:

8 "(d) No payments shall be made for the care of any person in a nursing home or
9 intermediate care home which is owned or operated in whole or in part by a member of
10 ~~the Social Services Commission~~, of any county board of social services, or of any board of
11 county commissioners, or by an official or employee of the Department or of any county
12 department of social services or by a spouse of any such person."

13 Section 2.35. G.S. 108A-79 reads as rewritten:

14 **"§ 108A-79. Appeals.**

15 (a) A public assistance applicant or recipient shall have a right to appeal the
16 decision of the county board of social services, county department of social services, or
17 the board of county commissioners granting, denying, terminating, or modifying
18 assistance, or the failure of the county board of social services or county department of
19 social services to act within a reasonable time under the rules and regulations of ~~the Social~~
20 ~~Services Commission~~ or the Department. Each applicant or recipient shall be notified in
21 writing of his right to appeal upon denial of his application for assistance and at the time
22 of any subsequent action on his case.

23 (b) In cases involving termination or modification of assistance, no action shall
24 become effective until 10 workdays after notice of this action and of the right to appeal is
25 mailed or delivered by hand to the recipient; provided, however, termination or
26 modification of assistance may be effective immediately upon the mailing or delivery of
27 notice in the following circumstances:

28 (1) When the modification is beneficial to the recipient; or

29 (2) When federal regulations permit immediate termination or modification
30 upon mailing or delivery of notice and the ~~Social Services Commission~~ or
31 ~~the~~ Department of Human Resources promulgates regulations adopting
32 said federal law or regulations. When federal and State regulations
33 permit immediate termination or modification, the recipient shall have
34 no right to continued assistance at the present level pending a hearing,
35 as would otherwise be provided by subsection (d) of this section.

36 (c) The notice of action and the right to appeal shall comply with all applicable
37 federal and State law and regulations; provided, such notice shall, at a minimum contain a
38 clear statement of:

39 (1) The action which was or is to be taken;

40 (2) The reasons for which this action was or is to be taken;

41 (3) The regulations supporting this action;

42 (4) The applicant's or recipient's right to both a local and State level
43 hearing, or to a State level hearing in the case of the food stamp

1 program, on the decision to take this action and the method for
2 obtaining these hearings;

3 (5) The right to be represented at the hearings by a personal representative,
4 including an attorney obtained at the applicant's or recipient's expense;

5 (6) In cases involving termination or modification of assistance, the
6 recipient's right upon timely request to continue receiving assistance at
7 the present level pending an appeal hearing and decision on that
8 hearing.

9 An applicant or recipient may give notice of appeal by written or oral statement to the
10 county department of social services, which shall record such notice by completing a
11 form developed by the Department.

12 Such notice of appeal must be given within 60 days from the date of the action, or 90
13 days from the date of notification in the case of the food stamp program. Failure to give
14 timely notice of appeal constitutes a waiver of the right to a hearing except that, for good
15 cause shown, the county department of social services may permit an appeal
16 notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

17 (d) If there is such timely appeal in cases not involving disability, in the first
18 instance the hearing shall consist of a local appeal hearing before the county director or a
19 designated representative of the county director, provided whoever hears the local appeal
20 shall not have been involved directly in the initial decision giving rise to the appeal. If
21 there is such timely appeal in cases involving disability, the county director or a
22 designated representative of the county director shall within five days of the request for
23 an appeal forward the request to the Department of Human Resources, and the
24 Department shall designate a hearing officer who shall promptly hold a hearing in the
25 county according to the provisions of subsections (i) and (j) of this section. In cases
26 involving termination or modification of assistance (other than cases of immediate
27 termination or modification of assistance pursuant to subsection (b) (2) of this section),
28 the recipient shall continue to receive assistance at the present level pending the decision
29 at the initial hearing, whether that be the local appeal hearing decision or, in cases
30 involving questions of disability, the Department of Human Resources hearing decision,
31 provided that in order to continue receiving assistance pending the initial hearing decision
32 the recipient must request a hearing on or before the effective date of the termination or
33 modification of assistance.

34 (e) The local appeal hearing shall be held not more than five days after the request
35 for it is received. The recipient may, for good cause shown as defined by rule or
36 regulation of the ~~Social Services Commission or the Department~~, petition the county
37 department of social services, in writing, for a delay, but in no event shall the local appeal
38 hearing be held more than 15 days after the receipt of the request for hearing. At the local
39 appeal hearing:

40 (1) The appellant and the county department may be represented by
41 personal representatives, including attorneys, obtained at their expense.

42 (2) The appellant or his personal representative and the county department
43 shall present such sworn evidence and law or regulations as bear upon

1 the case. The hearing need not be recorded or transcribed, but the
2 director or his representative shall summarize in writing the substance
3 of the hearing.

4 (3) The appellant or his personal representative and the county department
5 may cross-examine witnesses and present closing arguments
6 summarizing their views of the case and the law.

7 (4) Prior to and during the hearing, the appellant or his personal
8 representative shall have adequate opportunity to examine the contents
9 of his case file for the matter pending together with those portions of
10 other public assistance or social services case files which pertain to the
11 appeal, and all documents and records which the county department of
12 social services intends to use at the hearing. Those portions of the public
13 assistance or social services case file which do not pertain to the appeal
14 or which are required by federal statutes or regulations or by State
15 statutes or regulations to be held confidential shall not be released to the
16 appellant or his personal representative. In cases where the appellant has
17 been denied access to the public assistance or social services case file
18 the hearing officer shall certify as part of the official record that the
19 hearing officer has examined the case files and that no portion of those
20 files pertain to the appeal. Such certification may be subject to judicial
21 review as provided in subsection (k) of this section. Nothing in this
22 section is intended to restrict an applicant or recipient access to
23 information if that access is allowed by rules and regulations
24 promulgated pursuant to G.S. 108A-80.

25 (f) The director or his designated representative shall make the decision based
26 upon the evidence presented at the hearing and all applicable regulations, and shall
27 prepare a written statement of his decision citing the regulations and evidence to support
28 it. This written statement of the decision will be served by certified mail on the appellant
29 within five days of the local appeal hearing. If the decision terminating or modifying the
30 appellant's benefits is affirmed, the assistance shall be terminated or modified, not earlier
31 than the date the decision is mailed, and any assistance received during the time of the
32 appeal is subject to recovery.

33 (g) If the appellant is dissatisfied with the decision of the local appeal hearing, he
34 may within 15 days of the mailing notification of the decision take a further appeal to the
35 Department. However, assistance may not be received pending this further appeal.
36 Failure to give timely notice of further appeal constitutes a waiver of the right to a
37 hearing before an official of the Department except that, for good cause shown, the
38 Department may issue an order permitting a review of the local appeal hearing
39 notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

40 (h) Subsections (d)-(g) of this section shall not apply to the food stamp program.
41 The first appeal for a food stamp recipient or his representative shall be to the
42 Department. Pending hearing, the recipient's assistance shall be continued at the present
43 level upon timely request.

1 (i) If there is an appeal from the local appeal hearing decision, or from a food
2 stamp recipient or his representative where there is no local hearing, or if there is an
3 appeal of a case involving questions of disability the county director shall notify the
4 Department according to its rules and regulations. The Department shall designate a
5 hearing officer who shall promptly hold a de novo administrative hearing in the county
6 after giving reasonable notice of the time and place of such hearing to the appellant and
7 the county department of social services. Such hearing shall be conducted according to
8 applicable federal law and regulations and Article 3, Chapter 150B, of the General
9 Statutes of North Carolina; provided the Department shall adopt rules and regulations to
10 ensure the following:

- 11 (1) Prior to and during the hearing, the appellant or his personal
12 representative shall have adequate opportunity to examine his case file
13 and all documents and records which the county department of social
14 services intends to use at the hearing together with those portions of
15 other public assistance or social services case files which pertain to the
16 appeal. Those portions of the public assistance or social services case
17 files which do not pertain to the appeal or which are required by federal
18 statutes or regulations or by State statutes or regulations to be held
19 confidential shall not be released to the appellant or his personal
20 representative. In cases where the appellant has been denied access to
21 portions of the public assistance or social services case file, the hearing
22 officer shall certify as part of the official record that the hearing officer
23 has examined the case files and that no portion of those files pertain to
24 the appeal. Such certification may be subject to judicial review as
25 provided in subsection (k) of this section. Nothing in this section is
26 intended to restrict an applicant or recipient access to information if that
27 access is allowed by rules or regulations promulgated pursuant to G.S.
28 108A-80.
- 29 (2) At the appeal hearing, the appellant and personnel of the county
30 department of social services may present such sworn evidence, law and
31 regulations as bear upon the case.
- 32 (3) The appellant and county department shall have the right to be
33 represented by the person of his choice, including an attorney obtained
34 at his own expense.
- 35 (4) The appellant and county department shall have the right to cross-
36 examine the other party as well as make a closing argument
37 summarizing his view of the case and the law.
- 38 (5) The appeal hearing shall be recorded; however, no transcript will be
39 prepared unless a petition for judicial review is filed pursuant to
40 subsection (k) herein, in which case, the transcript will be made a part of
41 the official record. In the absence of the filing of a petition for a judicial
42 review, the recording of the appeal hearing may be erased or otherwise
43 destroyed 180 days after the final decision is mailed.

1 (6) Notwithstanding G.S. 150B-28 or any other provision of State law,
2 discovery shall be no more extensive or formal than that required by
3 federal law and regulations applicable to such hearings.

4 (j) After the administrative hearing, the hearing officer shall prepare a proposal
5 for decision, citing pertinent law, regulations, and evidence, which shall be served upon
6 the appellant and the county department of social services or their personal
7 representatives. The appellant and the county department of social services shall have the
8 opportunity to present oral and written arguments in opposition to or in support of the
9 proposal for decision to the designated official of the Department who is to make the
10 final decision. The final decision shall be based on, conform to, and set forth in detail the
11 relevant evidence, pertinent State and federal law and regulations, and matters officially
12 noticed. The decision shall be rendered not more than 90 days, or 45 days in the case of
13 the food stamp program, from the date of request for the hearing, unless the hearing was
14 delayed at the request of the appellant. If the hearing was delayed at the appellant's
15 request, the decision may only be delayed for the length of time the appellant requested a
16 delay. The final decision shall be served upon the appellant and upon the county
17 department of social services by certified mail, with a copy furnished to either party's
18 attorney of record. In the absence of a petition for judicial review filed pursuant to
19 subsection (k) herein, the final decision shall be binding upon the appellant, the county
20 department of social services, the county board of social services, and the board of county
21 commissioners.

22 (k) Any applicant or recipient who is dissatisfied with the final decision of the
23 Department may file, within 30 days of the receipt of notice of such decision, a petition
24 for judicial review in superior court of the county from which the case arose. Failure to
25 file a petition within the time stated shall operate as a waiver of the right of such party to
26 review, except that, for good cause shown, a judge of the superior court resident in the
27 district or holding court in the county from which the case arose may issue an order
28 permitting a review of the agency decision under this Chapter notwithstanding such
29 waiver. The hearing shall be conducted according to the provisions of Article 4, Chapter
30 150B, of the North Carolina General Statutes. The court shall, on request, examine the
31 evidence excluded at the hearing under G.S. 108A-79(e)(4) or G.S. 108A-79(i)(1) and if
32 the evidence was improperly excluded, the court shall consider it. Notwithstanding the
33 foregoing provisions, the court may take testimony and examine into the facts of the case,
34 including excluded evidence, to determine whether the final decision is in error under
35 federal and State law, and under the rules and regulations of the ~~Social Services~~
36 ~~Commission or the~~ Department of Human Resources. Furthermore, the court shall set the
37 matter for hearing within 15 days from the filing of the record under G.S. 150B-47 and
38 after reasonable written notice to the Department of Human Resources and the applicant
39 or recipient. Nothing in this subsection shall be construed to abrogate any rights that the
40 county may have under Article 4 of Chapter 150B.

41 (l) In the event of conflict between federal law or regulations and State law or
42 regulations, the federal law or regulations shall control."

43 Section 2.36. G.S. 108A-90(a) reads as rewritten:

1 "(a) Whenever the Secretary or his representative assigns a portion of the
2 nonfederal share of public assistance expenses to the counties under the rules and
3 regulations of the ~~Social Services Commission or the Department~~, the board of
4 commissioners of each county shall levy and collect the taxes required to meet the
5 county's share of such expenses."

6 Section 2.38. G.S. 108A-108 reads as rewritten:

7 "**§ 108A-108. Payment for essential services.**

8 At the time the director, in accordance with the provisions of G.S. 108A-103 makes
9 an evaluation of the case reported, then it shall be determined, according to regulations
10 set by the ~~Social Services Commission, Department of Human Resources~~, whether the
11 individual is financially capable of paying for the essential services. If he is, he shall
12 make reimbursement for the costs of providing the needed essential services. If it is
13 determined that he is not financially capable of paying for such essential services, they
14 shall be provided at no cost to the recipient of the services."

15 Section 2.39. G.S. 110-51 reads as rewritten:

16 "**§ 110-51. Bond required.**

17 The ~~Social Services Commission~~ Department of Human Resources may, in its
18 discretion, require of a person, agency, association, institution, or corporation which
19 brings or sends a child into the State with the written consent of the ~~Department of Human~~
20 ~~Resources, Department~~, as provided by G.S. 110-50, a continuing bond in a penal sum not
21 in excess of one thousand dollars (\$1,000) with such conditions as may be prescribed and
22 such sureties as may be approved by the Department of Human Resources. Said bond
23 shall be made in favor of and filed with the Department of Human Resources with the
24 premium prepaid by the said person, agency, association, institution or corporation
25 desiring to place such child in the State."

26 Section 2.40. G.S. 110-55 reads as rewritten:

27 "**§ 110-55. Violation of Article a misdemeanor.**

28 Every person acting for himself or for an agency who violates any of the provisions of
29 this Article or who shall intentionally make any false statements to the ~~Social Services~~
30 ~~Commission or the Secretary of Human Resources~~ or an employee thereof acting for the
31 Department in an official capacity in the placing or adoption of juvenile delinquents or
32 dependents shall, upon conviction thereof, be guilty of a Class 2 misdemeanor."

33 Section 2.41. G.S. 120-123(28) is repealed.

34 Section 2.42. G.S. 122C-22 reads as rewritten:

35 "**§ 122C-22. Exclusions from licensure; deemed status.**

36 (a) The following are excluded from the provisions of this Article and are not
37 required to obtain licensure under this Article:

- 38 (1) Physicians and psychologists engaged in private office practice;
- 39 (2) General hospitals licensed under Article 5 of Chapter 131E of the
40 General Statutes, that operate special units for the mentally ill,
41 developmentally disabled, or substance abusers;
- 42 (3) State and federally-operated facilities;
- 43 (4) Adult care homes licensed under Chapter 131D of the General Statutes;

- 1 (5) Developmental child day care centers licensed under Article 7 of
2 Chapter 110 of the General Statutes;
- 3 (6) Persons subject to licensure under rules of the ~~Social Services~~
4 ~~Commission~~; Department of Human Resources;
- 5 (7) Persons subject to rules and regulations of the Division of Vocational
6 Rehabilitation Services; and
- 7 (8) Facilities that provide occasional respite care for not more than two
8 individuals at a time; provided that the primary purpose of the facility is
9 other than as defined in G.S. 122C-3(14).

10 (b) The Commission may adopt rules establishing a procedure whereby a
11 licensable facility certified by a nationally recognized agency, such as the Joint
12 Commission on Accreditation of Hospitals, may be deemed licensed under this Article by
13 the Secretary. Any facility licensed under the provisions of this subsection shall continue
14 to be subject to inspection by the Secretary."

15 Section 2.43. G.S. 122C-132.1(a) reads as rewritten:

16 "(a) The public system shall, in cooperation with private providers, provide for a
17 single portal of entry and exit policy for services for individuals with developmental
18 disabilities. An area authority shall present to the Secretary a single portal of entry and
19 exit plan for services for individuals with developmental disabilities that has been
20 approved by the area board. Area authorities are encouraged to use community
21 interagency councils in the development and implementation of single portal of entry and
22 exit policies. For purposes of this section, services for individuals with developmental
23 disabilities shall include 24-hour and day/night services for individuals with
24 developmental disabilities operated under the authority of this Chapter, Chapters 131D-2,
25 Part A of Article 6 of Chapter 131E of the General Statutes, Article 7 of Chapter 110 of
26 the General Statutes, rules of the Division of Vocational Rehabilitation Services, and
27 rules of the ~~Social Services Commission~~. Department of Human Resources."

28 Section 2.44. G.S. 131D-1(a) reads as rewritten:

29 "(a) The Department of Human Resources shall inspect and license all maternity
30 homes established in the State under such rules and regulations as the ~~Social Services~~
31 ~~Commission~~ Department may adopt."

32 Section 2.45. G.S. 131D-2 reads as rewritten:

33 **"§ 131D-2. Licensing of adult care homes for the aged and disabled.**

34 (a) The following definitions will apply in the interpretation of this section:

- 35 (1) 'Abuse' means the willful or grossly negligent infliction of physical
36 pain, injury or mental anguish, unreasonable confinement, or the willful
37 or grossly negligent deprivation by the administrator or staff of an adult
38 care home of services which are necessary to maintain mental and
39 physical health.
- 40 (1a) 'Administrator' means a person approved by the Department of Human
41 Resources who has the responsibility for the total operation of a licensed
42 domiciliary home.

- 1 (1b) 'Adult care home' is an assisted living residence in which the housing
2 management provides 24-hour scheduled and unscheduled personal care
3 services to two or more residents, either directly or, for scheduled needs,
4 through formal written agreement with licensed home care or hospice
5 agencies. Some licensed adult care homes provide supervision to
6 persons with cognitive impairments whose decisions, if made
7 independently, may jeopardize the safety or well-being of themselves or
8 others and therefore require supervision. Medication in an adult care
9 home may be administered by designated, trained staff. Adult care
10 homes that provide care to two to six unrelated residents are commonly
11 called family care homes. Adult care homes and family care homes are
12 subject to licensure by the Division of Facility Services.
- 13 (1c) 'Amenities' means services such as meals, housekeeping, transportation,
14 and grocery shopping that do not involve hands-on personal care.
- 15 (1d) 'Assisted living residence' means any group housing and services
16 program for two or more unrelated adults, by whatever name it is called,
17 that makes available, at a minimum, one meal a day and housekeeping
18 services and provides personal care services directly or through a formal
19 written agreement with one or more licensed home care or hospice
20 agencies. The Department may allow nursing service exceptions on a
21 case-by-case basis. Settings in which services are delivered may include
22 self-contained apartment units or single or shared room units with
23 private or area baths. Assisted living residences are to be distinguished
24 from nursing homes subject to provisions of G.S. 131E-102. Effective
25 October 1, 1995, there are two types of assisted living residences: adult
26 care homes and group homes for developmentally disabled adults.
27 Effective July 1, 1996, there is a third type, multiunit assisted housing
28 with services.
- 29 (1e) 'Compensatory agent' means a spouse, relative, or other caretaker who
30 lives with a resident and provides care to a resident.
- 31 (2) 'Developmentally disabled adult' means a person who has attained the
32 age of 18 years and who has a developmental disability defined as a
33 severe, chronic disability of a person which:
- 34 a. Is attributed to a mental or physical impairment or combination
35 of mental and physical impairments;
- 36 b. Is manifested before the person attains age 22;
- 37 c. Is likely to continue indefinitely;
- 38 d. Results in substantial functional limitations in three or more of
39 the following areas of major life activity: (i) self-care, (ii)
40 receptive and expressive language, (iii) learning, (iv) mobility,
41 (v) self-direction, (vi) capacity for independent living, and (vii)
42 economic self-sufficiency; and

1 e. Reflects the person's need for a combination and sequence of
2 special, interdisciplinary, or generic care, treatment, or other
3 services which are of lifelong or extended duration and are
4 individually planned and coordinated.

5 (3) Repealed by Session Laws 1995, c. 535, s. 8.

6 (4) 'Exploitation' means the illegal or improper use of an aged or disabled
7 resident or his resources for another's profit or advantage.

8 (5) 'Family care home' means an adult care home having two to six
9 residents. The structure of a family care home may be no more than two
10 stories high and none of the aged or physically disabled persons being
11 served there may be housed in the upper story without provision for two
12 direct exterior ground-level accesses to the upper story.

13 (6) 'Group home for developmentally disabled adults' means an adult care
14 home which has two to nine developmentally disabled adult residents.

15 (7) Repealed by Session Laws 1995, c. 535, s. 8.

16 (7a) Effective July 1, 1996, 'multiunit assisted housing with services' means
17 an assisted living residence in which hands-on personal care services
18 and nursing services which are arranged by housing management are
19 provided by a licensed home care or hospice agency, through an
20 individualized written care plan. The housing management has a
21 financial interest or financial affiliation or formal written agreement
22 which makes personal care services accessible and available through at
23 least one licensed home care or hospice agency. The resident has a
24 choice of any provider, and the housing management may not combine
25 charges for housing and personal care services. All residents, or their
26 compensatory agents, must be capable, through informed consent, of
27 entering into a contract and must not be in need of 24-hour supervision.
28 Assistance with self-administration of medications may be provided by
29 appropriately trained staff when delegated by a licensed nurse according
30 to the home care agency's established plan of care. Multiunit assisted
31 housing with services programs are required to register with the
32 Division of Facility Services and to provide a disclosure statement. The
33 disclosure statement is required to be a part of the annual rental contract
34 that includes a description of the following requirements:

35 a. Emergency response system;

36 b. Charges for services offered;

37 c. Limitations of tenancy;

38 d. Limitations of services;

39 e. Resident responsibilities;

40 f. Financial/legal relationship between housing management and
41 home care or hospice agencies;

42 g. A listing of all home care or hospice agencies and other
43 community services in the area;

- 1 h. An appeals process; and
2 i. Procedures for required initial and annual resident screening and
3 referrals for services.

4 Continuing care retirement communities, subject to regulation by the
5 Department of Insurance under Chapter 58 of the General Statutes, are
6 exempt from the regulatory requirements for multiunit assisted housing
7 with services programs.

8 (8) 'Neglect' means the failure to provide the services necessary to maintain
9 a resident's physical or mental health.

10 (9) 'Personal care services' means any hands-on services allowed to be
11 performed by In-Home Aides II or III as outlined in Department rules.

12 (10) 'Registration' means the submission by a multiunit assisted housing with
13 services provider of a disclosure statement containing all the
14 information as outlined in subdivision (7a) of this subsection.

15 (11) 'Resident' means a person living in an assisted living residence for the
16 purpose of obtaining access to housing and services provided or made
17 available by housing management.

18 (a1) Persons not to be cared for in adult care homes. – Except when a physician
19 certifies that appropriate care can be provided on a temporary basis to meet the resident's
20 needs and prevent unnecessary relocation, adult care homes shall not care for individuals
21 with any of the following conditions or care needs:

22 (1) Ventilator dependency;

23 (2) Individuals requiring continuous licensed nursing care;

24 (3) Individuals whose physician certifies that placement is no longer
25 appropriate;

26 (4) Individuals whose health needs cannot be met in the specific adult care
27 home as determined by the residence, and

28 (5) Such other medical and functional care needs as the ~~Social Services~~
29 ~~Commission~~ Department of Human Resources determines cannot be
30 properly met in an adult care home.

31 (a2) Persons not to be cared for in multiunit assisted housing with services. –
32 Except when a physician certifies that appropriate care can be provided on a temporary
33 basis to meet the resident's needs and prevent unnecessary relocation, multiunit assisted
34 housing with services shall not care for individuals with any of the following conditions
35 or care needs:

36 (1) Ventilator dependency;

37 (2) Dermal ulcers III and IV, except those stage III ulcers which are
38 determined by an independent physician to be healing;

39 (3) Intravenous therapy or injections directly into the vein, except for
40 intermittent intravenous therapy managed by a home care or hospice
41 agency licensed in this State;

42 (4) Airborne infectious disease in a communicable state that requires
43 isolation of the individual or requires special precautions by the

- 1 caretaker to prevent transmission of the disease, including diseases such
2 as tuberculosis and excluding infections such as the common cold;
- 3 (5) Psychotropic medications without appropriate diagnosis and treatment
4 plans;
- 5 (6) Nasogastric tubes;
- 6 (7) Gastric tubes except when the individual is capable of independently
7 feeding himself and caring for the tube, or as managed by a home care
8 or hospice agency licensed in this State;
- 9 (8) Individuals requiring continuous licensed nursing care;
- 10 (9) Individuals whose physician certifies that placement is no longer
11 appropriate;
- 12 (10) Unless the individual's independent physician determines otherwise,
13 individuals who require maximum physical assistance as documented
14 by a uniform assessment instrument and who meet Medicaid nursing
15 facility level-of-care criteria as defined in the State Plan for Medical
16 Assistance. Maximum physical assistance means that an individual has
17 a rating of total dependence in four or more of the seven activities of
18 daily living as documented on a uniform assessment instrument;
- 19 (11) Individuals whose health needs cannot be met in the specific multiunit
20 assisted housing with services as determined by the residence; and
- 21 (12) Such other medical and functional care needs as the ~~Social Services~~
22 ~~Commission~~Department of Human Resources determines cannot be
23 properly met in multiunit assisted housing with services.
- 24 (a3) Hospice care. – At the request of the resident, hospice care may be provided in
25 an assisted living residence under the same requirements for hospice programs as
26 described in Article 10 of Chapter 131E of the General Statutes.
- 27 (b) Licensure; inspections. –
- 28 (1) The Department of Human Resources shall inspect and license, under
29 rules adopted by the ~~Social Services Commission~~Department, all adult
30 care homes for persons who are aged or mentally or physically disabled
31 except those exempt in subsection (c) of this section. Licenses issued
32 under the authority of this section shall be valid for one year from the
33 date of issuance unless revoked earlier by the Secretary of Human
34 Resources for failure to comply with any part of this section or any rules
35 adopted hereunder. No new license shall be issued for any domiciliary
36 home whose administrator was the administrator for any domiciliary
37 home [adult care home] that had its license revoked until one full year
38 after the date of revocation. Licenses shall be renewed annually upon
39 filing and the Department's approval of the renewal application. A
40 license shall not be renewed if outstanding fines and penalties imposed
41 by the State against the home have not been paid. Fines and penalties
42 for which an appeal is pending are exempt from consideration. The
43 renewal application shall contain all necessary and reasonable

1 information that the Department may by rule require. The Department
2 may also issue a provisional license to a facility, pursuant to rules
3 adopted by the ~~Social Services Commission, Department,~~ for substantial
4 failure to comply with the provisions of this section or rules
5 promulgated pursuant to this section. Any facility wishing to contest the
6 issuance of a provisional license shall be entitled to an administrative
7 hearing as provided in the Administrative Procedure Act, Chapter 150B
8 of the General Statutes. A petition for a contested case shall be filed
9 within 30 days after the Department mails written notice of the issuance
10 of the provisional license.

11 (1a) In addition to the licensing and inspection requirements mandated by
12 subdivision (1) of this subsection, the Department shall ensure that adult
13 care homes required to be licensed by this Article are monitored for
14 licensure compliance on a regular basis. In carrying out this
15 requirement, the Department shall work with county departments of
16 social services to do the routine monitoring and to have the Division of
17 Facility Services oversee this monitoring and perform any follow-up
18 inspection called for. The Department shall also keep an up-to-date
19 directory of all persons who are administrators as defined in subdivision
20 (1a) of subsection (a) of this section.

21 (2) Any individual or corporation that establishes, conducts, manages, or
22 operates a facility subject to licensure under this section without a
23 license is guilty of a Class 3 misdemeanor, and upon conviction shall be
24 punishable only by a fine of not more than fifty dollars (\$50.00) for the
25 first offense and not more than five hundred dollars (\$500.00) for each
26 subsequent offense. Each day of a continuing violation after conviction
27 shall be considered a separate offense.

28 (3) In addition, the Department may summarily suspend a license pursuant
29 to G.S. 150B-3(c) whenever it finds substantial evidence of abuse,
30 neglect, exploitation or any condition which presents an imminent
31 danger to the health and safety of any resident of the home. Any facility
32 wishing to contest summary suspension of a license shall be entitled to
33 an administrative hearing as provided in the Administrative Procedure
34 Act, Chapter 150B of the General Statutes. A petition for a contested
35 case shall be filed within 20 days after the Department mails a notice of
36 summary suspension to the licensee.

37 (4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of
38 communications between physician and patient, in the course of an
39 inspection conducted under subsection (b):

40 a. Department representatives may review any writing or other
41 record concerning the admission, discharge, medication, care,
42 medical condition, or history of any person who is or has been a
43 resident of the facility being inspected, and

1 b. Any person involved in giving care or treatment at or through the
2 facility may disclose information to Department representatives;
3 unless the resident objects in writing to review of his records or
4 disclosure of such information.

5 The facility, its employees and any other person interviewed in the
6 course of an inspection shall be immune from liability for damages
7 resulting from disclosure of any information to the Department.

8 The Department shall not disclose:

9 a. Any confidential or privileged information obtained under this
10 subsection unless the resident or his legal representative
11 authorizes disclosure in writing or unless a court of competent
12 jurisdiction orders disclosure, or

13 b. The name of anyone who has furnished information concerning a
14 facility without that person's consent.

15 The Department shall institute appropriate policies and procedures to
16 ensure that unauthorized disclosure does not occur. All confidential or
17 privileged information obtained under this section and the names of
18 persons providing such information shall be exempt from Chapter 132
19 of the General Statutes.

20 (5) Notwithstanding any law to the contrary, Chapter 132 of the General
21 Statutes, the Public Records Law, applies to all records of the State
22 Division of Social Services of the Department of Human Resources and
23 of any county department of social services regarding inspections of
24 domiciliary care facilities except for information in the records that is
25 confidential or privileged, including medical records, or that contains
26 the names of residents or complainants.

27 (c) The following are excluded from the provisions of this section and are not
28 required to be registered or obtain licensure under this section:

29 (1) Facilities licensed under Chapter 122C or Chapter 131E of the General
30 Statutes;

31 (2) Persons subject to rules of the Division of Vocational Rehabilitation
32 Services;

33 (3) Facilities that care for no more than four persons, all of whom are under
34 the supervision of the United States Veterans Administration; and

35 (4) Facilities that make no charges for housing, amenities, or personal care
36 service, either directly or indirectly.

37 (c1) Although the contract obligation still remains to pay the housing management
38 for any services covered by the contract between the resident and housing management,
39 the resident of an assisted living facility has the right to obtain services not at the expense
40 of the housing management, from providers other than the housing management.

41 (c2) The ~~Social Services Commission~~ Department of Human Resources shall adopt
42 any rules necessary to carry out this section. The Commission has the authority, in
43 adopting rules, to specify the limitation of nursing services provided by assisted living

1 residences. In developing rules, the Commission shall consider the need to ensure
2 comparable quality of services provided to residents, whether these services are provided
3 directly by a licensed assisted living provider, licensed home care agency, or hospice. In
4 adult care homes, living arrangements where residents require supervision due to
5 cognitive impairments, rules shall be promulgated to ensure that supervision is
6 appropriate and adequate to meet the special needs of these residents.

7 (c3) Nothing in this section shall be construed to supersede any federal or State
8 antitrust, antikickback, or safe harbor laws or regulations.

9 (c4) Housing programs for two or more unrelated adults that target their services to
10 elderly or disabled persons in which the only services provided by the housing
11 management, either directly or through an agreement or other arrangements, are
12 amenities that include, at a minimum, one meal a day and housekeeping services, are
13 exempt from licensure, but are required to be listed with the Division of Aging, providing
14 information on their location and number of units operated. This type of housing is not
15 considered assisted living.

16 (d) Repealed by Session Laws 1995, c. 535, s. 8.

17 (e) The Department of Human Resources shall provide the method of evaluation
18 of residents in adult care homes in order to determine when any of those residents are in
19 need of the professional medical and nursing care provided in licensed nursing homes.

20 (f) If any provisions of this section or the application of it to any person or
21 circumstance is held invalid, the invalidity does not affect other provisions or
22 applications of the section which can be given effect without the invalid provision or
23 application, and to this end the provisions of this section are severable.

24 (g) In order for an adult care home to maintain its license, it shall not hinder or
25 interfere with the proper performance of duty of a lawfully appointed community
26 advisory committee, as defined by G.S. 131D-31 and G.S. 131D-32.

27 (h) Suspension of admissions to adult care home:

28 (1) In addition to the administrative penalties described in subsection (b),
29 the Secretary may suspend the admission of any new residents to an
30 adult care home, where the conditions of the adult care home are
31 detrimental to the health or safety of the residents. This suspension shall
32 be for the period determined by the Secretary and shall remain in effect
33 until the Secretary is satisfied that conditions or circumstances merit
34 removing the suspension.

35 (2) In imposing a suspension under this subsection, the Secretary shall
36 consider the following factors:

- 37 a. The degree of sanctions necessary to ensure compliance with this
38 section and rules adopted hereunder; and
39 b. The character and degree of impact of the conditions at the home
40 on the health or safety of its residents.

41 (3) The Secretary of Human Resources shall adopt rules to implement this
42 subsection.

1 (4) Any facility wishing to contest a suspension of admissions shall be
2 entitled to an administrative hearing as provided in the Administrative
3 Procedure Act, Chapter 150B of the General Statutes. A petition for a
4 contested case shall be filed within 20 days after the Department mails a
5 notice of suspension of admissions to the licensee.

6 (i) Notwithstanding the existence or pursuit of any other remedy, the Department
7 of Human Resources may, in the manner provided by law, maintain an action in the name
8 of the State for injunction or other process against any person to restrain or prevent the
9 establishment, conduct, management or operation of an adult care home without a
10 license. Such action shall be instituted in the superior court of the county in which any
11 unlicensed activity has occurred or is occurring.

12 If any person shall hinder the proper performance of duty of the Secretary or his
13 representative in carrying out this section, the Secretary may institute an action in the
14 superior court of the county in which the hindrance has occurred for injunctive relief
15 against the continued hindrance, irrespective of all other remedies at law.

16 Actions under this subsection shall be in accordance with Article 37 of Chapter 1 of
17 the General Statutes and Rule 65 of the Rules of Civil Procedure."

18 Section 2.46. G.S. 131D-4.3 reads as rewritten:

19 "**§ 131D-4.3. Adult care home rules.**

20 (a) Pursuant to G.S. 143B-153, the ~~Social Services Commission~~ Department of
21 Human Resources shall adopt rules to ensure at a minimum, but shall not be limited to,
22 the provision of the following by adult care homes:

23 (1) Client assessment and independent case management;

24 (2) A minimum of 75 hours of training for personal care aides performing
25 heavy care tasks and a minimum of 40 hours of training for all personal
26 care aides. The training for aides providing heavy care tasks shall be
27 comparable to State-approved Certified Nurse Aide I training. For those
28 aides meeting the 40-hour requirement, at least 20 hours shall be
29 classroom training to include at a minimum:

- 30 a. Basic nursing skills;
- 31 b. Personal care skills;
- 32 c. Cognitive, behavioral, and social care;
- 33 d. Basic restorative services; and
- 34 e. Residents' rights.

35 A minimum of 20 hours of training shall be provided for aides in family
36 care homes that do not have heavy care residents. Persons who either
37 pass a competency examination developed by the Department of Human
38 Resources, have been employed as personal care aides for a period of
39 time as established by the Department, or meet minimum requirements
40 of a combination of training, testing, and experience as established by
41 the Department shall be exempt from the training requirements of this
42 subdivision;

43 (3) Monitoring and supervision of residents; and

1 (4) Oversight and quality of care as stated in G.S. 131D-4.1.

2 (b) Rules to implement this section shall be adopted as emergency rules in
3 accordance with Chapter 150B of the General Statutes. These rules shall be in effect no
4 later than January 1, 1996.

5 (c) The Department may suspend or revoke a facility's license, subject to the
6 provisions of Chapter 150B, to enforce compliance by a facility with this section or to
7 punish noncompliance."

8 Section 2.47. G.S. 131D-6 reads as rewritten:

9 **"§ 131D-6. Certification of adult day care programs; purpose; definition; penalty.**

10 (a) It is the policy of this State to enable people who would otherwise need full-
11 time care away from their own residences to remain in their residences as long as
12 possible and to enjoy as much independence as possible. One of the programs that
13 permits adults to remain in their residences and with their families is adult day care.

14 (b) As used in this section 'adult day care program' means the provision of group
15 care and supervision in a place other than their usual place of abode on a less than 24-
16 hour basis to adults who may be physically or mentally disabled. The Department of
17 Human Resources shall annually inspect and certify all adult day care programs, under
18 rules adopted by the ~~Social Services Commission~~ Department. ~~The Social Services~~
19 ~~Commission~~ Department of Human Resources shall adopt and enforce rules to protect the
20 health, safety, and welfare of persons in adult day care programs. These rules shall
21 include minimum standards relating to management of the program, staffing
22 requirements, building requirements, fire safety, sanitation, nutrition, and program
23 activities.

24 ~~The Department of Human Resources shall enforce the rules of the Social Services~~
25 ~~Commission.~~

26 (c) The Secretary may impose a civil penalty not to exceed one hundred dollars
27 (\$100.00) for each violation on a person, firm, agency, or corporation who willfully
28 violates any provision of this section or any rule adopted by the ~~Social Services~~
29 ~~Commission~~ Department pursuant to this section. Each day of a continuing violation
30 constitutes a separate violation.

31 In determining the amount of the civil penalty, the Secretary shall consider the degree
32 and extent of the harm or potential harm caused by the violation.

33 ~~The Social Services Commission~~ Department shall adopt rules concerning the
34 imposition of civil penalties under this subsection.

35 (c1) Any person, firm, agency, or corporation that harms or willfully neglects a
36 person under its care is guilty of a Class 1 misdemeanor.

37 (d) The following programs are exempted from the provisions of this section:

38 (1) Those that care for three people or less;

39 (2) Those that care for two or more persons, all of whom are related by
40 blood or marriage to the operator of the facility;

41 (3) Those that are required by other statutes to be licensed by the
42 Department of Human Resources."

43 Section 2.48. G.S. 131D-10.2 reads as rewritten:

1 **"§ 131D-10.2. Definitions.**

2 For purposes of this Article, unless the context clearly implies otherwise:

- 3 (1) 'Adoption' means the act of creating a legal relationship between parent
4 and child where it did not exist genetically.
- 5 (2) 'Adoptive Home' means a family home approved by a child placing
6 agency to accept a child for adoption.
- 7 (3) 'Child' means an individual less than 18 years of age, who has not been
8 emancipated under the provisions of Article 56 of Chapter 7A of the
9 General Statutes.
- 10 (4) 'Child Placing Agency' means a person authorized by statute or license
11 under this Article to receive children for purposes of placement in
12 residential group care, family foster homes or adoptive homes.
- 13 (5) 'Children's Camp' means a residential child-care facility which provides
14 foster care at either a permanent camp site or in a wilderness setting.
- 15 (6) ~~'Commission' means the Social Services Commission.~~
- 16 (6a) 'Criminal History' means a county, state, or federal criminal history of
17 conviction or a pending indictment of a crime, whether a misdemeanor
18 or a felony, that bears upon an individual's fitness to have responsibility
19 for the safety and well-being of children, including the following North
20 Carolina crimes contained in any of the following Articles of Chapter 14
21 of the General Statutes: Article 6, Homicide; Article 7A, Rape and
22 Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and
23 Abduction; Article 13, Malicious Injury or Damage by Use of Explosive
24 or Incendiary Device or Material; Article 26, Offenses Against Public
25 Morality and Decency; Article 27, Prostitution; Article 39, Protection of
26 Minors; Article 40, Protection of the Family; and Article 59, Public
27 Intoxication. Such crimes also include possession or sale of drugs in
28 violation of the North Carolina Controlled Substances Act, Article 5 of
29 Chapter 90 of the General Statutes, and alcohol-related offenses such as
30 sale to underage persons in violation of G.S. 18B-302 or driving while
31 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In
32 addition to the North Carolina crimes listed in this subdivision, such
33 crimes also include similar crimes under federal law or under the laws
34 of other states.
- 35 (7) 'Department' means the Department of Human Resources.
- 36 (8) 'Family Foster Home' means the private residence of one or more
37 individuals who permanently reside as members of the household and
38 who provide continuing full-time foster care for a child or children who
39 are placed there by a child placing agency or who provide continuing
40 full-time foster care for two or more children who are unrelated to the
41 adult members of the household by blood, marriage, guardianship or
42 adoption.

- 1 (9) 'Foster Care' means the continuing provision of the essentials of daily
2 living on a 24-hour basis for dependent, neglected, abused, abandoned,
3 destitute, orphaned, undisciplined or delinquent children or other
4 children who, due to similar problems of behavior or family conditions,
5 are living apart from their parents, relatives, or guardians in a family
6 foster home or residential child-care facility. The essentials of daily
7 living include but are not limited to shelter, meals, clothing, education,
8 recreation, and individual attention and supervision.
- 9 (9a) 'Foster Parent' means any individual who is 18 years of age or older who
10 permanently resides in a family foster home licensed by the State and
11 any such individual applying to provide family foster care.
- 12 (10) 'Person' means an individual, partnership, joint-stock company, trust,
13 voluntary association, corporation, agency, or other organization or
14 enterprise doing business in this State, whether or not for profit.
- 15 (11) 'Primarily Educational Institution' means any institution which operates
16 one or more scholastic or vocational and technical education programs
17 that can be offered in satisfaction of compulsory school attendance laws,
18 in which the primary purpose of the housing and care of children is to
19 meet their educational needs, provided such institution has complied
20 with Article 39 of Chapter 115C of the General Statutes.
- 21 (12) 'Provisional License' means a type of license granted by the Department
22 to a person who is temporarily unable to comply with a rule or rules
23 adopted under this Article.
- 24 (13) 'Residential Child-Care Facility' means a staffed premise with paid or
25 volunteer staff where children receive continuing full-time foster care.
26 Residential child-care facility includes child-caring institutions, group
27 homes, and children's camps which provide foster care."

28 Section 2.49. G.S. 131D-10.3 reads as rewritten:

29 **"§ 131D-10.3. Licensure required.**

30 (a) No person shall operate, establish or provide foster care for children or receive
31 and place children in residential care facilities, family foster homes, or adoptive homes
32 without first applying for a license to the Department and submitting the required
33 information on application forms provided by the Department.

34 (b) Persons licensed or seeking a license under this Article shall permit the
35 Department access to premises and information required to determine whether the person
36 is in compliance with licensing rules of the ~~Commission~~-Department.

37 (c) Persons licensed pursuant to this Article shall be periodically reviewed by the
38 Department to determine whether they comply with ~~Commission~~-Department rules and
39 whether licensure shall continue.

40 (d) This Article shall apply to all persons intending to organize, develop or
41 provide foster care for children or receive and place children in residential child-care
42 facilities, family foster homes or adoptive homes irrespective of such persons having

1 applied for or obtained a certification, registration or permit to carry on work not
2 controlled by this Article except persons exempted in G.S. 131D-10.4.

3 (e) Unless revoked or modified to a provisional or suspended status, the terms of a
4 license issued by the Department shall be in force for a period not to exceed 24 months
5 from the date of issuance under rules adopted by the ~~Commission~~-Department.

6 (f) Persons licensed or seeking a license who are temporarily unable to comply
7 with a rule or rules may be granted a provisional license. The provisional license can be
8 issued for a period not to exceed six months. The noncompliance with a rule or rules shall
9 not present an immediate threat to the health and safety of the children, and the person
10 shall have a plan approved by the Department to correct the area(s) of noncompliance
11 within the provisional period. A provisional license for an additional period of time to
12 meet the same area(s) of noncompliance shall not be issued.

13 (g) In accordance with ~~Commission~~-Department rules, a person may submit to the
14 Department documentation of compliance with the standards of a nationally recognized
15 accrediting body, and the Department on the basis of such accreditation may deem the
16 person in compliance with one or more ~~Commission~~-Department licensing rules."

17 Section 2.50. G.S. 131D-10.5 is repealed.

18 Section 2.51. G.S. 131D-10.6 reads as rewritten:

19 "**§ 131D-10.6. Powers and duties of the Department.**

20 In addition to other powers and duties prescribed by law, the Department shall
21 exercise the following powers and duties:

22 (1) Investigate applicants for licensure to determine whether they are in
23 compliance with licensing rules adopted by the ~~Commission~~-Department
24 and the provisions of this Article.

25 (2) Grant a license when an investigation shows compliance with this
26 Article and ~~Commission~~-Department rules. The license shall be valid for
27 a period not to exceed 24 months as specified by ~~Commission~~
28 Department rules and may be revoked or placed in suspended or
29 provisional status sooner if the Department finds that licensure rules are
30 not being met or upon a finding that the health, safety or welfare of
31 children is threatened.

32 (2a) Adopt, amend, and repeal rules consistent with the laws of this State and
33 the laws and regulations of the federal government to implement the
34 provisions and purposes of this Article.

35 (2b) Issue declaratory rulings as may be needed to implement the provisions
36 and purposes of this Article.

37 (2c) Adopt rules governing procedures to appeal Department decisions
38 pursuant to this Article granting, denying, suspending or revoking
39 licenses.

40 (2d) Adopt criteria for waiver of licensing rules adopted pursuant to this
41 Article.

42 (3) Administer and enforce the provisions of this Article and the rules of the
43 ~~Commission~~-Department.

- 1 (4) Appoint hearing officers to conduct appeals pursuant to this Article.
- 2 (5) Prescribe the form in which application for licensure shall be submitted.
- 3 (6) Inspect facilities and obtain records, documents and other information
- 4 necessary to determine compliance with the provisions of this Article
- 5 and ~~Commission-Department~~ rules.
- 6 (7) Grant, deny, suspend or revoke a license or a provisional license, in
- 7 accordance with ~~Commission-Department~~ rules.
- 8 (8) Grant a waiver for good cause to ~~Commission-Department~~ rules that do
- 9 not affect the health, safety, or welfare of children in facilities subject to
- 10 licensure under this Article, in accordance with ~~Commission-Department~~
- 11 rules."

12 Section 2.52. G.S. 131D-11 reads as rewritten:

13 **"§ 131D-11. Inspection.**

14 The Department of Human Resources shall, as authorized by G.S. 153-51, inspect
15 regularly all local confinement facilities as defined by G.S. 153-50(4) to determine
16 compliance with the minimum standards for local confinement facilities adopted by the
17 ~~Social Services Commission-Department.~~"

18 Section 2.53. G.S. 131D-19 reads as rewritten:

19 **"§ 131D-19. Legislative intent.**

20 It is the intent of the General Assembly to promote the interests and well-being of the
21 residents in adult care homes and assisted living residences licensed pursuant to G.S.
22 131D-2. It is the intent of the General Assembly that every resident's civil and religious
23 liberties, including the right to independent personal decisions and knowledge of
24 available choices, shall not be infringed and that the facility shall encourage and assist the
25 resident in the fullest possible exercise of these rights. It is the intent of the General
26 Assembly that rules developed by the ~~Social Services Commission-Department of Human~~
27 Resources to implement Article 1 and Article 3 of Chapter 131D of the General Statutes
28 encourage every resident's quality of life, autonomy, privacy, independence, respect, and
29 dignity and provide the following:

- 30 (1) Diverse and innovative housing models that provide choices of different
- 31 lifestyles that are acceptable, cost-effective, and accessible to all
- 32 consumers regardless of age, disability, or financial status;
- 33 (2) A residential environment free from abuse, neglect, and exploitation;
- 34 (3) Available, affordable personal service models and individualized plans
- 35 of care that are mutually agreed upon by the resident, family, and
- 36 providers and that include measurable goals and outcomes;
- 37 (4) Client assessment, evaluation, and independent case management that
- 38 enhance quality of life by allowing individual risk-taking and
- 39 responsibility by the resident for decisions affecting daily living to the
- 40 greatest degree possible based on the individual's ability; and
- 41 (5) Oversight, monitoring, and supervision by State and county
- 42 governments to ensure every resident's safety and dignity and to assure

1 that every resident's needs, including nursing and medical care needs if
2 and when needed, are being met."

3 Section 2.54. G.S. 143-318.14A(a) reads as rewritten:

4 "(a) Except as provided in subsection (e) below, all official meetings of
5 commissions, committees, and standing subcommittees of the General Assembly
6 (including, without limitation, joint committees and study committees), shall be held in
7 open session. For the purpose of this section, the following also shall be considered to be
8 'commissions, committees, and standing subcommittees of the General Assembly':

- 9 (1) The Legislative Research Commission;
- 10 (2) The Legislative Services Commission;
- 11 (3) The Advisory Budget Commission;
- 12 (4) The Joint Legislative Utility Review Committee;
- 13 (5) The Joint Legislative Commission on Governmental Operations;
- 14 (6) The Joint Legislative Commission on Municipal Incorporations;
- 15 ~~(7) The Commission on the Family;~~
- 16 (8) The Joint Select Committee on Low-Level Radioactive Waste;
- 17 (9) The Environmental Review Commission;
- 18 (10) The Joint Legislative Transportation Oversight Committee;
- 19 (11) The Joint Legislative Education Oversight Committee;
- 20 (12) The Joint Legislative Commission on Future Strategies for North
21 Carolina;
- 22 (13) The Commission on Children with Special Needs;
- 23 (14) The Legislative Committee on New Licensing Boards;
- 24 (15) The Agriculture and Forestry Awareness Study Commission;
- 25 (16) The North Carolina Study Commission on Aging; and
- 26 (17) The standing Committees on Pensions and Retirement."

27 Section 2.55. G.S. 143-578 reads as rewritten:

28 **"§ 143-578. Access to records.**

29 (a) The State Team, the Local Teams, and the Task Force during its existence,
30 shall have access to all medical records, hospital records, and records maintained by this
31 State, any county, or any local agency as necessary to carry out the purposes of this
32 Article, including police investigations data, medical examiner investigative data, health
33 records, mental health records, and social services records. The State Team, the Task
34 Force, and the Local Teams shall not, as part of the reviews authorized under this Article,
35 contact, question, or interview the child, the parent of the child, or any other family
36 member of the child whose record is being reviewed. Any member of a Local Team may
37 share, only in an official meeting of that Local Team, any information available to that
38 member that the Local Team needs to carry out its duties.

39 (b) Meetings of the State Team and the Local Teams are not subject to the
40 provisions of Article 33C of Chapter 143 of the General Statutes. However, the Local
41 Teams may hold periodic public meetings to discuss, in a general manner not revealing
42 confidential information about children and families, the findings of their reviews and
43 their recommendations for preventive actions. Minutes of all public meetings, excluding

1 those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143
2 of the General Statutes. Any minutes or any other information generated during any
3 executive session shall be sealed from public inspection.

4 (c) All otherwise confidential information and records acquired by the State Team,
5 the Local Teams, and the Task Force during its existence, in the exercise of their duties
6 are confidential; are not subject to discovery or introduction into evidence in any
7 proceedings; and may only be disclosed as necessary to carry out the purposes of the
8 State Team, the Local Teams, and the Task Force. In addition, all otherwise confidential
9 information and records created by a Local Team in the exercise of its duties are
10 confidential; are not subject to discovery or introduction into evidence in any
11 proceedings; and may only be disclosed as necessary to carry out the purposes of the
12 Local Team. No member of the State Team, a Local Team, nor any person who attends a
13 meeting of the State Team or a Local Team, may testify in any proceeding about what
14 transpired at the meeting, about information presented at the meeting, or about opinions
15 formed by the person as a result of the meetings. This subsection shall not, however,
16 prohibit a person from testifying in a civil or criminal action about matters within that
17 person's independent knowledge.

18 (d) Each member of a Local Team and invited participant shall sign a statement
19 indicating an understanding of and adherence to confidentiality requirements, including
20 the possible civil or criminal consequences of any breach of confidentiality.

21 (e) Cases receiving child protective services at the time of review by a Local Team
22 shall have an entry in the child's protective services record to indicate that the case was
23 received by that Team. Additional entry into the record shall be at the discretion of the
24 director of the county department of social services.

25 (f) ~~The Social Services Commission~~ Department of Human Resources shall adopt
26 rules to implement this section in connection with reviews conducted by Community
27 Child Protection Teams. The Health Services Commission shall adopt rules to
28 implement this section in connection with Local Teams that review additional child
29 fatalities. In particular, these rules shall allow information generated by an executive
30 session of a Local Team to be accessible for administrative or research purposes only."

31 Section 2.56. G.S. 143B-138 reads as rewritten:

32 **"§ 143B-138. Department of Human Resources – functions and organization.**

33 (a) Repealed by Session Laws 1989, c. 727, s. 5.

34 (b) All functions, powers, duties, and obligations heretofore vested in
35 commissions, boards, councils, committees, or subunits of the Department of Human
36 Resources which are not transferred by G.S. 143B-279.3 shall continue to be vested in
37 the Department of Human Resources. These shall include, but are not limited to, the
38 following:

- 39 (1) Division of Aging.
- 40 (2) Respite Care Program.
- 41 (3) Governor's Advisory Council on Aging.
- 42 (4) Division of Services for the Blind.
- 43 (5) Commission for the Blind.

- 1 (6) Professional Advisory Committee.
- 2 (7) Consumer and Advocacy Advisory Committee for the Blind.
- 3 (8) Division of Medical Assistance.
- 4 (9) Division of Mental Health, Developmental Disabilities, and Substance
- 5 Abuse Services.
- 6 (10) Commission for Mental Health, Developmental Disabilities, and
- 7 Substance Abuse Services.
- 8 (11) Division of Social Services.
- 9 (12) ~~Social Services Commission.~~
- 10 (13) Division of Facility Services.
- 11 (14) Medical Care Commission.
- 12 (15) Child Day-Care Commission.
- 13 (16) Emergency Medical Services Advisory Council.
- 14 (17) Division of Vocational Rehabilitation.
- 15 (18) Division of Youth Services.
- 16 (19) Division of Schools for the Deaf and the Blind.
- 17 (20) Board of Directors of the Governor Morehead School.
- 18 (21) Board of Directors for the North Carolina Schools for the Deaf.
- 19 (22) North Carolina Council for the Hearing Impaired.
- 20 (23) Council on Developmental Disabilities.
- 21 (24) North Carolina Council on the Holocaust.

22 (c) All functions, powers, duties, and obligations heretofore vested in the
23 Economic Opportunity Division of the Department of Natural Resources and Community
24 Development are hereby transferred to and vested in the Department of Human
25 Resources by a Type I transfer as defined in G.S. 143A-6.

26 (d) The Department of Human Resources is vested with all other functions,
27 powers, duties, and obligations as are conferred by the Constitution and laws of this
28 State."

29 Section 2.57. G.S. 143B-150.8 reads as rewritten:

30 "**§ 143B-150.8. Advisory Committee on Family-Centered Services; responsibilities.**

31 (a) The Advisory Committee on Family-Centered Services shall have the
32 following responsibilities:

- 33 (1) Provide guidance and advice to the Secretary in the development of a
34 plan for the statewide implementation of an inter-agency family
35 preservation services program whereby family-centered preservation
36 services are available to all counties by July 1, 1995, through the
37 coordinated efforts of the Division of Social Services, Division of
38 Youth Services, and Division of Mental Health, Developmental
39 Disabilities, and Substance Abuse Services.
- 40 (2) Recommend standards for:
 - 41 a. Oversight and development of family-centered preservation
42 services;

- 1 b. Development and maintenance of inter-agency training and
- 2 technical assistance in the provision of family-centered services;
- 3 c. Professional staff qualifications, program monitoring, and data
- 4 collection;
- 5 d. Statewide evaluation of locally-based family preservation
- 6 programs;
- 7 e. Coordination of funding sources for family preservation
- 8 programs;
- 9 f. Procedures for awarding grants to local agencies providing
- 10 family-centered services; and
- 11 g. Annual reports to the Governor and the General Assembly on the
- 12 services provided and achievements of the Family Preservation
- 13 Services Program.
- 14 (3) The Committee shall submit a written report not later than May 1, 1992,
- 15 and not later than October 1 of each year thereafter, to the Governor, to
- 16 the Joint Legislative Commission on Governmental ~~Operations~~, and to the
- 17 ~~Commission on the Family-Operations~~. The report shall address the
- 18 progress in implementation of the Family Preservation Services
- 19 Program. The report shall include an accounting of funds expended and
- 20 anticipated funding needs for full implementation of the program. The
- 21 report shall also include the following information for each county
- 22 participating in the Program and for the Program as a whole:
- 23 a. The number of families receiving service through the Program;
- 24 b. The number of children at risk of placement prior to initiation of
- 25 service in families receiving Program services;
- 26 c. Among those children in sub-subdivision b., the number of
- 27 children placed in foster care, in group homes, and in other
- 28 facilities outside their homes and families;
- 29 d. The average cost of the service provided to families under the
- 30 Program;
- 31 e. The estimated cost of out-of-home placement, through foster
- 32 care, group homes, or other facilities, which would otherwise
- 33 have been expended on behalf of children at risk of placement
- 34 who successfully remain united with their families as a result of
- 35 services provided through the Program. Cost estimates should be
- 36 based on average length of stay and average cost of such out-of-
- 37 home placements;
- 38 f. The number of children who remain unified with their families
- 39 for one, two, and three years after receiving services under the
- 40 Program; and
- 41 g. An overall statement of the progress of the Program and local
- 42 projects during the preceding year, along with recommendations
- 43 for improvements.

1 (b) The Committee may use funds allocated to it to contract for services to monitor
2 local projects and for an independent evaluation of the Family Preservation Services
3 Program."

4 Section 2.58. G.S. 143B-181.52 reads as rewritten:
5 "**§ 143B-181.52. Rules required** ~~—Social Services Commission.~~ Department of Human
6 Resources.

7 The ~~Social Services Commission~~ Department of Human Resources shall develop rules
8 containing State standards for special care units in rest homes for patients with
9 Alzheimer's disease and related dementia. These standards shall include guidelines
10 concerning the type of care provided in a special care unit, the type of resident who can
11 be served on the unit, the ratio of residents to staff members, and the requirements for the
12 training of staff members."

13 Section 2.59. G.S. 148-33.1(f) reads as rewritten:

14 "(f) A prisoner who is convicted of a felony and who is granted work-release
15 privileges shall give his work-release earnings, less standard payroll deductions required
16 by law, to the Department of Correction. A prisoner who is convicted of a misdemeanor,
17 is committed to a local confinement facility, and is granted work-release privileges by
18 order of the sentencing court shall give his work-release earnings, less standard payroll
19 deductions required by law, to the custodian of the local confinement facility. Other
20 misdemeanants granted work-release privileges shall give their work-release earnings,
21 less standard payroll deductions required by law, to the Department of Correction. The
22 Department of Correction or the sentencing court, as appropriate, shall determine the
23 amount to be deducted from a prisoner's work-release earnings to pay for the cost of the
24 prisoner's keep and to accumulate a reasonable sum to be paid the prisoner when he is
25 paroled or discharged from prison. The Department or sentencing court shall also
26 determine the amount to be disbursed by the Department or clerk of court, as appropriate,
27 for each of the following:

- 28 (1) To pay travel and other expenses of the prisoner made necessary by his
29 employment;
- 30 (2) To provide a reasonable allowance to the prisoner for his incidental
31 personal expenses;
- 32 (3) To make payments for the support of the prisoner's dependents in
33 accordance with an order of a court of competent jurisdiction, or in the
34 absence of a court order, in accordance with a determination of
35 dependency status and need made by the local department of social
36 services in the county of North Carolina in which such dependents
37 reside;
- 38 (3a) To make restitution or reparation as provided in G.S. 148-33.2.
- 39 (4) To comply with an order from any court of competent jurisdiction
40 regarding the payment of an obligation of the prisoner in connection
41 with any judgment rendered by the court.

- 1 (5) To comply with a written request by the prisoner to withhold an
2 amount, when the request has been granted by the Department or the
3 sentencing court, as appropriate.

4 Any balance of his earnings remaining at the time the prisoner is released from prison
5 shall be paid to him. The ~~Social Services Commission~~ Department of Human Resources is
6 authorized to promulgate uniform rules and regulations governing the duties of county
7 social services departments under this section."

8 Section 2.60. G.S. 153A-217 reads as rewritten:

9 **"§ 153A-217. Definitions.**

10 Unless otherwise clearly required by the context, the words and phrases defined in
11 this section have the meanings indicated when used in this Part:

12 ~~(1) 'Commission' means the Social Services Commission.~~

13 (2) 'Secretary' means the Secretary of Human Resources.

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

15 (4) 'Governing body' means the governing body of a county or city or the
16 policy-making body for a district or regional confinement facility.

17 (5) 'Local confinement facility' includes a county or city jail, a local
18 lockup, a regional or district jail, a juvenile detention home, a detention
19 facility for adults operated by a local government, and any other facility
20 operated by a local government for confinement of persons awaiting
21 trial or serving sentences except that it shall not include a county
22 satellite jail/work release unit governed by Part 3 of Article 10 of
23 Chapter 153A.

24 (6) 'Prisoner' includes any person, adult or juvenile, confined or detained in
25 a confinement facility.

26 (7) 'Unit,' 'unit of local government,' or 'local government' means a county
27 or city."

28 Section 2.61. G.S. 153A-220 reads as rewritten:

29 **"§ 153A-220. Jail and detention services.**

30 The ~~Commission~~ Department has policy responsibility for providing and coordinating
31 State services to local government with respect to local confinement facilities. The
32 Department shall:

33 (1) Consult with and provide technical assistance to units of local
34 government with respect to local confinement facilities.

35 (2) Develop minimum standards for the construction and operation of local
36 confinement facilities.

37 (3) Visit and inspect local confinement facilities; advise the sheriff, jailer,
38 governing board, and other appropriate officials as to deficiencies and
39 recommend improvements; and submit written reports on the
40 inspections to appropriate local officials.

41 (4) Review and approve plans for the construction and major modification
42 of local confinement facilities.

1 (5) Repealed by Session Laws 1983, c. 745, s. 5, effective September 1,
2 1983.

3 (6) Perform any other duties that may be necessary to carry out the State's
4 responsibilities concerning local confinement facilities."

5 Section 2.62. G.S. 153A-221(c) reads as rewritten:

6 "(c) Before the standards or any amendments thereto may become effective, they
7 must be approved by the ~~Commission~~Department and the Governor. Upon becoming
8 effective, they have the force and effect of law."

9 Section 2.63. G.S. 153A-221.1 reads as rewritten:

10 **"§ 153A-221.1. Standards and inspections.**

11 The legal responsibility of the Secretary of Human Resources and the ~~Social Services~~
12 ~~Commission~~Department for State services to county juvenile detention homes under this
13 Article is hereby confirmed and shall include the following: development of State
14 standards under the prescribed procedures; inspection; consultation; technical assistance;
15 and training. Further, the legal responsibility of the Department of Human Resources is
16 hereby expanded to give said Department the same legal responsibility as to the State-
17 administered regional detention homes which shall be developed by the State Department
18 of Correction as provided by G.S. 134A-37.

19 The Secretary of Human Resources shall develop new standards which shall be
20 applicable to county detention homes and regional detention homes as defined by G.S.
21 134-36 in line with the recommendations of the report entitled Juvenile Detention in
22 North Carolina: A Study Report (January, 1973) where practicable, and such new
23 standards shall become effective not later than July 1, 1977.

24 The Secretary of Human Resources shall also develop standards under which a local
25 jail may be approved as a holdover facility for not more than five calendar days pending
26 placement in a juvenile detention home which meets State standards, providing the local
27 jail is so arranged that any child placed in the holdover facility cannot converse with, see,
28 or be seen by the adult population of the jail while in the holdover facility. The personnel
29 responsible for the administration of a jail with an approved holdover facility shall
30 provide close supervision of any child placed in the holdover facility for the protection of
31 the child."

32 Section 2.64. (a) There is appropriated from the General Fund to the Department of
33 Human Resources the sum of six million seven hundred fifty thousand dollars
34 (\$6,750,000) for the 1997-98 fiscal year and the sum of four hundred thousand dollars
35 (\$400,000) for the 1998-99 fiscal year to be used as follows:

36 (1) To establish the uniform system of Work First Program, food stamp,
37 and Medicaid recipient identification;

38 (2) To provide counties with workstations for biometric imaging; and

39 (3) To fund one program integrity worker in each county.

40 (b) This section becomes effective July 1, 1997.

41 Section 2.65. (a) Of the Temporary Assistance to Needy Families Block Grant funds
42 appropriated by the United States Congress for the 1997-98 fiscal year, the Department of
43 Human Resources shall reserve the sum of twenty million dollars (\$20,000,000) for the

1 purpose of providing for future needs as allowed by federal law regulating the use of
2 TANF funds. These funds shall be held in reserve until the Department notifies the Joint
3 Legislative Public Assistance Commission, submits a request for expenditure of these
4 funds to the House and Senate Appropriations Subcommittees on Human Resources, and
5 receives approval from the General Assembly for the expenditure.

6 (b) This section becomes effective July 1, 1997.

7 Section 2.66. The Department of Human Resources shall have the uniform
8 system of Work First Program, food stamp, and Medicaid recipient identification in place
9 and operating before June 1, 1998. Except as otherwise provided in this act, this act is
10 effective when it becomes law.